

Rajinder Nath etc. v. Commissioner of Income Tax, Delhi

Civil Appeal Nos. 1864–1869 of 1972

[1980] 1 SCR 272 | 1979-08-13

Whether the appellate order deleting building-cost additions from a firm contained a necessary finding or authorised direction sufficient to remove the limitation bar for individual partners' assessments under former section 153(3)(ii).

153(3)(ii) (historical limitation exception) | Explanation 3 to section 153(3) (income of another person and opportunity of hearing) | 147(a) (reopening question left for High Court) | 143 and 144 (assessment powers distinguished from limitation provision)

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

Assessment years: 1955-56, 1956-57

Necessary finding or direction; section 147(a) remained open

The 13 August 1979 judgment construes historical section 153(3)(ii). A finding must be necessary, and a direction express, necessary and authorised; the provision removes a limitation bar but does not enlarge jurisdiction. The assessee won this issue, while section 147(a) was remanded to the High Court. This is not final cancellation of every individual assessment. Comprehensive later treatment, the remand outcome, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

Lala Sham Nath's Hindu undivided family included his sons Rajinder Nath, Ram Chander Nath and Surinder Nath. After a partial partition, the family business was taken over by the firm Faqir Chand Raghunath Dass, comprising the father and two elder sons. A Sunder Nagar building and a Golf Links building were constructed; the firm recorded construction costs of Rs.98,418 for AY 1955-56 and Rs.99,148 for AY 1956-57. In their individual returns the assesseees claimed that the properties belonged to the four family members individually (physical page 4/SCR 275).

The Officer treated the properties as the firm's and added estimated construction-cost excesses to its income. On the firm's appeals, the Appellate Assistant Commissioner deleted the additions because the firm had advanced money whose cost was debited equally to the co-owners' accounts and was not itself the owner. The Officer then apportioned the additions between the individual assesseees through section 147(a) proceedings. The Appellate Assistant Commissioner found no relevant disclosure default and acknowledged the ordinary limitation bar, but sustained the assessments through section 153(3)(ii). The Tribunal disagreed because there was no necessary finding or direction and no individual hearing as required by Explanation 3. The High Court reversed on the second referred question and left the first, concerning section 147(a), unanswered (physical pages 4-6/SCR 275 H-277 D).

The Supreme Court appeals were brought by the individual partners; Surinder Nath had not been admitted to partnership benefits and filed no appeal. Before the Court the assesseees did not dispute that they came within the expression any person. The contested point was whether the earlier appellate order contained the statutory finding or direction (physical page 6/SCR 277 D-G).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court confined finding to one necessary for disposal of the particular assessment case, concerning the relevant assessee and year. A finding about another person may sometimes be indispensable: where income could belong only to A or B, deciding B's position may be an essential step in deciding A's. But if A's liability can be resolved without deciding B's, an observation about B is incidental. The same distinction applies to observations about another assessment year. A direction must be express, necessary to dispose of the case, and within the deciding authority's power (physical pages 6–7/SCR 277 G–278 D).

Section 153(3)(ii) did not enlarge jurisdiction or create a new kind of assessment; it removed a limitation bar for orders under sections 143, 144 or 147 when its conditions were met. The Court therefore questioned the framing of the supposed conversion from section 147 into section 153. Limitation relief could not itself supply assessment jurisdiction (physical page 7/SCR 278 D–F).

The earlier order established only that the firm did not own the properties and that the relevant cost had been debited to the co-owners. That did not establish that any excess construction cost was the individuals' concealed income. Such a conclusion required proper enquiry and an opportunity for each individual to explain the amounts. An explanation by partners about the firm's receipts was different from an explanation by them in their individual capacities. Explanation 3 required a finding that the sum was the income of another person; the observations in the firm's appeal did not supply it (physical pages 7–8/SCR 278 F–279 D).

Nor was a statement that the Officer was free to take action a direction. It left action optional; a statutory direction requires positive compliance. Vadde Pullaiah was distinguishable because appeals by both the firm and the individual had made ownership of the business indispensable to resolving both appeals. Accordingly neither the requisite finding nor direction existed here (physical pages 8–9/SCR 279 E–280 B).

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

03 JUDICIAL DECISION

The appeals were allowed and the High Court's 17 September 1971 judgment was set aside. The second referred question was answered for the assessee: section 153(3)(ii) did not apply. The Court did not finally decide whether section 147(a) could sustain the proceedings. By the parties' agreement that issue required an answer once section 153(3)(ii) failed, and the cases were remanded to the High Court for its opinion on the first referred question. The assessee was awarded their costs of the Supreme Court appeals (physical page 9/SCR 280 C–F).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the section 153(3)(ii) issue; further decision required on section 147(a)

Appeals allowed; High Court judgment set aside; second question answered for assessee; remand for first question; appeal costs to assessee

Final limitation-exception holding with expressly reserved reopening issue; not final adjudication cancelling all individual assessments

No holding that every statement about another person/year is incidental; the judgment expressly recognises genuinely necessary findings. Any-person coverage was not contested in these appeals.

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

05 AKHB REVIEW POINT

Test the necessity of the earlier finding rather than its label or its usefulness to the Revenue. A conclusion that income is not assessable to one taxpayer does not, without the necessary factual and procedural steps, establish its taxability in another's hands. The Court also distinguishes permission to consider action from an order requiring action.

The remedy must be stated with equal care. The assessee defeated this limitation exception, but the separate section 147(a) question was remanded. Using this case as proof that the reassessments were finally extinguished would omit a material part of the relief. For a later dispute, verify both the operative assessment power and the relevant version of the limitation provision; the historic section number supplies no automatic current-law or 2025 crosswalk.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench and all six appeals

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 272 heading; 274 F-H

Source role: reported metadata and judicial text

2.

Topic: Properties, amounts, two AYs and procedural history

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 275-277 D

Source role: judicial text

3.

Topic: Appeal participants, issue narrowing and necessary findings

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 277 D–278 C

Source role: judicial text

4.

Topic: Limitation-only role, another-person enquiry and hearing

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 278 D–279 D

Source role: judicial text

5.

Topic: Optional permission is not direction; Vadde Pullaiah distinction

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: SCR 279 E–280 B

Source role: judicial text

6.

Topic: Limited relief, express remand and costs

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 280 C–F

Source role: judicial text

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)

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

1466706418549eadbbe20eaa2307f1c98a42b84ddcb07e5397175b86b1b011db. Original bytes preserved.

Judicial body begins physical page 4/SCR 275 A and ends page 9/SCR 280 F. Pages 1–3 contain reporter material and appellate metadata. No neighbouring judgment.

[Open cited source rendition](#)

Actual decision date is 13 August 1979; the 1980 SCR volume is not the decision year.; All six Supreme Court appeals, Nos.1864–1869 of 1972, are included; Surinder Nath was not an appellant.; The original report's second question prints section 147(1) while the operative narrative concerns section 147(a); the note preserves the actual issue rather than deriving a new provision from that wording.; The assessee did not challenge any-person coverage before the Supreme Court; it is not framed as a separately contested holding.; The Court decided section 153(3)(ii) only and remanded the unanswered section 147(a) question; final merits of the individual reassessments were not determined.

These early Ays are expressly identified throughout the judgment. The actual questions decided concern sections 147(a) and 153(3)(ii) of the 1961 Act; no unexpressed section 297 transition holding is inferred. Appeals are by the individual partners; Surinder Nath filed no appeal.

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. No later primary treatment of Rajinder Nath was independently reviewed for this note. No comprehensive citator search, subsequent High Court remand outcome, present limitation-text validation or 2025 mapping is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

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