

Income Tax Officer, Income Tax-cum-Wealth Tax Circle II, Hyderabad v. Nawab Mir Barkat Ali Khan Bahadur

Civil Appeals Nos.1179-1782 of 1970 (literal printed range; judicial body expressly says four appeals)

[1975] 2 SCR 464 | 1974-10-16

Whether undisclosed later trust deeds that repeated family descriptions already considered in the original assessments supplied the omission or failure to disclose material facts necessary for former section 147(a), and whether the High Court could examine that jurisdictional condition under Article 226.

147(a) (then failure-to-disclose jurisdictional condition) | 148 (notices issued 13 March 1964)

Two-judge bench | H.R. Khanna, J. | A.C. Gupta, J.

Assessment years: 1955-56, 1956-57, 1957-58, 1958-59

Former reopening law, limited family-status record and docket anomaly

This is a 16 October 1974 decision under former 1961 sections 147(a)/148, although the original assessments used the 1922 Act. The Court found no new material supporting the alleged disclosure failure; it did not decide marriage or child status. All four Revenue appeals failed with one hearing fee. The scan prints Civil Appeals 1179-1782 while expressly describing four appeals; no corrected number is supplied. Its caption names Barkat Ali Khan, while the factual account identifies Mir Osman Ali Khan. Do not merge the separate same-day 1922-only agreement case. The 2011 compilation records later substitution of section 147, not present-law continuity. Original PDF unchanged. Only bounded source checks are certified; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

Four original assessments, for AYs 1955-56 to 1958-59, were completed under the 1922 Act on 18 March 1958, 19 March 1958, 20 July 1958 and 28 March 1961 respectively. The caption names Nawab Mir Barkat Ali Khan Bahadur; the judicial facts describe notices served on Nawab Sahib Mir Osman Ali Khan Bahadur, the Nizam of Hyderabad. This note preserves that distinction without inventing a substitution or succession history (physical page 2/SCR 465 C-F).

The Officer already had three 1950 trust deeds, described as the Family Trust, Miscellaneous Trust and Family Pocket Money Trust. They used wife/children descriptions relevant to possible income inclusion under 1922 section 16(3). The Officer specifically asked about the relationships. The financial adviser replied on 9 September 1957 that only the late Dulhan Pasha Begum was a legally wedded wife and that the descriptions of the other women and their children in the deeds did not represent the asserted legal status. The Officer accepted the explanation for the original assessments, did not include the trust beneficiaries' income in the assessee's income, and separately assessed the beneficiaries (physical pages 2-3/SCR 465 F-466 F).

Notices dated 13 March 1964 under section 148 sought to reopen all four years. Supplemental returns reiterated the originals without prejudice to the challenge to the notices. The Officer's letter of 15 April 1964 and counter-affidavit relied on the previously unproduced Fern Hill and Race View trust deeds dated 21 March and 5 December 1957. Those deeds again described the relevant women as wives and children as the assessee's children. The Officer argued that these acknowledgments supported a presumption of marriage and showed the earlier explanation to be untrue. The Andhra Pradesh High Court allowed the four writ petitions and restrained further section 147 proceedings; the Officer brought four certificate appeals (physical pages 3-4/SCR 466 G-467 H; page 2/SCR 465 C-E).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court identified the actual former section 147(a) condition: the Officer must have reason to believe that income escaped assessment because of the assessee's omission or failure to disclose fully and truly material facts necessary for the relevant year's assessment. The question was therefore whether the existence and contents of the 1957 deeds supplied a material fact not already disclosed, rather than whether the Court preferred one family-status inference (physical page 4/SCR 467 G-H; page 5/SCR 468 A-B).

The additional deeds were admittedly not produced at the original assessments. Non-production alone was not decisive. Their descriptions would have mattered if new; the 1950 deeds already contained materially the same descriptions, and the Officer had queried them and accepted the financial adviser's explanation. Neither the reopening letter nor the counter-affidavit explained what new difference the later deeds made. They merely repeated the earlier disclosures. In these circumstances the non-production did not constitute failure to disclose a material fact; there were no valid reasons for the alleged failure and no jurisdiction to reopen. Second thoughts on the same material did not warrant section 147 proceedings (physical page 5/SCR 468 B-E).

