

Brij Mohan v. Commissioner of Income Tax, New Delhi

Tax Reference Case No. 15 of 1975

[1980] 1 SCR 199 | 1979-08-03

Whether the penalty for concealment in a return filed on 24 April 1968 for AY 1964-65 was governed by the provision then operative or the provision applicable during the earlier assessment year.

271(1)(c) and 271(1)(iii) (historical concealment penalty and its measure) | 139 (return-filing date and extended-period argument) | 143(2) and 144 (notice default and best-judgment assessment, background) | 257 (direct reference to Supreme Court)

Two-judge bench | P.N. Bhagwati, J. | R.S. Pathak, J.

Assessment years: 1964-65

Concealment date and historical penalty measure

The 3 August 1979 decision applies the Finance Act, 1968 penalty measure because concealment occurred in the return filed on 24 April 1968, although the AY was 1964-65. It concerns the Tribunal's Rs.2,955 concealment penalty, not a late-return continuing-default penalty. Maya Rani is a bounded comparison of different statutory language and the section 297 transition scheme, not verified direct treatment. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

Brij Mohan was a partner in Hindustan Pottery Agency and New Crockery House. On 24 April 1968 he filed his return for AY 1964-65, disclosing Rs.460 from the former firm but omitting his share income from the latter. After non-compliance with a section 143(2) notice, the Officer made a section 144 assessment of total income of Rs.12,118, including Rs.1,462 and Rs.3,456 from the two firms respectively and other items. The Appellate Assistant Commissioner reduced the New Crockery House share to Rs.2,955 and, considering other items too, determined concealed income at Rs.7,357 (physical pages 2-3/SCR 200 H-201 C).

The Officer initiated penalty using the provision substituted by the Finance Act, 1968 and referred the case to the Inspecting Assistant Commissioner because of the minimum penalty involved. That authority imposed Rs.7,357. The Tribunal rejected the assessee's argument that the earlier AY's law controlled, but reduced the penalty to Rs.2,955 because it found concealment only of the New Crockery House income. Perceived differences between High Court decisions led to a direct reference under section 257 asking whether that Rs.2,955 penalty was legally sustained by applying the amendment effective 1 April 1968 (physical pages 3-4/SCR 201 D-202 A).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court separated the assessment of income and determination of tax from the penalty for the wrongful act of concealment. For the former, it stated the ordinary relevance of the assessment-year law and the Finance Act rate. For this concealment penalty, the relevant law was that operating when the concealment occurred. The historical year to which the concealed income related did not move the act of concealment back into that year (physical pages 4–5/SCR 202 G–203 C).

The Court set out both measures of penalty. During AY 1964-65, clause (iii) prescribed, in addition to tax, a minimum of 20% and maximum of one-and-a-half times the tax that would have been avoided if the returned income were accepted. The Finance Act, 1968 substitution, effective 1 April 1968, instead prescribed a minimum equal to, and maximum twice, the income whose particulars were concealed or inaccurately furnished. These are the measures quoted in this historical judgment, not current rates (physical page 4/SCR 202 B–F).

Here the concealment was effected by filing the return on 24 April 1968, after the amendment took effect. The substituted clause therefore applied. The Court also rejected the argument that the Officer's acceptance of the late return should deem it filed by the original asserted deadline, 30 September 1964. A return within an extended period could be a good return which the Officer had to consider, but section 139 contained no fiction relocating its actual filing date to the original deadline. The interest provision for filing beyond that deadline, even within an extension, reinforced that conclusion (physical pages 5–6/SCR 203 D–204 A).

The adjudicated wrongful act was concealment in the return. The non-compliance with the notice and the late filing explain the history but were not the penalty default whose quantum the referred question asked the Court to determine.

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

03 JUDICIAL DECISION

The Court held that the Finance Act, 1968 substitution of section 271(1)(iii) governed the concealment on 24 April 1968. It answered the reference affirmatively, in favour of the Revenue and against the assessee, thereby sustaining the Tribunal's application of that provision to the Rs.2,955 penalty. The Revenue was entitled to its costs of the reference (physical page 6/SCR 204 B–C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Reference answered affirmatively; amended concealment-penalty measure applied to the Tribunal's Rs.2,955 penalty; costs of reference to Revenue

Final reasoned answer on applicable historical penalty law; Tribunal's narrower concealment amount forms the reference

Concealment on actual return filing, not a universal rule for every penalty, every transition provision or continuing failure to file.

