

Parashuram Pottery Works Co. Ltd. v. Income Tax Officer, Circle-1, Ward A, Rajkot, Gujarat

Civil Appeal No.1792 of 1971

[1977] 2 SCR 92 | 1976-11-16

Whether the Officer's failure to count earlier initial depreciation towards the original-cost ceiling justified notices under former section 147(a) after four years, when no incorrect or missing return particulars were shown and he had relied on departmental records.

147(a) (former omission/failure-based reopening limb) | 147(b) (former information-based limb, quoted for contrast) | 147 Explanation 1(d) (excessive depreciation as deemed escapement) | 148(1)–(2) (notice and recorded reasons under the historical text) | 149(1) (historical four/eight-year setting; longer-period exception expressly not at issue) | 151(2) (Commissioner satisfaction requirement described for notice after four years)

Two-judge bench | H.R. Khanna, J. | V.R. Krishna Iyer, J.

Assessment years: 1957-58, 1959-60

Historical reopening conditions and printed accounting-date inconsistency

This judgment applies former sections 147(a), 148 and 149 to notices issued after four years for AYs 1957-58 and 1959-60. It does not make the allegedly excess depreciation allowable or establish present reopening deadlines. The report prints 31 July 1966 as the accounting year-end for AY 1957-58; this incompatible date is not silently corrected. Its headnote's section 149(1) notice-content reference differs from the judicial body's section 139(2) reference. The Court did not have the return before it and relied on the absence of alleged incorrect/omitted particulars and the uncontroverted departmental-record basis. Original PDF unchanged. Comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The appellant public limited company manufactured pottery and sanitary wares at Morvi and elsewhere in Gujarat. Under the 1922 Act, the Officer assessed AY 1957-58 on 16 April 1959 at total income of Rs.4,60,372 after allowing depreciation of Rs.5,05,487. For AY 1959-60, the 30 March 1961 assessment fixed income at Rs.11,04,650 after depreciation of Rs.3,57,926 (physical page 3/SCR 94 B-D). The report's inconsistent accounting year-end is disclosed in the source warning rather than reconstructed.

On 5 October 1965 the Officer wrote that a depreciation-calculation mistake across AYs 1955-56 to 1962-63 had produced excess allowance of Rs.2,39,723. The chart attributed Rs.37,869 and Rs.26,945 to the two years in this appeal. A further letter explained that initial depreciation had not been counted when testing whether total depreciation exceeded original cost. On 2 February 1966 the Officer alleged nondisclosure under section 147(a). The company replied that the tax authorities had prepared the depreciation calculations and that it had disclosed all facts. Notices dated 4 March 1966 under section 148 demanded fresh returns and stated that the Commissioner's necessary satisfaction had been obtained (physical pages 3-4/SCR 94 D-95 A).

The company filed its article 226 petition on 29 April 1966. It said acquisition details and earlier initial depreciation were already on the Department's record. The Officer's affidavit alleged failure to disclose the earlier allowance and the need to count it. The Gujarat High Court accepted escapement and nondisclosure and dismissed the petition. The Supreme Court heard the company's certificate appeal from the 31 March 1970 judgment in Special Civil Application No.545/66 (physical page 2/SCR 93 H; physical page 4/SCR 95 B-G).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first separated the depreciation mechanics. Under historical 1922 section 10(2)(vi), ordinary depreciation used written-down value; initial depreciation for qualifying new buildings, machinery or plant was not deducted in determining that value. Additional depreciation under clause (vi-a) was deductible in determining written-down value. Nevertheless, proviso (c) capped the aggregate of the allowances at original cost. The Department relied on former section 147 Explanation 1(d), treating excessive depreciation as escapement. That established the type of alleged error; it did not dispense with the separate section 147(a) jurisdictional condition (physical pages 4–6/SCR 95 H–97 G).

The former statutory scheme distinguished clause (a), requiring escapement by reason of the assessee's return default or failure to disclose fully and truly material facts, from clause (b), requiring information leading to reason to believe despite no such default. The Court addressed notices beyond four but within eight years, expressly leaving the longer-period section 149 exception outside the case. Both reason to believe in escapement and reason to believe in the requisite assessee default had to coexist. Reasons had to be recorded before notice, and the Commissioner had to be satisfied on those reasons for notice after four years. These are the historical conditions applied here, not a statement of every later section 147 regime (physical pages 6–7/SCR 97 H–98 H).

Following *Lakhmani Mewal Das* and the primary-facts analysis in *Calcutta Discount*, the Court held that the assessee must disclose the primary facts fully and truthfully, but need not tell the Officer what factual or legal inferences to draw. Merely producing books or other evidence from which material evidence could be discovered would not necessarily satisfy disclosure. Conversely, once the primary facts were truly and fully disclosed, a later erroneous-inference correction or mere change of opinion could not supply the missing default (physical page 8/SCR 99 A–G).

The Revenue did not suggest that any information or required particulars in Form C, Part V were factually incorrect or omitted. The return itself had not been filed before the Supreme Court. The Court therefore did not purport to inspect it. The written-down-value entry was properly to exclude initial depreciation under the governing depreciation rule. The company's assertion that the Officer used values in departmental records was uncontroverted. His failure, on those records, to apply the aggregate original-cost ceiling could not be attributed to the company's omission. *Bhanji Lavji* supported the absence of a duty to instruct the Officer on law (physical pages 9–10/SCR 100 A–101 A).

The AY 1957-58 assessment had already undergone a rectification and a revision without discovery of this error. The initial October 1965 letter alleged a mistake alone; nondisclosure appeared later. The Court found force in the company's submission about that sequence, but its conclusion rested on all the facts: excess depreciation was not caused by failure to disclose fully and truly. Its observations on careful tax administration and finality support that statutory conclusion; they do not immunise false primary facts or override a valid reopening power (physical page 10/SCR 101 A–G).

