

Commissioner of Income-tax, West Bengal I, Calcutta v. M/s. Vegetables Products Ltd.

Civil Appeal No.497 of 1970

[1973] 3 SCR 448 | 1973-01-29

Whether the base for former section 271(1)(a)(i) late-return penalty was gross assessed tax or the tax payable under the demand notice after crediting the amount already paid on provisional assessment, and how a genuinely ambiguous tax-penalty provision should be construed.

271(1)(a)(i) (former late-return penalty computation) | 156 (demand amount) | 143 (assessed-tax comparison in judicial narrative) | 297(2)(g) (penalty transition) | 274(1) (fresh penalty notice, validity not decided here) | 2(43) (definition of tax) | 139(2) (quoted statutory return-notice provision)

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

Assessment years: 1960-61

Historical penalty formula, retrospective change and source anomalies

This actual 1961 Act penalty decision concerns AY 1960-61 and maintains a reduced penalty; it does not cancel penalty wholesale or decide notice validity. The demand-balance formula was later altered by retrospective 1974 substitution, subject to section 22 savings for certain Supreme Court-decided cases; further substitution and 1989 omission are recorded. The scan misstates commencement as 1 April 1961, whereas statutory section 1(3) says 1 April 1962, and differs between the referred question and narrative on assessment section and reduced amount. The later Murarilal majority preserves strict construction while warning against artificial ambiguity and distinguishing machinery provisions. Original PDF unchanged. Only bounded checks are certified; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

For AY 1960-61, accounting year ending 31 December 1959, the Officer issued a 1922 section 22(2) notice on 1 June 1960, served on 13 June, requiring a return by 18 July 1960. On that deadline the assessee sought more time; the Officer allowed two months and warned that no further extension would be granted. The return was not filed in time. A section 28(3) notice was served on 16 January 1961, and the return was filed the next day (physical pages 2-3/SCR 449 G-450 B).

A provisional assessment under 1922 section 23B was made on 2 February 1961. The assessee then paid Rs.92,294.55. The regular assessment was completed on 31 October 1962. The judgment explains that penalty proceedings had to proceed under the 1961 Act through section 297(2)(g), and a fresh section 274(1) notice was issued. The Court expressly did not decide the assessee's rejected notice-validity objection or its other rejected objections. The scan says the 1961 Act came into force on 1 April 1961; the official statutory commencement text is 1 April 1962, so that printed statement is flagged rather than adopted (physical page 3/SCR 450 A-E; compilation physical page 42/section 1(3)).

The Officer's stated tax figure was Rs.1,25,512.10 and the penalty Rs.12,734.10. He used assessed tax without crediting the provisional payment. The Appellate Assistant Commissioner affirmed. The Tribunal held that the payment must be deducted and stated the reduced penalty as Rs.2,737.44; the High Court accepted that conclusion. These are reported amounts, not an independently reconciled arithmetic calculation. The referred question rounds the reduced penalty to Rs.2,737 and calls the assessment section 23(2) of the 1922 Act, whereas the later narrative compares sections 143 and 156 of the 1961 Act. Both source formulations remain disclosed (physical pages 2-3/SCR 449 D-F, 450 D-F).

Revenue contended that using only the amount demanded would let an assessee escape penalty by paying immediately before service of demand. The assessee and intervener argued that Revenue's reading could deny even advance-tax/TDS credit and produce penalty despite an overpayment. The Court treated these as rival consequences to be addressed through statutory language, not as substitutes for the language (physical pages 3-4/SCR 450 G-451 C).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court began with the enacted language. An inconvenient consequence does not justify declining to apply plain words; correction is for the legislature. Where, however, a taxing provision admits two reasonable constructions, the construction favouring the assessee should be adopted, particularly for imposition of a penalty. The requirement is a genuine reasonable alternative, not merely that counsel proposes a more favourable result (physical page 4/SCR 451 D-F).

The then provision directed a penalty in addition to the tax, if any, payable, calculated at two per cent of the tax for every month of default, capped in aggregate at fifty per cent. The Court distinguished assessed tax, which quantifies liability, from payable tax in the demand under section 156. Amounts already paid must be deducted in arriving at the latter. The definite article in the later words the tax refers back to the earlier amount payable; the general definition in section 2(43) did not eliminate the importance of that textual reference (physical pages 4-5/SCR 451 G-452 H).