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

05 AKHB REVIEW POINT

Identify the precise default and the event constituting it before selecting the historical penalty provision. Here the Court located concealment in the return actually filed, so an earlier assessment year and a purported relation-back to the return's original deadline could not displace the amendment. Keep the Officer's Rs.12,118 assessed income, the Rs.7,357 intermediate penalty base and the Tribunal's Rs.2,955 sustained concealment penalty separate.

A bounded later statutory comparison with Maya Rani Punj (11 December 1985) cautions against universalising the timing statement. Maya Rani concerned non-filing under section 271(1)(a), the transition from the 1922 Act through section 297, and a monthly continuing default. Its judicial text treats the non-filing duty as continuing until compliance and applies the particular transition scheme. It is not presented here as a direct treatment or overruling of Brij Mohan. The distinct default and statutory language must govern any comparison.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench and reference

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 199 heading; 200 D–G

Source role: reported metadata and judicial text

2.

Topic: Actual return, firms, assessment, penalty figures and reference

Source url: [Open cited source](#)

Pdf pages: 2; 3; 4

Paragraphs: SCR 200 H–202 A

Source role: judicial text

3.

Topic: Exact historical penalty measures and effective date

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 202 B–F

Source role: judicial text

4.

Topic: Concealment timing and rejected relation-back

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 202 G–204 A

Source role: judicial text

5.

Topic: Answer to reference and Revenue costs

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 204 B–C

Source role: judicial text

6.

Topic: Bounded later comparison: default, transition and continuing obligation

Source url: [Open cited source](#)

Pdf pages: 4; 6; 7; 8; 15; 16

Paragraphs: SCR 830 F–G; 832–834; 841 D–842 D

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (historical provisions adjudicated in this judgment)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance Act, 1968: substitution of section 271(1)(iii) effective 1 April 1968, as quoted and applied by the Court

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

7c7b9424c4cfa783c25a6caf874aa1ad63f8e0920076b051fd7d8f2044817480. Original bytes preserved.

Judicial body begins physical page 2/SCR 200 F and ends page 6/SCR 204 C. Page 1 and upper page 2 are reporter material; reference metadata appears at page 2. No neighbouring judgment.

Open cited source rendition

Decision date is 3 August 1979, despite the 1980 SCR volume and source year.; The return was actually filed on 24 April 1968, after the 1 April 1968 substitution; 30 September 1964 was the asserted original deadline, not the date of concealment found by the Court.; Penalty concerns concealment of New Crockery House share income; late return filing and notice non-compliance are background rather than the penal default decided.; Rs.12,118 is assessed total income; Rs.7,357 is the intermediate concealment/penalty figure; Rs.2,955 is the Tribunal's reduced penalty forming the reference.; Historical clause (c) describes the default and clause (iii) the measure. The reference's conventional composite citation is preserved without representing clause (iii) as a present provision.; Maya Rani is a comparison of a monthly non-filing default and transition scheme, not a verified direct treatment or overruling of Brij Mohan.

Return for AY 1964-65 was actually filed on 24 April 1968. The date of concealment in that return, not the earlier AY or original due date, controlled the particular penalty provision applied.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded later statutory comparison only: Maya Rani Punj, 11 December 1985; identity/date at page 1, judicial facts and statutory/transition discussion at pages 4–9, and continuing-default conclusion at pages 15–16. Material images checked at pages 1,4,6,7,8,15,16. This is not a direct Brij Mohan citator entry or a comprehensive later-treatment review. No current penalty regime or 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 6

SHA-256: 7c7b9424c4cfa783c25a6caf874aa1ad63f8e0920076b051fd7d8f2044817480

later judgment bounded comparison - PDF pages: 16

SHA-256: 588053eaa2102d7ab3a09a4791e93cd4824f00962d0c2a6e52708397c03e6baa

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