

Madurai District Central Cooperative Bank Ltd. v. The Third Income-tax Officer, Madurai

Civil Appeal No.1795 of 1970

[1976] 1 SCR 135 | 1975-07-28

Whether Finance Act 1963 authorises additional surcharge on residual income of a cooperative bank even though its banking business income is exempt under former sections 81(i)(a) and 99(1)(v), and whether that amount can be demanded under the Income-tax Act.

4 | 81(i)(a) (former cooperative banking income exemption) | 99(1)(v) (former super-tax exemption) | 110 (historical deduction/average-rate mechanism) | 156 (notice of demand; expressly stated at SCR 147)

Three-judge bench | Y.V. Chandrachud, J. | R.S. Sarkaria, J. | A.C. Gupta, J.

Assessment years: 1963-64

Historical residual-income charge and source limits

The controlling charge is Finance Act 1963 sections 2(1)(a)(ii), 2(8) and 3 with its First Schedule, applied to AY 1963-64 alongside former 1961 sections 81(i)(a), 99(1)(v) and 110. Do not relabel Finance Act section 2(8) as a 1961 Act definition or treat this as a modern section 80P exemption decision. The independently leviable surcharge retained income-tax characteristics and applied to statutory residual income, not simply the whole exempt banking income. The headnote/submissions are separate from the judicial body; its section 99 description and the printed section 146 demand reference must be read against the body's super-tax discussion and express section 156 conclusion. The Court dismissed the bank's appeal without a costs order. The official section 81 succession check is narrowly historical. Original PDF unchanged. Comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The appellant was a cooperative society carrying on banking business. For AY 1963-64, its total income was Rs.10,00,098, comprising business income of Rs.9,48,335 and other-source income of Rs.51,763. Because the banking income was exempt under former section 81(i)(a), the Officer charged Rs.23,845.47 on the other-source income. Applying Finance Act XIII of 1963, the Officer computed residual income at Rs.5,39,386 and charged additional surcharge of Rs.52,828.60. The total levy was Rs.76,674.07 (physical page 4/SCR 138 F-H).

The bank challenged the assessment order of 22 August 1963 by an Article 226 petition. It argued principally that the levy exceeded its taxable other-source income, that exempt business income could not be subjected to additional surcharge, and that surcharge had no existence independent of income-tax. The Madras High Court dismissed Writ Petition No.2252 of 1965 on 15 October 1968 and granted a certificate for this appeal (physical pages 4-5/SCR 138 C-139 A).

The judicial text accepted the former section 81 exemption and the section 99(1)(v) super-tax exemption. The correctness of the residual-income computation was not disputed; the controversy concerned legislative power and the actual 1963 charging scheme, rather than a fresh accounting exercise or general present-day cooperative-bank eligibility (physical pages 5 and 7/SCR 139 A-D, 141 A-C).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court began with the provisions actually in force for the assessment. Finance Act 1963 section 2(1)(a)(ii), read with First Schedule Part I Paragraph A and its surcharge clause (c), imposed additional surcharge for Union purposes on residual income. Under section 2(8), residual income meant total income reduced by capital gains and the tax, excluding additional surcharge, that would have been chargeable on that reduced total if no part were exempt and no deduction of tax were admissible. Section 3 expressly required the additional surcharge to be disregarded when computing the specified relief, rebate or deduction, notwithstanding the listed Income-tax Act provisions. A cooperative society fell within Paragraph A's association-of-persons category for this charge, without thereby losing the historical business-income exemption itself (physical pages 5-6/SCR 139 D-140 G).

The bank's hardship argument assumed the answer to the statutory question. Harshness alone did not invalidate a taxing statute, apart from a possible constitutional challenge under Article 13. Once the Finance Act validly brought residual income within the charge, the comparison solely with Rs.51,763 of other-source income was mistaken. Counsel abandoned the challenge to Parliament's competence to introduce a new charge through a Finance Act; the Court nevertheless explained why that concession was correct. Article 246(1) and List I Entry 82 conferred the relevant competence. The usual function of an annual Finance Act in prescribing rates did not confine its permissible content: subject to constitutional limits, it could introduce a charge or withdraw or reduce an exemption (physical pages 6-8/SCR 140 G-142 E). The discussed Kesoram, McGregor and Hari Krishna Bhargav authorities supported legislative form and competence; their distinct disputes were not this appeal's facts.

