

Pillani Investment Corporation Ltd. v. I.T.O. 'A' Ward, Calcutta & Anr.

Civil Appeal No. 7 of 1968 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1972] 2 SCR 502 | 1971-11-23

An additional super-tax order under 1922 section 23A was outside the assessment/reassessment limitation in section 34(3); the Court declined to overturn M. M. Parikh and reserved other assessment-character questions.

1922 Act: 23A | 1922 Act: 34(3)

4 Judges | S. M. Sikri | P. Jaganmohan Reddy | I. D. Dua | G. K. Mitter

01 FACTS OF THE CASE

On 13 May 1964, the Income Tax Officer called on Pillani Investment to explain why additional super-tax under section 23A of the Indian Income-tax Act, 1922 should not be imposed for assessment year 1955-56. The company had declared no dividend, and the officer considered the public not substantially interested in it. Pillani argued that a section 23A order would be an assessment or reassessment barred by section 34(3). Its writ challenge failed in the Calcutta High Court, which followed M. M. Parikh. Before a larger Supreme Court bench, Pillani asked that precedent to be reconsidered.

Source: [SCR 502G-503G](#)

02 DISCUSSION BY THE HON'BLE COURT

Applying Keshav Mills, the Court emphasized certainty in precedent while recognizing that a clearly erroneous decision could be corrected. Pillani identified no overlooked vital point and did not establish clear error. The Court added that section 34(3)'s starting point, the year when income was first assessable, did not fit this levy. Section 23A addressed non-distribution of profits already assessed, with dividend distribution during the following twelve months relevant to the officer's order. It imposed additional super-tax on the prescribed undistributed amount rather than assessing the income itself. The Court also noted that 1961 section 106 expressly supplied a limitation period for section 104 orders, so the same interpretive issue was unlikely to arise under that scheme.

Source: [SCR 503G-505F](#)

03 JUDICIAL DECISION

The Court declined to reopen M. M. Parikh and rejected the asserted section 34(3) time bar. It expressly reserved whether a section 23A order could count as an assessment for rectification or other purposes. Its reasoning therefore cannot support a universal statement that such an order is never an assessment for any statutory purpose.

Source: [SCR 504H-505H](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal dismissed; no order as to costs. The challenge to proceeding under section 23A on this limitation ground failed.

Source: [SCR 505G-H](#)

05 AKHB REVIEW POINT

Match the statutory word "assessment" to the particular provision and limitation trigger being construed. Keep the express reservation about rectification intact. The reference to 1961 sections 104/106 is the Court's historical comparison, not a ruling that this old limitation result governs later legislation. This 1971 Pillani appeal is distinct from the 1973 Pillani free-transferability judgment.

Source: [SCR 504G-505H; distinction between specific limitation holding and reserved rectification question; Whole physical 2\(title\),6\(contents\),585-586 text/images newly read. Adopted legal scope only Chapter XI and 104-109 omission entries including 107A, printed 1.544-1.545 and amendment annotations. Adjacent provisions not adopted.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 7 of 1968 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Appeal No. 195 of 1966 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATIONOriginal reported Supreme Court judgment

4-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified.

Open cited source rendition

Printed title uses "Pillani" and respondent "I.T.O. 'A' Ward"; the frozen metadata's "AWARD" is not the printed respondent description.

The reference to a five-judge bench granting leave at SCR 503 does not change the four judges listed for this judgment on SCR 502.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 23A, 34(3)

This judgment expressly compares section 23A with then-sections 104/106. A personally read 2011 statutory compilation records Chapter XI and sections 104-109 omitted by Finance Act 1987 from 1 April 1988; 106 is labelled the limitation provision for 104 orders. This supports historical lineage and omission only, not a present levy.

No direct 2025 mapping of the former additional-tax regime is asserted; the old result is not applied through a similarly numbered provision.

qualified; operative legacy holding and bounded comparison are separately identified

LATER TREATMENT

Source checked 2026-10-07. No later judicial-use passage is adopted for this note. That is a limit of this review, not a statement that later treatment does not exist.

Comprehensive subsequent history and present-law applicability are not certified.

IDENTIFIED SOURCE LINKS[Income-tax Act, 1961: historical omission of Chapter XI and 104-109](#)

Department of Revenue-hosted Taxmann 2011/Finance Act 2011 compilation; historical omission evidence only Whole physical 2(title), 6(contents), 585-586 text/images newly read. Adopted legal scope only Chapter XI and 104-109 omission entries including 107A, printed 1.544-1.545 and amendment annotations. Adjacent provisions not adopted. Exact retained PDF checked before/after; only stated four pages personally read. Not a Gazette original or a 2026 consolidated statute. No 2025 analogue is inferred. Text pages read: 2, 6, 585-586. Image pages read: 2, 6, 585-586.

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