

Grindlays Bank Limited v. Income Tax Officer, H Ward Companies, District IV, Calcutta and others

Civil Appeal No. 2009 of 1978

[1980] 2 SCR 765 | 1980-01-15

Whether the High Court could direct a fresh assessment after quashing a procedurally defective section 142(1) notice and consequential assessment, in light of the actual court stays, historical limitation provisions and Article 226 remedial jurisdiction.

142(1) (production notice) | 153(1)(a)(iii) (then two-year assessment limit) | 153, Explanation 1(ii) (exclusion of court-stay period) | 146 and 153(3)(i) (then statutory cancellation/fresh-assessment route, used in reasoning) | 153(3)(ii) (necessary judicial direction, discussed through Rajinder Nath)

Two-judge bench | N.L. Untwalia, J. | R.S. Pathak, J.

Assessment years: 1972-73

Court-stay exclusion and a necessary remedy, not unlimited extension

The original assessment was timely after the statutory stay exclusion. The further direction addressed a correctable procedural notice defect and was necessary to dispose of the writ; complete want of jurisdiction was expressly distinguished. Grindlays does not authorize unrestricted disregard of limitation. The section 146 comparison is historical, and Ahluwalia is a bounded cross-statute later check. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

The appellant bank, incorporated in the United Kingdom and carrying on banking business in India, filed a return for AY 1972-73. It challenged a section 142(1) demand for books and documents by writ petition on 17 March 1975, fourteen days before the ordinary assessment deadline. Interim orders stopped the assessment proceeding. The single judge disposed of the petition on 31 August 1976 by construing the notice narrowly and requiring compliance, while directing completion by 31 March 1977. A 22 September 1976 amendment required the assessment to be completed on 31 March 1977, and not before that day (physical pages 3-4/SCR 767 E-768 H).

The Officer made the assessment on that prescribed date. On 8 and 12 May 1978 the Calcutta High Court's Division Bench quashed both the notice and the consequential assessment, but directed a fresh assessment. The bank's Supreme Court appeal by special leave challenged that further direction, contending that limitation had expired and a valuable right not to be assessed had accrued (physical pages 3-5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first rejected the asserted accrued limitation right on the actual chronology. The amendment to the single judge's judgment took effect from the original judgment date. During the ensuing appeal there was no order suspending the direction that assessment be made only on 31 March 1977; the stay concerned enforcement of the demand. Under then Explanation 1(ii) to section 153, the relevant court-stay period was excluded. Fourteen days had remained when the stay began, and the assessment was made on the first day after the stay expired. The 31 March 1977 assessment therefore was not time-barred (physical pages 4–5/SCR 768 D–769 E).

The Court next considered Article 226. Ordinarily, quashing an offending order in a proceeding leaves the remaining proceeding revived for fresh consideration; the High Court does not substitute its own assessment. A finding of complete want of jurisdiction to entertain the proceeding is different and produces no such revival. Within the former setting the High Court may make further orders needed for justice and neutralize an unfair advantage created merely by invoking the court process (physical pages 5–6/SCR 769 F–770 C).

Here the defect in the notice was a correctable procedural lapse, not a lack of the Officer's fundamental assessment jurisdiction. The Court also compared the then section 146 remedy: cancellation through that route would have permitted fresh assessment without the limitation bar by section 153(3)(i). Resort to Article 226 should not itself produce an undeserved advantage. Relying on Pooran Mall's remedial reasoning, the Court upheld the direction (physical pages 6–7).

Rajinder Nath's requirement that a section 153(3)(ii) direction be both necessary for disposing of the case and within the court's power was satisfied: this direction was necessary to dispose of the writ petition properly and completely. The Court distinguished the cited foreign authorities involving expired periods or nullity and upheld the direction as a sound exercise of judicial discretion (physical pages 7–8/SCR 771 F–772 E). This is not an unlimited power to disregard every statutory time bar.

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

03 JUDICIAL DECISION

The bank's appeal was dismissed with costs. The High Court had jurisdiction to direct a fresh assessment, and its direction was necessary for complete justice and a sound exercise of discretion on these facts (physical page 8/SCR 772 D–E). The quashed assessment was not restored as a merits determination.