The Court distinguished C.I.T. v. K. Srinivasan, as discussed in this judgment. That decision concerned whether income-tax in the relevant Finance Act calculation included surcharge. The Revenue here did not deny surcharge's essential income-tax character. The different question was whether the particular 1963 enactment authorised surcharge despite the exemption. Thus the result did not rest on a universal proposition that surcharge is legally unrelated to income-tax (physical pages 8-9/SCR 142 F-143 H).

Reading the actual provisions together, the Court held the additional surcharge to be a distinct charge whose levability did not depend on liability to ordinary income-tax or super-tax. Its Union purpose and residual-income base were material. Here gross hypothetical taxes of Rs.4,60,712 were subtracted from total income of Rs.10,00,098 to reach residual income of Rs.5,39,386. The charge was on that statutory residual amount, not simply on the exempt business-income figure of Rs.9,48,335. The wording that income-tax was to be increased did not impose the bank's proposed precondition, because tax could still be computed for rate purposes on income enjoying the relevant deduction. Section 3 reinforced the surcharge's separate treatment (physical pages 10-12/SCR 144 E-146 E).

The single-tax argument did not defeat either charge or collection. The additional surcharge retained the nature and essential characteristics of income-tax, although independently

02 DISCUSSION BY THE HON'BLE COURT

charged by the Finance Act. A section 156 demand could therefore include it, and section 4 was not violated. The Court expressly rejected the contrary decision in Allahabad District Co-operative Bank Ltd. v. Union of India as incorrectly decided; this is this judgment's direct treatment of that authority, not a separate review of its complete text (physical pages 12-13/SCR 146 F-147 F).

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

03 JUDICIAL DECISION

The Supreme Court confirmed the Madras High Court judgment and dismissed the bank's appeal. In the circumstances it made no order as to costs. It upheld the challenged Finance Act 1963 additional-surcharge liability and its recovery through the income-tax demand mechanism; it ordered no remand, refund or recalculation (physical page 13/SCR 147 F-G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Bank's appeal dismissed; High Court judgment confirmed; no order as to costs

Final historical Finance Act 1963 residual-income surcharge determination

Specific statutory residual-income charge and historical exemptions; no blanket rule that every surcharge defeats every exemption or present section 80P eligibility holding.

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

05 AKHB REVIEW POINT

Identify the enactment creating the levy before treating an exemption as conclusive. This case requires separate attention to the income exempted, the statutory surcharge base, the hypothetical-tax reduction, the non-obstante computation rule and the collection provision. The statement that surcharge has income-tax characteristics must be read together with the holding that this particular annual Finance Act created an independently leviable charge.

Bounded statutory check: the official Income Tax Department section 81 page, labelled 1972, records omission by the Finance (No.2) Act, 1967 from 1 April 1968 and incorporation in section 80P. This confirms historical succession only. It does not verify later restrictions, current cooperative-bank eligibility, or a mapping to the 2025 Act.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**1.****Topic:** Caption, actual date and bench**Source url:** [Open cited source](#)**Pdf pages:** 1**Paragraphs:** SCR 135 heading**Source role:** reported metadata**2.****Topic:** Appellate docket and start of judicial body**Source url:** [Open cited source](#)**Pdf pages:** 4**Paragraphs:** SCR 138 C-E**Source role:** reported metadata and judicial text**3.****Topic:** AY, income figures, levy and writ challenge**Source url:** [Open cited source](#)**Pdf pages:** 4; 5**Paragraphs:** SCR 138 F-139 A**Source role:** judicial text**4.****Topic:** Former exemptions and quoted Finance Act scheme**Source url:** [Open cited source](#)**Pdf pages:** 5; 6**Paragraphs:** SCR 139 A-140 G**Source role:** judicial text and quoted statute**5.****Topic:** Hardship, concession and legislative competence**Source url:** [Open cited source](#)**Pdf pages:** 6; 7; 8**Paragraphs:** SCR 140 G-142 E**Source role:** judicial text**6.****Topic:** Srinivasan distinguished and income-tax character preserved**Source url:** [Open cited source](#)**Pdf pages:** 8; 9**Paragraphs:** SCR 142 F-143 H

Source role: judicial text discussing authority

7.

Topic: Residual-income base, distinct leviability and rate mechanism

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: SCR 144 E-146 E

Source role: judicial text

8.