The Revenue's argument from the marriage presumptions in Mulla's treatise did not cure the jurisdictional defect. The law had not changed since the original assessments; the Officer could have drawn that presumption then and could not use section 147 to correct the omitted inference on the same material. The Court expressly declined to decide whether the women were in fact legally wedded wives. Its holding concerned the absence of the statutory condition precedent, not a final family-status finding or an independent determination of section 16(3) income inclusion (physical page 5/SCR 468 F-G).

The Court also rejected the contention that Article 226 precluded inquiry into the Officer's basis for reopening. It explained that the High Court had not assessed the sufficiency of new evidence or substituted a different inference; it found no fresh material justifying reopening. The authorities relied on by the Revenue, including S. Narayanappa, Kantamani Venkata Narayana, A. Raman & Co. and Calcutta Discount, recognised that reason to believe was not purely subjective: reasons needed a rational connection or relevant bearing, and the High Court could set aside a notice where the jurisdictional condition did not exist. Those precedents are described here only as treated in this source, not independently re-reviewed (physical pages 5-6/SCR 468 H-469 D).

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

03 JUDICIAL DECISION

All four Revenue appeals were dismissed with costs, limited to one hearing fee, leaving the High Court's restraint against the challenged reopening in place. An intervention application by three persons claiming to be the respondent's sons was not pressed, so no order was made on it. There was no remand, no fresh assessment direction, and no decision establishing the asserted marriage or child status (physical page 6/SCR 469 D-E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee/respondent

Four Revenue appeals dismissed with costs; one hearing fee; intervention application not pressed and no order required

Final determination that jurisdiction under then section 147(a) was absent on the recorded reasons

No adjudication of actual marriage or child status, no new section 16(3) merits assessment, and no universal exemption from reopening for any undisclosed document.

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

05 AKHB REVIEW POINT

Compare the asserted new fact with the original disclosed material and the questions actually answered in the original assessment. A later document may add nothing material even though it was not previously produced. Here the actual inquiry, explanation, acceptance and repeated descriptions made the proposed reopening a reconsideration of the same material. The case does not excuse non-disclosure where the later document genuinely changes a material fact, or permit Article 226 review simply to reweigh the adequacy of reasons.

Historical-version check: the government-hosted 2011 compilation records section 147's substitution by the Direct Tax Laws (Amendment) Act, 1987 effective 1 April 1989 (physical page 720/printed 1.679, footnote 71). This is a bounded amendment-history check only; the former clause (a) applied here must not be presented as unchanged current text. Neither of the two acquired later judgments, Grindlays Bank or Padmasundara Rao, directly treats this Barkat decision. Their silence is not a clean subsequent-treatment certificate.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**1.****Topic:** Caption, date, bench**Source url:** [Open cited source](#)**Pdf pages:** 1**Paragraphs:** SCR 464 heading**Source role:** reported metadata**2.****Topic:** Literal docket, four appeals, identity distinction and four assessment years**Source url:** [Open cited source](#)**Pdf pages:** 2**Paragraphs:** SCR 465 A-F**Source role:** reported metadata and judicial text**3.****Topic:** Original inquiry, trust descriptions and explanation**Source url:** [Open cited source](#)**Pdf pages:** 2; 3**Paragraphs:** SCR 465 F-466 F**Source role:** judicial text**4.****Topic:** Notices and asserted undisclosed 1957 deeds**Source url:** [Open cited source](#)**Pdf pages:** 3; 4**Paragraphs:** SCR 466 G-467 F**Source role:** judicial text**5.****Topic:** Former section 147(a) and no materially new disclosure**Source url:** [Open cited source](#)**Pdf pages:** 4; 5**Paragraphs:** SCR 467 G-468 E**Source role:** judicial text**6.****Topic:** Marriage status expressly not decided**Source url:** [Open cited source](#)**Pdf pages:** 5**Paragraphs:** SCR 468 F-G

Source role: judicial text

7.

