

Ganga Saran and Sons Pvt. Ltd., Calcutta v. Income Tax Officer and Others

Civil Appeal No. 1146 of 1973

[1981] 3 SCR 564 | 1981-04-23

Whether the stated reasons rationally supported escaped income and material non-disclosure under the historical section 147(a), when a working director's remuneration was attacked as bogus because of family loans, gifts and limited personal withdrawals.

147(a) (then two jurisdictional conditions) | 147(b) (then alternative route, unavailable after the stated four-year period) | 148 (notice challenged)

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

Assessment years: 1959-60

Historical section 147(a) case; no present reopening rule

This decision applies the old section 147(a)/(b) framework to a 1968 notice for AY 1959-60. Its two-condition test and four-year discussion must not be used as current reassessment jurisdiction or procedure. The result depends on the disclosed accounts, genuine services and lack of a rational nexus in the stated reasons; it does not immunise every related-party payment. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

The company took over Deo Datt Sharma's Delhi trading business in 1947 and appointed him a director in sole charge of its Delhi branch. He received Rs. 1,000 a month, one per cent of branch sales as commission, and a bonus equal to three months' salary. He was the managing director Ganga Saran Sharma's brother-in-law. Earlier appellate decisions had accepted the remuneration as genuine and reasonable; the original AY 1959-60 assessment allowed the salary, commission, bonus and interest on directors' undrawn credit balances (physical pages 4-6/SCR 567-569).

On 28 March 1968 the Income Tax Officer issued a section 148 notice reopening AY 1959-60. The Court treated it as resting on old section 147(a), because the four-year period applicable to the section 147(b) route had elapsed. Reasons were not supplied initially despite a request. After the company filed a writ petition, the Officer stated that the remuneration was bogus: the director had withdrawn relatively little for himself and had lent money to, and made gifts within, the managing director's family. The contemporaneous accounts already disclosed a Rs. 12,550 gift to the managing director's son and a Rs. 2,25,000 loan to the managing director; further gifts were made after the relevant accounting year. A Single Judge quashed the notice, but the Calcutta High Court Division Bench reversed that decision on 1 June 1972. The company appealed by certificate (physical pages 3, 6-8 and 11).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court identified two distinct conditions under the then section 147(a): reason to believe that income had escaped assessment, and reason to believe that the escapement resulted from the assessee's omission or failure to disclose fully and truly the material facts necessary for assessment. Failure of either condition defeated jurisdiction. A belief had to rest on relevant, material reasons rather than be arbitrary or irrational. Judicial scrutiny could test relevance and the rational, intelligible connection between the reasons and the required belief; it could not reassess the adequacy or sufficiency of the reasons (physical pages 8–9/SCR 571 F–572 C). This is the historical statutory test actually adjudicated.

On the admitted facts, Deo Datt Sharma continued full-time management of the same business he had previously owned, which had earned him about Rs. 36,000 annually. The remuneration therefore paid for real services. His relationship to the managing director did not turn that remuneration into a sham. Nor did his choice to lend or give part of his receipts to close relatives rationally establish that the company's payment was bogus. The Court relied on the actual work and the earlier findings of genuineness and reasonableness, rather than announce that all payments between related persons are necessarily deductible (physical pages 9–11/SCR 572 D–574 B).

There was also no material non-disclosure. The Officer possessed the relevant accounts and knew the managing director's identity. The later gifts fell outside the relevant accounting year; the company was not obliged on these facts to disclose how its working director subsequently used the remuneration received for his services. Neither statutory condition was satisfied (physical page 11/SCR 574 C–G).

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

03 JUDICIAL DECISION

The Court allowed Civil Appeal No. 1146 of 1973, set aside the Division Bench judgment and restored the Single Judge's order quashing the notice dated 28 March 1968. The Revenue was directed to pay the assessee's costs throughout (physical pages 11–12/SCR 574 H–575 A).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; reopening notice quashed by restoration of the Single Judge's judgment; Revenue to pay assessee's costs throughout

Final reasoned jurisdictional ruling under historical section 147(a)

Decides this notice and these reasons. It is not a modern reassessment code, an immunity for related-party payments or a freestanding adjudication of every earlier assessment.

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

05 AKHB REVIEW POINT

Keep the two historical questions separate: what rationally supports escaped income, and what material disclosure failure caused it? On this record the work was real, earlier assessments had examined the remuneration, and the relevant accounts were already before the Officer. Suspicion arising from family relationships and the recipient's later use of money could not supply the missing connection.

The useful research discipline is to compare the recorded reasons with the primary facts already disclosed. The old section 147(a)/(b) structure, the four-year reference and this notice's invalidity must not be presented as present reassessment jurisdiction or procedure. A later statutory-version and treatment check is required before applying the reasoning to another period; none is certified here.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date and single appeal

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 564 heading; 566 D–H

Source role: reported metadata and judicial text

2.

Topic: Real services and historical assessment findings

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 567 A–569 C

Source role: judicial text

3.

Topic: 1968 notice, historical route and Officer's stated reasons

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: SCR 569 C–571 E

Source role: judicial text

4.

Topic: Two old jurisdictional conditions and permissible judicial review

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: SCR 571 F–572 C

Source role: judicial text

5.

Topic: Application: genuineness, family transfers and material disclosure

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: SCR 572 D–574 G

Source role: judicial text

6.

Topic: Notice quashed and costs throughout

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: SCR 574 H–575 A

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Bhagwati, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 (historical sections 147(a), 147(b) and 148)

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256

d48f34d7a8e3fc6f6a9d5b6286592ea6b590274a089124253cc726b927fc4504. Original bytes preserved.

Unnumbered judicial body begins physical page 3/SCR 566 F–G and ends page 12/SCR 575 A. Pages 1–2 and opening page 3 contain editorial headnotes, followed by appellate metadata. No neighbouring judgment.

[Open cited source rendition](#)

The 1959-60 assessment year does not make this an exclusively 1922-law decision: the judicial body actually applies sections 147(a) and 148 of the 1961 Act. No section 297 crosswalk is supplied.; The lack of initially supplied reasons is procedural background. The judgment's operative grounds are failure of both substantive jurisdictional conditions, not a separately declared universal reasons-supply procedure.; SCR 570 separately lists the original Rs. 2,37,550 gift-and-loan subtotal and subsequent gifts. SCR 573 reuses that subtotal in a broader narrative. This note does not treat it as a reconciled aggregate of all listed transfers.; Family relationship and subsequent disposition of remuneration are evaluated alongside actual full-time services and prior findings; neither is categorically irrelevant in every case.; Original report heading verifies 23 April 1981; judicial body and closing order verify the single civil appeal and costs throughout.

AY 1959-60 is the assessment sought to be reopened. AYs 1949-50, 1956-57, 1957-58 and 1958-59 are individually described as earlier deduction history; the Officer also referred to completed assessments up to AY 1963-64. Those are background, not additional reopening appeals. Although the disputed AY predates the 1961 Act, the Court expressly decides jurisdiction under its then sections 147(a) and 148. No independent section 297 transition ruling is inferred.

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. No later judicial or statutory source is relied on for this note. The primary judgment supplies the historical conditions and their application; comprehensive subsequent treatment, present reassessment requirements and 2025 mapping have not been checked.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

SHA-256: d48f34d7a8e3fc6f6a9d5b6286592ea6b590274a089124253cc726b927fc4504

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