Topic: Demand anomaly, express section 156, contrary authority, dismissal and costs

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: SCR 146 F-147 G

Source role: judicial text

9.

Topic: Only section 81 omission by Finance (No. 2) Act, 1967 effective 1 April 1968 and historical incorporation in section 80P; no later section 80P eligibility or present-law conclusion.

Source url: [Open cited source](#)

Html read bounds: Section identity/version and complete section 81 omission entry, rendered lines 38-75

Version: 1972; page labels As amended by the Finance Act, 1972

Source role: bounded official statutory html

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The charge is the annual Finance Act 1963 charge, actually adjudicated alongside the 1961 Act exemptions. Finance Act section 2(8), defining residual income, is not Income-tax Act section 2(8). Section 81 was already historical by judgment date; its incorporation in section 80P is background, not a modern section 80P holding.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Y.V. Chandrachud, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Finance Act, 1963 (Act XIII of 1963), income-tax additional surcharge on residual income; Income-tax Act, 1961, historical cooperative banking exemptions

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance Act, 1963: sections 2(1)(a)(ii), 2(8) and 3; First Schedule, Part I, Paragraph A(ii), and clause (c) under Surcharges on Income Tax; Constitution: Article 246(1), Seventh Schedule List I Entry 82, and Articles 269-271 in their then framework; Article 13 reservation; Section 80P mentioned only as the historical successor to deleted section 81; no adjudication of present cooperative-bank deductions

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official statutory html bounded

Title: Income-tax Act, 1961: section 81, official 1972 compilation

Url: [Open cited source](#)

Version: 1972; page labels As amended by the Finance Act, 1972

Accessed at: 2026-10-05T02:25:33.674224+00:00

Read bounds: Section identity/version and complete section 81 omission entry, rendered lines 38-75

Bounded read complete: True

Reliance limit: Only section 81 omission by Finance (No. 2) Act, 1967 effective 1 April 1968 and historical incorporation in section 80P; no later section 80P eligibility or present-law conclusion.

Provenance: Official Income Tax Department statutory HTML. Read as rendered by web tool; no frozen-file hash, byte count or PDF pagination claimed.

SOURCE & VERIFICATION

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

Identified source rendition: 13 PDF pages; SHA-256 467baf1c9c8590c859a69f391ee5c166167214e55e10d5d6f7a0610d3476fbdd. Original bytes preserved. Judicial body starts physical page 4/SCR 138 D (Chandrachud, J.) and ends physical page 13/SCR 147 G with judgment confirmed and no order as to costs, followed by reporter disposition. Pages 1-2 are headnote, followed by separately labelled counsel ARGUMENTS from page 2 through upper page 4. 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

The judgment was delivered in 1975; 1976 is the SCR report year.

The report year is 1976 but the judgment date is 28 July 1975.; Pages 1-2 contain the headnote; pages 2-4 include a separately labelled ARGUMENTS section. Those submissions are not the Court's reasoning.; The headnote says surcharge at SCR 135 F when invoking section 99(1)(v); the judicial body correctly addresses super-tax at SCR 139 C.; SCR 146 G prints section 146 in discussing the demand notice, but SCR 147 F expressly identifies section 156. This note relies on the latter and does not add section 146 as an adjudicated provision.; SCR 139 F's quotation lists paragraphs A, C, C and E; the present issue rests on Paragraph A and section 2(1)(a)(ii), not on reconstructing that repeated letter.; The figures are the judgment's recorded figures; the opening rate-purpose recital at SCR 138 F-G is not an independent recalculation. No generalized numerical tax limit is derived.; The appellant conceded Parliament's competence; the Court explained it while retaining constitutional limits. Section 80P succession is not a decision on later eligibility.

AY 1963-64 expressly identified in the judicial facts, physical page 4/SCR 138 F.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or certification of present law. Historical enactments and provision versions remain explicit.

LATER TREATMENT

Source checked 2026-10-05. not_verified. No later judicial-treatment search is certified. Bounded official statutory HTML check(s) are separately registered; they establish only the historical changes specified there. No comprehensive citation history, amendment chain, current-law certification or 2025 mapping verified.

IDENTIFIED SOURCE LINKS

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

SHA-256: 467baf1c9c8590c859a69f391ee5c166167214e55e10d5d6f7a0610d3476fbdd

[Income-tax Act, 1961: section 81, official 1972 compilation](#)

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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