

Commissioner of Income Tax, U.P. v. M/s. Mohd. Shakoor Mohd. Bashir

Civil Appeal Nos. 337 to 345 of 1970 — Supreme Court appeal or expressly printed appeal group decided in this judgment and connected proceedings (full list below)

[1973] 3 SCR 87 | 1972-12-12

An incidental finding about an earlier gift, and a direction outside the appellate authority's statutory powers, did not lift the reopening time bar under the second proviso to 1922 section 34(3).

1922 Act: 34(3), second proviso | 1922 Act: 34(1)(a) | 1922 Act: 31(3)(b), (c), (e) | 1922 Act: 31(4) | 1922 Act: 66(1)

2 Judges | K. S. Hegde | P. Jaganmohan Reddy

01 FACTS OF THE CASE

A tobacco business at Mauranipur had passed to Zahur Bux, who gifted it to his sons Mohd. Shakoor and Mohd. Bashir. For assessment years 1945-46 to 1956-57, the sons filed returns, but the Income Tax Officer assessed all Zahur Bux's heirs as an association of persons. On appeal, the AAC held that association not taxable on the tobacco business and directed assessment in the hands of the persons to whom income arose. The officer then issued section 34(1)(a) notices to the sons. Revenue argued that the second proviso to section 34(3) of the Indian Income-tax Act, 1922 displaced the time bar.

Source: [SCR 88G-89H](#)

02 DISCUSSION BY THE HON'BLE COURT

Applying Murlidhar Bhagwan Das, the Court held that a qualifying "finding" must be necessary to dispose of the appeal concerning the assessment in question. The finding that the association was not liable was essential; the observation that the business had been gifted to the sons was incidental. It did not establish that they continued to own the business or earned its income in the relevant years. A qualifying "direction" also had to fall within the AAC's statutory powers. Revenue conceded that this direction fell outside section 31(3)(b), (c) or (e), and section 31(4). Neither limb therefore justified overriding limitation.

Source: [SCR 90B-91B](#)

03 JUDICIAL DECISION

The Court affirmed the negative answer to the only referred question argued before it: the AAC could not give the asserted limitation-saving direction against these assesseees. It also rejected the contention that the Tribunal's characterization of the earlier finding bound the High Court as a factual finding. The scope of that finding was a question of law.

Source: [SCR 91A-D](#)

04 OUTCOME / IN WHOSE FAVOUR

Revenue's nine appeals dismissed with costs; one hearing fee. The High Court's ruling that the reopening notices were time-barred stood.

Source: [SCR 91D and disposal](#)

05 AKHB REVIEW POINT

Identify the precise finding necessary to grant relief, then identify the statutory power supporting any direction. A general invitation to assess somebody else cannot itself remove a limitation barrier. The source inconsistently states the gift year as 1942 and 1948; the holding depends on necessity and authority, not resolving that discrepancy.

Source: [SCR 89C-91D; editorial distinction between essential findings, incidental observations and authorized directions; Complete 2025 Act 279-285 in retained official FA 2026 capture, physical 371-376/web 15023-15188. Adopted comparison limited to current 283\(1\)-\(3\); physical 374-375/web 15133-15162, excluding superseded footnote 60.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 337 to 345 of 1970 — Supreme Court appeal or expressly printed appeal group decided in this judgment / I.T. Reference No. 712 of 1963 — Originating High Court appeal/reference docket; not an additional Supreme Court appeal

SOURCE & VERIFICATION

Original reported Supreme Court judgment

5-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

SCR 89 gives the gift as 1942, then describes the AAC's conclusion using 1948; SCR 90 returns to 1942. The inconsistency is retained expressly.

The headnote on SCR 88 prints section 34(4); the judgment at SCR 91 prints section 31(4), which governs the note.

STATUTORY SCOPE

Indian Income-tax Act, 1922; 34(3), second proviso, 34(1)(a), 31(3)(b), (c), (e), 31(4), 66(1)

The Court decided 1922 section 34(3) and the AAC powers quoted in the judgment. No complete modern 1961 section 150/153 textual comparison is adopted here, and their limitation exceptions are not assumed identical.

Current 283(1)-(3) in the FA 2026 compilation contains its own finding/direction-based notice rule, pre-existing time-bar safeguards and a specified issue period. Its current body differs from the superseded text reproduced in footnote 60. That is a bounded textual contrast, not an automatic transfer of the 1972 result or a completed 150→283 crosswalk.

qualified; present applicability is not certified

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, 2025: 279-285](#)

FA 2026 compilation Complete 2025 Act 279-285 in retained officialFA 2026 capture, physical 371-376/web 15023-15188. Adopted comparison limited to current 283(1)-(3):physical 374-375/web 15133-15162, excluding supersededfootnote 60. New personal bounded read of retained official web text. Not a full 147-153 crosswalk or current applicability/savings certification; no raw web-source hash/images claimed.

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