Topic: Article 226 jurisdictional review

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 468 H-469 D

Source role: judicial text

8.

Topic: Dismissal, one hearing fee and unpressed intervention

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 469 D-E

Source role: judicial text

9.

Topic: Bounded historical section 147 substitution entry

Source url: [Open cited source](#)

Pdf pages: 720

Paragraphs: Printed 1.679, footnote 71

Source role: bounded official statutory compilation

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual reopening notices and the jurisdictional decision are under the 1961 Act, notwithstanding the earlier assessment years and original 1922 Act assessments. The case does not adjudicate modern section 147 wording or 2025 provisions. Section 268 of Mulla's Principles of Mohammedan Law is a treatise reference in the Officer's reasons and counsel's submission, not an Income-tax Act section.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.C. Gupta, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, former sections 147(a) and 148; original assessments under Indian Income-tax Act, 1922

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922, section 16(3) (original income-inclusion context); Indian Income-tax Act, 1922, section 34 (analogous reason-to-believe authorities); Constitution, Article 226

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

52084b79bf45ff4ba3d28e10811be78d3ffda81887d538e6bceba7d40317eb09. Original bytes preserved. Page 1/SCR 464 is reporter headnote. Appellate metadata and counsel are on page 2/SCR 465 A-C. Judicial body starts page 2/SCR 465 C, Gupta, J., and ends page 6/SCR 469 D-E with dismissal, one hearing fee and intervention application not pressed, followed by reporter disposition. No neighbouring judgment.

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

Judgment delivered in 1974; 1975 is the SCR report year. The catalogue neutral-citation field 1974INSC212 is not independently printed or verified in this SCR source.

The judgment date is 16 October 1974, not the 1975 SCR report year.; The literal docket range 1179-1782 conflicts with the express four-appeal description and four writ petitions; no corrected endpoint is invented.; The caption names Barkat Ali Khan; the judicial factual account identifies Mir Osman Ali Khan. No unverified representative-capacity explanation is supplied.; A.C. Gupta, J. is the judicial author despite the catalogue's starred Khanna entry; the headnote preview OCR misreads section 147 as 141.; The original assessments are under the 1922 Act, but the actual notices and adjudicated jurisdictional rule are under former 1961 sections 147(a)/148.; The Court does not determine whether the women were legally wedded wives or the children had the asserted status. Sensitive family descriptions are historical allegations and explanations, not findings adopted in this note.; The unproduced 1957 deeds repeated already considered descriptions; the result does not establish that all unproduced documents are immaterial.; The separately reported same-day CIT companion at SCR 453 concerns a 1949 agreement and 1922 Act assessments; it is not this four-appeal reopening judgment.

All four years are explicit in the judicial opening, physical page 2/SCR 465 D-F.

Physical page 2/SCR 465 A prints 1179-1782. The Court expressly identifies four certificate appeals and Writ Petition Nos.1042-1045 of 1964. Do not silently substitute 1182, generate hundreds of appeals or truncate the group to metadata's No.1179.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or certification of present law. Historical provision versions remain explicit. The available 2025 Act file was not relied on or read for a case-specific crosswalk in this batch.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded full reads of Grindlays Bank [1980] 2 SCR 765 and Padmasundara Rao [2002] 2 SCR 383 located no direct treatment of this judgment. They are checked-source negatives only, not proof that no later adverse treatment exists. Section 147 historical substitution is separately registered; complete amendment history, comprehensive citator coverage and current law remain unverified.

IDENTIFIED SOURCE LINKS

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

SHA-256: 52084b79bf45ff4ba3d28e10811be78d3ffda81887d538e6bceba7d40317eb09

[reported judgment - PDF pages: 8](#)

SHA-256: d5bbef3b53e497671e9bc56cab020a5f2e1afbee19fb8733200a3ce89b0ba015

[reported judgment - PDF pages: 13](#)

SHA-256: 9bf61a774a5c7f11e9a76ca7600e793a7246e85e2b25a25f2e3a868051e861ef

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