

TARA DEVI AGGARWAL v. COMMISSIONER OF INCOME-TAX, WEST BENGAL, CALCUTTA

Civil Appeal No. 2387 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 2 SCR 1035 | 1972-11-27

An assessment of voluntarily returned income in the wrong person's hands can be erroneous and prejudicial to revenue, permitting cancellation under 1922 section 33B.

1922 Act: 33B | 1922 Act: 66(1)

3-judge bench | K. S. Hegde, J. | P. Jaganmohan Reddy, J. | H. R. Khanna, J.

01 FACTS OF THE CASE

For assessment year 1960-61, the officer accepted Tara Devi's voluntarily returned speculation and investment income despite recording the absence of transaction details, vouchers and interest evidence. Departmental enquiries also questioned her stated business addresses, capital, jewellery sales and investments connected with her husband's firm. The Commissioner cancelled the assessment under section 33B of the Indian Income-tax Act, 1922 and required a fresh lawful enquiry. The Tribunal reversed that order, partly because earlier assessments were beyond revision time. The High Court upheld the Commissioner's jurisdiction.

Source: [SCR1037G-1040F](#)

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court rejected the premise that collecting tax on voluntarily offered income necessarily protects revenue. A person may offer income never earned by that person so that someone properly liable escapes a larger assessment. Such an order can satisfy both error and prejudice, permitting cancellation and proceedings against the person actually liable. Rampyari Devi Saraogi supported revision where the officer had accepted the taxpayer's account in undue haste without proper enquiry. Rao Thakur Narayan Singh was distinguishable: it concerned an officer reopening an issue already conclusively determined by the appellate hierarchy, not the Commissioner's present revision of an inadequately examined assessment.

Source: [SCR1040G-1042B](#)

03 JUDICIAL DECISION

The Commissioner had jurisdiction under section 33B; the High Court's answer could not be disturbed. The judgment upheld cancellation and fresh enquiry, rather than finally assessing the disputed income on the husband or another person. The reference question concerning repeal of the 1922 Act was not pressed; no transition holding under the 1961 Act resulted. The High Court left the first reference question, concerning use of earlier-year records, unanswered as academic; this appeal did not supply an answer to it.

Source: [SCR1040C-F,1041A-C,1042B: first question left academic, repeal question not pressed, second answer upheld.](#)

04 OUTCOME / IN WHOSE FAVOUR

The assessee's appeal was dismissed with costs. The Commissioner's cancellation of the 1960-61 assessment and direction for fresh assessment survived; the earlier years were not reopened by this disposal.

Source: [SCR1042B](#)

05 AKHB REVIEW POINT

Test prejudice by reference to the lawful taxpayer and tax liability, not merely whether an assessment produced some revenue. Record the actual enquiry omissions and the Commissioner's grounds. Preserve the distinction between revisional jurisdiction and a final finding about ownership of income, and apply the relevant version of any later revision provision separately. Paville Projects (2023), quoting Malabar, repeats Tara while retaining the permissible-two-views limit; checked statutory comparisons are section 263(1) and 2025 section 377.

Source: [SCR1040G-1042B](#); [section263\(1\), Explanations 1-3 and \(2\)-\(3\), returned web lines 64-86](#); [section 377\(1\)-\(8\), web lines 18845-18907, reported physical 457-458](#); [Title and section 1\(3\), physical 1/web 0-13](#); [section 536\(1\), \(2\)\(a\)-\(c\), physical 584-585/web 24385-24399](#); [subsections \(3\)-\(4\), physical 589/web 24597-24601. No full-section 536 reading claimed](#); [Identity/opening physical 1-3; quoted Malabar paragraph and application/disposal physical 17-20, web 383-471](#).

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 2387 of 1969 — Supreme Court appeal or expressly printed appeal group decided in this judgment / Income-tax Reference No. 25 of 1966 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

8-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

OCR errors affect monetary figures and ordinary words; none is needed to state the ratio. The printed repeal question was expressly not pressed.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 33B, 66(1)

The official 2026-labelled section 263(1) preserves the erroneous-and-prejudicial framework, hearing and inquiry, including cancellation and fresh assessment. Only subsection (1) and the captured Explanation 1 text are adopted here; modern deeming clauses are not attributed to Tara.

Section 377(1) provides the corresponding revision framework; subsections (3)-(8) separately prescribe deemed error, limits and related conditions. Tara decided 1922 section 33B and left its repeal question unpressed.

The checked section 1(3) generally commences the 2025 Act on 1 April 2026. Section 536 preserves previous operation and accrued rights and keeps specified pre-commencement-year proceedings under the 1961 Act, subject to its savings. None of these comparisons retrospectively replaces the operative law of the judgment.

LATER TREATMENT

Source checked 2026-10-07. Paville Projects, 6 April 2023, reproduces Malabar's use of Tara for voluntarily offered income assessed in the wrong hands, while preserving the permissible-two-views limit on section 263. This is a specific later reiteration through Malabar, not a fresh decision of Tara's unpressed repeal issue.

Subsequent-history status remains unverified beyond any specific use recorded below.

IDENTIFIED SOURCE LINKS

[Income-tax Act, 1961; Page labelsYear2026](#)

Page labelsYear2026 section263(1),Explanations1-3 and(2)-(3), returned web lines64-86 Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Income-tax Act, 2025; FA2026](#)

FA2026 section377(1)-(8), web lines18845-18907, reported physical457-458 Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Income-tax Act, 2025, as amended by Finance Act 2026](#)

Title and section 1(3), physical1/web0-13; section536(1),(2)(a)-(c), physical584-585/web24385-24399; subsections(3)-(4), physical589/web24597-24601. No full-section536 reading claimed. Selected web-extracted statutory passages personally read; no raw-PDF, rendered-page or full-enactment read claimed. The stated version and bounds control this comparison.

[Commissioner of Income Tax 7 v. Paville Projects Pvt. Ltd. \(2023-04-06\)](#)

Identity/opening physical1-3; quoted Malabar paragraph and application/disposal physical17-20, web383-471. Official Supreme Court PDF, bounded web-extracted text only; no raw-PDF or image validation claimed.

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