

Kishinchand Chellaram v. Commissioner of Income-Tax, Bombay City II, Bombay

Civil Appeal No. 2728 of 1972

[1981] 1 SCR 720 | 1980-09-16

The bank correspondence did not support treating a Rs. 1,07,350 remittance between employees as the firm's concealed income. Adverse material had not been properly disclosed, and the original transfer application contradicted Revenue's attribution. The Supreme Court allowed the appeal and answered the reference for the assessee.

Two-judge bench | P.N. Bhagwati, J. | E.S. Venkataramiah, J.

Disclosure and proof of ownership

The ruling rejects this unsupported attribution and undisclosed bank evidence; it is not a section 68 holding or a universal reversal of statutory taxpayer burdens.

Operative context: Indian Income-tax Act, 1922; historical sections 34.

01 FACTS OF THE CASE

The officer reopened the firm's AY 1947-48 assessment under section 34 of the 1922 Act after receiving information about an October 1946 telegraphic remittance from Madras to Bombay. The firm repeatedly denied making it. Bank letters were used to attribute Rs. 1,07,350 to the firm, while the transfer application was signed by Tilok Chand in his own name, giving the firm's address.

The tax authorities treated the transfer between persons said to be employees as firm income and faulted the firm for not disproving that inference. The Tribunal and Bombay High Court upheld the addition. Important bank correspondence was disclosed only when a supplemental statement was prepared following the Supreme Court's earlier direction.

Source: [SCR 722 F-727 C](#)

02 DISCUSSION BY THE HON'BLE COURT

Income-tax proceedings are not governed by strict evidentiary rules, but that does not permit reliance on undisclosed adverse material. Before using the manager's letter, the authorities had to produce it to the assessee so it could challenge the statements, including by seeking cross-examination. Merely reproducing an extract in an appellate order did not provide that opportunity.

The evidentiary weakness was separate. The manager wrote years after the transfer; personal knowledge was unproved and the underlying bank records supporting his assertion were not produced. The Court questioned the unexplained absence of correspondence and any statement following a summons. Those comments included judicial inferences; the judgment did not reproduce a verified missing deposition.

Even assuming the disputed letters could be considered, they did not justify the conclusion. The original application identified Tilok Chand as remitter in his own right. Proof that one employee sent money to another did not prove that either acted for the firm or that the money belonged to it. Revenue bore that attribution burden and had not excluded the possibility of an employee's own funds. The firm could not be expected to produce former employees to fill that gap.

Source: [SCR 727 D-731 E](#)

03 JUDICIAL DECISION

The Court found no material evidence supporting the Tribunal's attribution of the remittance to the assessee, set aside the High Court judgment and answered the referred question for the firm. It did not simply remit the matter for another evidentiary opportunity.

Source: [SCR 731 E-F](#)

04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal allowed; High Court judgment set aside; reference answered against Revenue. Result: Assessee. Costs: Revenue to pay the assessee's costs throughout. Scope: Evidentiary basis for the disputed addition finally rejected. Limit: The ruling rejects this unsupported attribution and undisclosed bank evidence; it is not a section 68 holding or a universal reversal of statutory taxpayer burdens.

Source: [SCR 731 E-F](#)

05 AKHB REVIEW POINT

Request the complete adverse document, its underlying records and an opportunity to test the material statement. Separate two arguments: denial of a fair chance to respond, and the absence of evidence connecting the receipt to the taxpayer. Identify that missing connection precisely instead of treating every third-party statement as automatically inadmissible.

Source: [SCR 728 A-F;730 B-731 E](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

12-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

The withheld 1957 item was the endorsed copy sent to the officer; the bank had also written to the assessee. SCR 723 prints 1955 for a repeated inquiry, while the surrounding reply chronology identifies 1956. The actual decision is 16 September 1980, despite the 1981 report year.

STATUTORY SCOPE

Indian Income-tax Act, 1922; historical sections 34.

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. H.R. Mehta v. ACIT, [2016] 387 ITR 561 (Bom), decided 30 June 2016, paragraph 13, discussed Kishinchand's criticism of untested bank evidence. Paragraphs 16-19 allowed the appeal because adverse material and a requested cross-examination opportunity had been denied; the separate reopening-law question was left academic.

Verified H.R. Mehta's judicial text paragraphs 1-19 in the web-indexed rendition, especially 13 and 16-19; comprehensive subsequent history remains unverified.

H.R. Mehta paragraphs 1-19, web-indexed judicial reproduction; direct opening redirected to login. No raw PDF/image verification.

IDENTIFIED SOURCE LINKS

[H.R. Mehta v. Assistant Commissioner of Income Tax \(2016-06-30\)](#)

Nonofficial indexed judicial-text reproduction. Web-indexed judicial text paragraphs 1-19, particularly 13 and 16-19. Direct open redirected to login; indexed judicial text read, no raw PDF or images.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

PROFESSIONAL DISCLAIMER

General information, not legal or tax advice. Verify the complete judgment, applicable law and subsequent treatment before reliance. Source review is not independent professional approval.