

R.K. Malhotra, I.T.O., Group Circle II(1), Ahmedabad v. Kastur Bhai Lalbhai (H.U.F.)

Civil Appeal No.1977 of 1971

[1978] 1 SCR 289 | 1977-08-11

Whether the audit intimation about the legal inadmissibility of municipal-tax deduction constituted information for reopening under former section 147(b), and the identified later rejection of that conclusion.

147(b) (former information-based reopening; original audit-information conclusion later expressly rejected) | 148 (impugned notice) | 23(2) (self-occupied property context; non-deductibility recorded as undisputed)

Two-judge bench | Y.V. Chandrachud, J. | P.S. Kailasam, J.

Assessment years: 1965-66

Audit-information conclusion expressly rejected in 1979; historical section 147(b)

R.K. Malhotra allowed audit-based reopening in 1977, but the three-judge Court in *Indian and Eastern Newspaper Society* (31 August 1979) expressly held that conclusion erroneous at SCR 454 D–E. Audit's own legal opinion must be distinguished from factual information and communication of overlooked law; do not present Malhotra as an unqualified authority for audit-opinion-based reopening. The original appeal was allowed with costs and did not quantify a reassessment. The report prints a 13 July 1969 reply to a 15 July letter; that chronology is not silently corrected. The decision date is 11 August 1977 despite the 1978 report year. Comprehensive later treatment, current-law status and 2025 mapping remain not verified.

01 FACTS OF THE CASE

The respondent Hindu undivided family owned two houses, one in Ahmedabad and one in Bombay, both treated as self-occupied for AY 1965–66. In the assessment dated 14 March 1966, the Income-tax Officer allowed Rs.4,052 of municipal taxes in determining annual value under section 23(2). The judicial body records that the property was known to be self-occupied and that non-deductibility of the amount was not disputed before the Supreme Court (physical page 2/SCR 290 C–H).

On subsequent scrutiny, the office of the Comptroller and Auditor-General told the Officer that, on a true interpretation of section 23(2), municipal taxes on the self-occupied properties were not deductible. The Officer treated this as information under section 147(b), formed a belief of escaped income and issued a section 148 notice dated 12 September 1969 requiring a return within thirty days. The assessee obtained a writ of mandamus from the Gujarat High Court on 23 June 1970 quashing the notice. The Officer appealed by certificate under Article 133(1)(c), in Civil Appeal No.1977 of 1971 (physical pages 1–3/SCR 289 H–291 B).

The source prints the earlier show-cause letter as 15 July 1969 and the assessee's reply as 13 July 1969. That apparent chronological inconsistency is retained as a source caution; neither date is silently repaired. The sole issue identified by the Court was whether the audit intimation was information within former section 147(b), rather than an independently contested merits ruling on the municipal-tax deduction (physical pages 2–3/SCR 290 D–291 C).

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

02 DISCUSSION BY THE HON'BLE COURT

The two-judge Court described two conditions for former section 147(b): information received after the original assessment and a consequent reason to believe that taxable income had escaped assessment. It said the information could concern facts or law and that information not actually obtained earlier did not cease to be information merely because diligent investigation or research could have obtained it. The assessee argued that all material facts were already known and audit had merely pointed out a legal error (physical page 3/SCR 291 D–H).

The Court discussed Maharaj Kumar Kamal Singh, Bansilal Abirchand and the Nizam estate-duty decision as examples of later legal information from judicial or other authoritative decisions. It relied on A. Raman & Co. for the proposition that information could be newly obtained from material already on the assessment record. These prior decisions and the quoted passages are authorities discussed in this report; their original sources have not been independently reviewed for this note (physical pages 4–5/SCR 292 A–293 D).

On the specific audit question, the Court approved the views expressed in Chand Kanwarji, Kelukutty and Vashist Bhargava. It accepted that legal information must come from a person or authority competent to pronounce upon law, but held that the Gujarat High Court had wrongly denied that status to the Audit Department. It regarded audit as the machinery to scrutinise assessments and point out errors of law, and held that the Officer's prior knowledge of self-occupation did not preclude reliance on audit's note (physical pages 5–6/SCR 293 E–294 F). This describes the 1977 reasoning, not an unqualified rule available for present reliance.

Material later adverse treatment has been independently checked in Indian and Eastern Newspaper Society, decided by three judges on 31 August 1979. That Court examined this very case and expressly held its conclusion erroneous. It explained that the Central Board of Revenue in the Nizam authority had acted in an appellate, quasi-judicial capacity, a circumstance apparently not brought to the Court's attention in Malhotra; that was different from administrative audit. It also explained why Vashist Bhargava's result could be sustained on factual information even though its audit/legal-advice reasoning was wrong (later source physical pages 11–13/SCR 452 E–454 E).

The later Court distinguished audit's own legal opinion from the communication of law overlooked by the Officer. It required the Officer's independent evaluation of the law and rejected a change of opinion on material already considered. Its holding does not mean that every factual communication or notification of authoritative law through audit is unusable. This bounded adverse-treatment finding must accompany any statement of Malhotra's original audit-information conclusion (later source physical pages 9–11/SCR 450 C–452 A and pages 13–14/SCR 454 A–455 B).