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

03 JUDICIAL DECISION

The appeal was allowed, the Gujarat High Court's judgment set aside and both impugned reopening notices quashed. The parties were directed to bear their own costs throughout. There was no remand and no fresh depreciation computation or refund amount ordered (physical page 10/SCR 101 G-H).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; High Court judgment set aside; two section 148 notices quashed; parties bear their own costs throughout

Final jurisdictional determination that the alleged excess depreciation did not result from the requisite assessee nondisclosure; no fresh tax computation

Does not hold that excess depreciation was substantively allowable, that departmental possession of every document always fulfils disclosure, or that a later statutory regime is governed by the same four/eight-year conditions.

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

05 AKHB REVIEW POINT

Distinguish proof of escapement from proof that the assessee's specified default caused it. Compare the return requirements, information actually furnished, the original assessment record and the recorded reopening ground. An Officer's overlooked legal ceiling is not automatically the taxpayer's nondisclosure. Equally, the judgment's qualification about merely producing books prevents using it as an absolute rule that anything somewhere in departmental files has necessarily been fully disclosed.

Bounded later statutory comparison: Kelvinator, decided on 18 January 2010, addressed the different section 147 wording effective from 1 April 1989. Its paragraph 6 preserved the change-of-opinion restraint, distinguished reassessment from review, and required tangible material with reasons linked to the belief (physical pages 5-6/SCR 772-773). This is a comparison across statutory versions, not a claim that Kelvinator directly considered Parashuram or that either judgment certifies the current reopening procedure.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Actual date and bench

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 92 heading

Source role: reported metadata

2.

Topic: Docket and High Court order

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: SCR 93 H

Source role: reported metadata

3.

Topic: AYs, figures, accounting-date anomaly and notices

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 94 A–95 A

Source role: judicial text

4.

Topic: Writ pleadings and High Court findings

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 95 B–G

Source role: judicial text

5.

Topic: Three depreciation categories and original-cost ceiling

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 95 H–97 G

Source role: judicial text

6.

Topic: Former reopening text and four/eight-year conditions

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 97 H–98 H

Source role: judicial text

7.

Topic: Disclosure, books, inferences and cited authorities

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 99 A–G

Source role: judicial text

8.

Topic: Form C, absence of return, departmental records and no duty to instruct on law

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 100 A–101 A

Source role: judicial text

9.

Topic: Prior rectification/revision, nondisclosure sequence and finality

Source url: [Open cited source](#)

Pdf pages: 10

Paragraphs: SCR 101 A–G

Source role: judicial text

10.

Topic: Operative relief and own costs throughout

Source url: [Open cited source](#)

Pdf pages: 10

Paragraphs: SCR 101 G–H

Source role: judicial text

11.

Topic: Bounded later statutory comparison; no direct citation treatment

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: Paragraphs 2–6; SCR 770–773

Source role: bounded later judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

H.R. Khanna, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (former sections 147(a), 148 and 149 reopening jurisdiction); Indian Income-tax Act, 1922 (underlying assessments and depreciation)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Indian Income-tax Act, 1922: sections 10(2)(vi), proviso (c), 10(2)(vi-a) and corresponding section 34(1)(a); Indian Income-tax Rules, 1922: rule 19, Form C, Part V, including written-down-value column (2); Constitution of India: article 226 (writ route)

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

1075f25c6b596d71ece51d412b73a79de7b72cf2b5c1e31d500671796f6caa4a. Original bytes preserved.

Judicial body begins physical page 3/SCR 94 A and ends page 10/SCR 101 H. Pages 1–2 contain reporter material, appellate metadata and appearances. No neighbouring judgment.

Open cited source rendition

The actual decision date is 16 November 1976; the 1977 SCR volume is the report year.; Physical page 3/SCR 94 prints 31 July 1966 as the accounting year-end corresponding to AY 1957-58; that chronology is inconsistent and no substitute date is asserted.; The headnote at SCR 93 refers to a section 149(1) notice requirement, whereas the judicial body at SCR 98 correctly describes the historical section 139(2) content incorporated by section 148. Judicial text controls this note.; The return was not before the Supreme Court; absence of alleged incorrect or omitted particulars and the uncontroverted use of departmental records are preserved rather than converted into independent inspection of the return.; Earlier 1922 assessments do not remove the actual 1961 reopening question; no section 297 transition holding is inferred.; The larger 1955-56 to 1962-63 chart is not the appeal's AY set. Initial depreciation was excluded from written-down value but included in the aggregate original-cost ceiling.

Both years are expressly identified in the judicial body. The 1955-56 to 1962-63 range concerns the Officer's depreciation-error chart, not the two assessments challenged in this appeal. The printed accounting year-end of 31 July 1966 for AY 1957-58 is chronologically inconsistent and has not been silently corrected.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no current-law carryover certification. Identify and verify the statutory version applicable to the notice separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. One bounded later primary comparison actually made: Kelvinator (18 January 2010), all six text pages, images 1 and 3–6, especially paragraph 6. It does not cite Parashuram in this source and is labelled a statutory comparison rather than direct treatment. No comprehensive citation history, current-law certification, amending-Gazette chain or 2025 mapping verified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 10

SHA-256: 1075f25c6b596d71ece51d412b73a79de7b72cf2b5c1e31d500671796f6caa4a

later judgment bounded comparison - PDF pages: 6

SHA-256: cc18ad49419166de7ba5061fa93955805078d7cb08049acda980af79ab11ac94

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