At the least, that reading was reasonable and could not be rejected in a penalty provision admitting more than one reasonable interpretation. The Court accepted the Calcutta and Mysore view over the contrary Lahore and Delhi approach. It did not exempt late filing as such or cancel every penalty; the specific result maintained the reduced computation giving credit for the provisional-assessment payment. The cited High Court decisions are described as the Court treated them; their original texts were not independently re-reviewed (physical page 6/SCR 453 A-C).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Revenue's appeal was dismissed with costs, leaving the High Court's affirmative answer and the Tribunal's reduced penalty undisturbed. The judicial factual narrative states that reduced penalty as Rs.2,737.44, while the referred question states Rs.2,737. The Supreme Court made no fresh calculation, remand or ruling on the expressly excluded notice-validity and other objections (physical page 6/SCR 453 C-D; page 3/SCR 450 C-F).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on former penalty-base computation

Revenue appeal dismissed with costs; reduced penalty maintained rather than penalty wholly cancelled

Final interpretation of then section 271(1)(a)(i), crediting provisional-assessment payment

Historical penalty calculation only. Fresh-notice validity and other objections were outside the issue; later retrospective amendments and savings must be checked before relying on the quantum rule.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Separate the interpretive principle from the historical computation formula. The case is useful for identifying the precise antecedent of statutory words and requiring two genuinely reasonable readings before applying the assessee-favouring rule. A dispute or a harsh outcome alone does not create the necessary ambiguity.

Material legislative qualification: the official Income Tax Department's 1986 historical section 271 page records in footnote 16 that clause (i) and its Explanation were substituted by the Direct Taxes (Amendment) Act, 1974 retrospectively from 1 April 1962, subject to section 22 savings for certain cases decided by the Supreme Court. Its displayed, further-amended text uses assessed tax, with reductions for TDS and advance tax, rather than the original demand-balance formula. The 2011 compilation separately records a further 1975 substitution from 1 April 1976 and omission of clauses (a) and (i) from 1 April 1989 (physical pages 951-952, footnotes 84 and 92). Thus the historical quantum rule must not be presented as unchanged law, and the saving qualification must not be omitted. The original 1974 Gazette and individual application of its savings have not been exhaustively audited.

Bounded subsequent-treatment check: the majority in Murarilal Mahabir Prasad v. B.R. Vad, decided 5 September 1975, expressly cited Vegetable Products while discussing strict construction. It also warned against manufacturing ambiguity through unnatural interpretation and distinguished charging provisions from machinery provisions that make an existing charge workable. This is a contextual qualification, not an overruling of Vegetable Products. Gupta's contrary final conclusion was a dissent; the controlling order dismissed the sales-tax appeal (later source physical pages 13-15/SCR 701-703; pages 4, 17 and 26 identify opinions and outcome). The later source has an inconsistent printed citation for Vegetable Products; it does not replace the original's verified report citation.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**1.****Topic:** Caption, date and three-judge bench**Source url:** [Open cited source](#)**Pdf pages:** 1**Paragraphs:** SCR 448 heading**Source role:** reported metadata**2.****Topic:** Docket, author, reference question and AY**Source url:** [Open cited source](#)**Pdf pages:** 2**Paragraphs:** SCR 449 A-H**Source role:** reported metadata and judicial text**3.****Topic:** Transition, express non-decisions and monetary figures**Source url:** [Open cited source](#)**Pdf pages:** 3**Paragraphs:** SCR 450 A-F**Source role:** judicial text**4.****Topic:** Rival consequences; plain language and genuine ambiguity**Source url:** [Open cited source](#)**Pdf pages:** 3; 4**Paragraphs:** SCR 450 G-451 F**Source role:** judicial text**5.****Topic:** Former penalty text and payable versus assessed tax**Source url:** [Open cited source](#)**Pdf pages:** 4; 5**Paragraphs:** SCR 451 G-452 H**Source role:** judicial text**6.****Topic:** Reasonable constructions and final dismissal**Source url:** [Open cited source](#)**Pdf pages:** 6**Paragraphs:** SCR 453 A-D

Source role: judicial text

7.

Topic: Direct later majority citation and limits of strict construction

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15

Paragraphs: SCR 701 C-703 H

Source role: later judicial text

8.

Topic: Majority identification, dissent boundary and controlling disposition

Source url: [Open cited source](#)

Pdf pages: 4; 17; 26

Paragraphs: SCR 692 A-B; 705 E; 714 E

Source role: later judicial text

9.

Topic: Actual 1961 Act commencement

Source url: [Open cited source](#)

Pdf pages: 42

Paragraphs: Section 1(3), printed 1.1

Source role: bounded statutory compilation

10.

Topic: Later substitution and omission of penalty clauses

Source url: [Open cited source](#)

Pdf pages: 951; 952

Paragraphs: Printed 1.910 footnote 84; 1.911 footnote 92

Source role: bounded statutory compilation

11.