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the challenged fresh-assessment direction

Assessee appeal dismissed with costs; High Court's fresh-assessment direction upheld

Final reasoned determination of limitation and Article 226 remedial power; underlying assessment merits left to fresh assessment

Correctable notice defect, an originally timely assessment after statutory stay exclusion, and a necessary judicial direction; distinct from complete want of assessment jurisdiction or a general waiver of limitation.

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

05 AKHB REVIEW POINT

Analyse the two steps separately: first compute limitation using the actual stay orders and governing exclusion provision; then identify the court's power and the necessity of the particular consequential direction. Quashing does not always end the statutory proceeding. Equally, the case's express distinction between a procedural lapse and complete want of jurisdiction must remain visible. The historical section 146 comparison is part of the reasoning, not a present-day remedy instruction.

A bounded later primary check of Ahluwalia Contracts (4 October 2017), paragraphs 12–20, shows the Court quoting and applying Grindlays' remedial approach in a distinct Delhi VAT amnesty dispute. Its conclusion turned on an initially timely notice, the timing of the jurisdiction objection and the opportunity earlier available to correct the error. That cross-statute application is reported only as bounded later treatment and is not incorporated as an unrestricted income-tax power to bypass limitation.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench and appeal

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 765 heading; 767 B–D

Source role: reported metadata and judicial text

2.

Topic: Notice, stays, orders and sole issue

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 767 E–768 H

Source role: judicial text

3.

Topic: Retrospective amendment effect and statutory stay exclusion

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 768 G–769 E

Source role: judicial text

4.

Topic: Certiorari, revival and complete-want-of-jurisdiction distinction

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 769 F–770 C

Source role: judicial text

5.

Topic: Historical section 146 route and correctable defect

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 770 C–771 F

Source role: judicial text

6.

Topic: Necessary direction, distinctions, dismissal and costs

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 771 F–772 E

Source role: judicial text

7.

Topic: Bounded later cross-statute quotation and application

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14; 15; 16

Paragraphs: SCR 60–65, paragraphs 12–20

Source role: bounded later judicial treatment

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

Constitution of India: Article 226 (certiorari and consequential remedial powers)

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 8 PDF pages; SHA-256

d5bbef3b53e497671e9bc56cab020a5f2e1afbee19fb8733200a3ce89b0ba015. Original bytes preserved.

Unnumbered judicial body begins physical page 3/SCR 767 D and ends page 8/SCR 772 E. Pages 1–2 and top of page 3 are reporter material; appellate metadata appears on page 3. No neighbouring judgment.

Open cited source rendition

The sole Supreme Court question was the fresh-assessment direction; no substantive income computation or validity of a future assessment is decided.; Page 4 uses an apparent wording slip describing 31 March 1975 as the end of the assessment year. In context it is the two-year limitation deadline for AY 1972-73; it is not adopted as a changed assessment-year end.; The court-stay exclusion and the separate Article 226/necessary-direction reasoning must both be preserved.; Section 146 and section 153 numbering are historical as adjudicated; no current availability of that cancellation route is represented.; The statement that complete want of jurisdiction prevents automatic revival is distinct from the quoted possibility of a competent different authority acting; do not generalize either into an absolute rule for every later scheme.; Ahluwalia is used only for the identified direct later treatment; its VAT merits, statutory scheme and finding concerning the taxpayer's conduct are not transplanted into this case.

The relevant year is expressly AY 1972-73; 31 March 1975 is the ordinary two-year assessment deadline identified by the judgment, not the actual end of that assessment year.

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 2026-10-04. not_verified. Bounded direct later check: Ahluwalia Contracts, cover date and paragraphs 12–20 at physical pages 11–16/SCR 60–65, particularly paragraphs 18–19. This is a distinct VAT/amnesty case and no independent core note is created. No comprehensive citator search, current statutory-remedy validation or 2025 mapping.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 8

SHA-256: d5bbef3b53e497671e9bc56cab020a5f2e1afbee19fb8733200a3ce89b0ba015

later judgment bounded check - PDF pages: 16

SHA-256: 9a993086f4ae6a08ef9ec18d47e8f7dd76b7c858f572b3dc46ed2ba392dd76cb

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.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.