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

03 JUDICIAL DECISION

In the 1977 appeal, the Court rejected the Gujarat High Court's conclusion, allowed the Officer's appeal with costs and held that, in the circumstances, the assessment could be reopened under section 147(b). The result displaced the High Court's quashing of the section 148 notice; it was not a completed reassessment or a quantified fresh demand. The 1979 Indian and Eastern Newspaper Society judgment later expressly held this audit-information conclusion erroneous (primary physical page 6/SCR 294 F-G; later physical page 13/SCR 454 D-E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue in the original 1977 appeal

Officer's appeal allowed with costs; entitlement to reopen under former section 147(b) upheld against the High Court's quashing of the notice

Final reasoned historical reopening-jurisdiction decision; its audit-as-legal-authority conclusion was expressly declared erroneous by Indian and Eastern Newspaper Society in 1979

No reassessment quantum fixed and no remand direction stated. Municipal-tax non-deductibility was recorded as undisputed. Do not rely on the audit-information conclusion without the identified later adverse treatment; no current reopening regime is certified.

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

05 AKHB REVIEW POINT

For historical research, separate what this 1977 Court decided from what the later three-judge Court rejected. Malhotra originally treated the audit note's legal interpretation as sufficient information; Indian and Eastern Newspaper Society expressly rejected that conclusion. A usable analysis must distinguish audit's legal opinion, factual information and communication of overlooked law, and must examine the Officer's independent belief under the statutory version actually applicable. The printed July correspondence anomaly affects the narrative chronology, not the express September notice or June 1970 High Court dates.

The later primary check here is confined to Indian and Eastern Newspaper Society's treatment and related distinctions. It is not a comprehensive citation-history search, current-law certificate or mapping to the Income-tax Act, 2025.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Date, bench, complete docket and High Court proceeding

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 289 heading and H

Source role: reported metadata

2.

Topic: Judicial opening, assessment facts, notice and printed correspondence-date anomaly

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: SCR 290 A–H

Source role: judicial text

3.

Topic: Audit intimation, sole question and historical section 147(b) conditions

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: SCR 291 A–H

Source role: judicial text

4.

Topic: Prior authorities and assessee submission

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 292 A–293 D

Source role: judicial text

5.

Topic: High Court audit cases discussed and original Court endorsement

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 293 E–294 E

Source role: judicial text

6.

Topic: Original audit-authority conclusion and exact relief/costs

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 294 E–G

Source role: judicial text

7.

Topic: Later date and three-judge bench

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 442 heading

Source role: reported metadata

8.

Topic: Later distinction between audit legal opinion and communication of law; independent belief and change of opinion

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: SCR 450 C–452 A

Source role: bounded later adverse treatment

9.

Topic: Later direct examination of Malhotra, appellate Board distinction and express rejection of its conclusion

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: SCR 452 E–454 E

Source role: bounded later adverse treatment

10.

Topic: Later factual-information distinction and ultimate holding

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: SCR 454 A–E; 455 A–B

Source role: bounded later adverse treatment

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.S. Kailasam, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (former sections 147(b) and 148; section 23(2) deduction context)

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Status: verified bounded adverse treatment

Case title: Indian and Eastern Newspaper Society, New Delhi v. Commissioner of Income Tax, New Delhi

Decision date: 1979-08-31

Source asset id: 1980_1_442_455

Treatment: Expressly held the conclusion in R.K. Malhotra erroneous on the audit-information issue; not a claim that every general proposition in Malhotra was separately rejected.

Pinpoint: Physical page 13/SCR 454 D–E, with analysis at pages 11–13/SCR 452 E–454 E and distinctions at pages 9–10/SCR 450 C–451 D

Scope: One independently reread later primary judgment only; comprehensive later treatment remains not_verified.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Constitution of India: Articles 226 and 133(1)(c); Indian Income-tax Act, 1922: section 34(1)(b), in cited authorities only;
Estate Duty Act: section 59(b), in cited authority only

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 6 PDF pages; SHA-256

c5c0a1747aff944c0d1c65a698f61ad7a12cd8c3fb0c2fa1a7fd3225562f103b. Original bytes preserved.

Judicial body begins physical page 2/SCR 290 A–B with Kailasam, J. and ends physical page 6/SCR 294 F–G with appeal allowed with costs. Physical page 1 is reporter headnote and appellate metadata; upper page 2 has appearances. No neighbouring judgment.

Open cited source rendition

The decision is dated 11 August 1977; [1978] 1 SCR 289 is its report citation, not its decision year.; The judicial body prints the 15 July 1969 show-cause letter followed by a reply dated 13 July 1969. No date is editorially substituted.; Municipal-tax non-deductibility is recorded as undisputed; the sole decided issue is the audit intimation as information under former section 147(b).; The later 1979 Court expressly rejects the original audit-information conclusion; its factual-information and communication-of-law distinctions must not be omitted.; The isolated historical-authority description at SCR 292 B refers to Income-tax Act, 1948; it is not the governing Act of this section 147(b) appeal. The original typography is preserved.; No original-source review of the authorities cited inside Malhotra is claimed apart from the separately registered later Indian and Eastern Newspaper Society judgment.

AY 1965–66 expressly stated in the judicial body at SCR 290 C and SCR 291 B.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-05. not_verified as a comprehensive history. Bounded adverse primary treatment verified: Indian and Eastern Newspaper Society, 31 August 1979, expressly held Malhotra's conclusion erroneous at physical page 13/SCR 454 D–E, explained at pages 11–13/SCR 452 E–454 E. Audit-opinion/communication-of-law distinctions checked at pages 9–10/SCR 450 C–451 D; factual distinction at page 13/SCR 454 A–D. No complete citator, current-law validation or 2025 mapping.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 6

SHA-256: c5c0a1747aff944c0d1c65a698f61ad7a12cd8c3fb0c2fa1a7fd3225562f103b

later judgment bounded adverse treatment - PDF pages: 14

SHA-256: 9fec570a477dd2b7061f504a98b3516cba6141fef120b8784a26b3eeef66bf0f

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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