Topic: Historical assessed-tax wording and retrospective-amendment savings

Source url: [Open cited source](#)

Pdf pages:

Paragraphs: 1986 version label; section 271(1)(i)(b), Explanation and footnote 16

Source role: bounded official statutory web

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The exact adjudicated issue is former 1961 penalty quantum after deducting tax paid on a 1922 provisional assessment. Section 297(2)(g) explains transition. The Court expressly leaves the fresh-notice validity and other rejected objections outside the appeal. Later amendments changed this very quantum provision.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Hegde, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, former section 271(1)(a)(i), applied through section 297(2)(g) to an earlier assessment year

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 22(2) (initial return notice); Indian Income-tax Act, 1922, section 28(3) (earlier penalty notice); Indian Income-tax Act, 1922, section 23B (provisional assessment); Indian Income-tax Act, 1922, section 23(2) (literal referred-question wording; later narrative uses 1961 section 143)

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official statutory version web bounded

Title: Income Tax Department: section 271, historical version as amended by Finance Act 1986

Url: [Open cited source](#)

Version: 1986, expressly labelled by page

Read bounds: Year label; section 271(1)(a), clause (i)(b), its Explanation and footnote 16; surrounding section and amendment notes also displayed. No physical PDF page numbers.

Bounded read complete: True

Full document read: False

Reliance limit: The historical official page supplies the later assessed-tax base, its TDS/advance-tax reductions and the footnote recording 1974 retrospective substitution subject to section 22 savings for certain Supreme Court-decided cases. It is not the original 1974 Gazette and the page text itself incorporates the 1975 substitution effective 1 April 1976.

Provenance: Read through web retrieval on 2026-10-05. Tool text response retained separately for reproducibility; no original HTML-byte hash or current law certification claimed.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 6 PDF pages; SHA-256 e57b520c9cfc21da886881f0c6a6bf11c8f490f283e2cec1d94061d0340a0b01. Original bytes preserved. Reporter headnote is physical page 1/SCR 448 and page 2/SCR 449 A; appellate metadata and counsel at page 2 B-C. Hegde judicial text begins page 2 C-D and ends page 6/SCR 453 C-D with dismissal with costs. No neighbouring case.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

The caption prints Vegetables Products; running title uses Vegetable Products. Both forms refer to this source. Catalogue 1973INSC20 is not independently printed/verified in the scan.

Caption says Vegetables Products while running title says Vegetable Products; title variants are preserved.; The decision is 29 January 1973; AY is 1960-61 with an actual 1961 penalty issue under section 297(2)(g).; Physical page 3/SCR 450 B prints commencement as 1 April 1961; official section 1(3) says 1 April 1962.; The referred question says tax determined under 1922 section 23(2), but judicial narrative says assessed under 1961 section 143; no unverified harmonisation is supplied.; Penalty figures are stated amounts; Rs.2,737 in the question and Rs.2,737.44 in the narrative are not silently collapsed or independently recalculated.; The source's Mysore citation is 76 ITR 582 in headnote and 74 ITR 582 in the judicial footnote; cited-source identity/citation is not independently corrected.; Notice-validity and other objections are expressly outside the appeal; dismissal is not a fresh ruling on them.; 1974 retrospective substitution was subject to section 22 savings; further 1975 substitution and 1989 omission prevent unchanged-current-law treatment.; Murarilal majority/dissent and source citation anomaly are expressly separated; no later overruling assertion.

The accounting year ended 31 December 1959. Earlier assessment year and 1922 return/provisional-assessment steps do not make the adjudicated penalty a 1922-only issue.

Certificate appeal from Calcutta High Court judgment dated 26 June 1969 in Income-tax Reference No.145 of 1966.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk or present-law certification. Available official 2025 mapping-bundle provenance was inspected; no case-specific 2025 provision was read or relied on for a mapping.

LATER TREATMENT

Source checked 2026-10-05. not_verified comprehensively. Direct bounded primary treatment verified in the 1975 Murarilal majority: citation of strict construction with the immediate no-artificial-ambiguity and charging/machinery qualifications. Legislative alteration of former penalty quantum and express savings are separately verified in historical official compilations. No complete citator audit, blanket current-effectiveness statement or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

SHA-256: e57b520c9cfc21da886881f0c6a6bf11c8f490f283e2cec1d94061d0340a0b01

[reported judgment - PDF pages: 26](#)

SHA-256: 203ef9b41c0756ce70181254a222a80da3d0056a10e7060e2ec86b0cd7bce186

[official government hosted statutory compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[Income Tax Department: section 271, historical version as amended by Finance Act 1986](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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