

Jamnabasad Kanhaiyalal v. Commissioner of Income-tax, M.P., Bhopal

Tax Reference Case No. 19 of 1975

[1981] 3 SCR 849 | 1981-05-08

Whether accepted creditor declarations under the 1965 voluntary-disclosure scheme barred section 68 inquiry into five credits in another assessee's books, or conclusively established that the credits belonged to those declarants.

68 (cash-credit burden and assessment of the assessee-firm) | 257 (direct reference to the Supreme Court) | 256 (initial reference application history) | 139 (within quoted historical scheme eligibility)

3-judge bench | R.S. Pathak, J. | A.P. Sen, J. | E.S. Venkataramiah, J.

Assessment years: 1967-68

1965 disclosure scheme: no third-party cash-credit immunity

This case applies section 24 of the Finance (No. 2) Act, 1965, with its closed declaration window and eligible historical income years, to the firm's AY 1967-68 section 68 assessment. Acceptance and payment by creditors did not conclusively establish ownership or protect another assessee. The firm's failed burden and the separate concurrence matter; the double-taxation discussion is fact-specific. No current amnesty, automatic addition in every case, comprehensive later-treatment verification or 2025 mapping is established.

01 FACTS OF THE CASE

For AY 1967-68, with an accounting year ending at Diwali 1966, the assessee partnership's books showed five credits of Rs.9,250 each, totalling Rs.46,250, in the names of the managing partner's sons. The managing partner could not explain their capacity to advance the funds and admitted that they had no independent income source. The firm instead relied on their accepted voluntary declarations and payment of tax under section 24 of the Finance (No. 2) Act, 1965 (physical pages 5-6/SCR 853-854).

The Income-tax Officer added Rs.46,250 as unexplained income of the firm. The Appellate Assistant Commissioner deleted it, considering the declarations final and a second charge impermissible. The Tribunal restored the addition, finding that the firm had not discharged its section 68 burden. Because High Courts differed on the scheme's effect, the Tribunal referred the legal questions directly to the Supreme Court under section 257. This is a direct tax reference, not an appeal from a High Court merits judgment (physical pages 5-8).

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

02 DISCUSSION BY THE HON'BLE COURT

Sen J., for himself and Venkataramiah J., read the actual historical scheme. Section 24 permitted declarations on or after 19 August 1965 and before 1 April 1966 for qualifying income chargeable under the 1922 or 1961 Act for assessment years commencing on or before 1 April 1964. The quoted eligibility covered failure to file in time, failure to disclose in the specified return, or escapement attributable to the specified omission or failure. The scheme concerned the declarant's own undisclosed income; it did not legitimise declarations of another person's income. Previously detected or deemed-detected income was subject to the section 24(4) safeguard. These dates and conditions belong to that scheme alone (physical pages 8–11/SCR 856–859).

The tax fiction in section 24(3) treated the disclosed amount as the declarant's total income for the scheme's charge. It did not conclusively transfer ownership of the funds or extinguish section 68 in another taxpayer's assessment. Acceptance occurred without an inquiry establishing the truth of the declarant's ownership claim. The declarant's scheme protection therefore did not shield another person to whom the income actually belonged. The majority tied section 24(8) finality specifically to the Board's order under subsection (6) in the statutory appeal concerning the detected-income decision, rather than a universal finality of every disclosure assessment (physical pages 11–14/SCR 859–862).

On the record, the firm failed to explain the nature and source of its cash credits. The majority rejected its double-taxation objection in this particular setting of false declarations in the creditors' names and income found to belong to the firm. The Court did not decide a general entitlement to tax any receipt twice, nor grant or refuse a separate refund claim by the declarants. It expressly approved the contrary-to-immunity line of High Court authority and overruled Rattan Lal, Shakuntala Devi and Mohd. Ahsan Wani to the contrary extent described (physical page 14/SCR 862).

Pathak J. agreed in a separate opinion. His route was the ordinary limitation of an assessment finding to the particular assessee: a finding made when taxing one person does not generally bind another person, subject to the limited exception he identified through Murlidhar Bhagwan Das. He therefore treated any section 24 finality as confined to the declarant and preserved assessment of another person only in a properly constituted proceeding in which the receipt could be regarded as that person's taxable income. This concurrence reaches the same answer but should not be merged into the majority's more specific Board-order explanation of subsection (8) (physical pages 4–5/SCR 852–853).

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

03 JUDICIAL DECISION

The first question was answered for the Revenue and against the firm: accepted creditor declarations did not bar inquiry into the firm's credits. Sen J.'s opinion treated that answer as sufficient to dispose of the second question and held the Rs.46,250 addition justified by the firm's failure to discharge its section 68 burden. Pathak J. expressly considered a separate answer to question two unnecessary. Both opinions awarded the Commissioner the costs of the reference (physical pages 5 and 15/SCR 853 A and 863 B–D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Direct reference answered for Revenue; section 68 inquiry and the Rs.46,250 addition sustained on the stated record; Commissioner entitled to reference costs

Reasoned determination of the 1965 scheme's limits and section 68 consequence, with separate concurrence

Declarant-specific, expired historical scheme; another person remains subject to an otherwise lawful assessment and applicable evidentiary burden. No blanket current amnesty, conclusive source-of-funds certificate or general double-taxation power.

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

05 AKHB REVIEW POINT

Keep three matters separate: acceptance and payment under the historical scheme, whether the money actually belongs to the declarant, and the assessee's own burden for credits in its books. The first did not conclusively establish the other two. The firm's failed explanation and the finding that the funds belonged to it were material; receipt of a declaration certificate alone neither proves nor disproves every later cash credit.

Any use of this case should identify the actual scheme enactment and dates. A later disclosure programme may contain different admissibility, confidentiality, immunity and third-party provisions. The Court's comparison with section 18 of the 1976 enactment is part of its 1981 reasoning, not verification of any present programme. The majority and Pathak J.'s concurrence should remain separately attributed, particularly on the scope of finality.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Actual date, bench, direct-reference identity and separate opinions

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4; 5

Paragraphs: SCR 849 heading; 851 G–853 B

Source role: reported metadata and judicial text

2.

Topic: Firm's year, five credits, admissions and Tribunal burden findings

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: SCR 853 C–855 C

Source role: judicial text

3.

Topic: Direct reference and two questions

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 855 D–856 C

Source role: judicial text

4.

Topic: Historical declaration window, income years and statutory fiction

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: SCR 856 D–859 C

Source role: judicial text

5.

Topic: Declarant-only protection and precise finality analysis

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14

Paragraphs: SCR 859 D–862 G

Source role: judicial text

6.

Topic: Separate concurrence and properly constituted assessment qualification

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 852 B–853 A

Source role: judicial text

7.

Topic: Fact-specific double-taxation argument and High Court cases

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: SCR 861 H–862 G

Source role: judicial text

8.

Topic: Answers, Rs.46,250 consequence and reference costs

Source url: [Open cited source](#)

Pdf pages: 15

Paragraphs: SCR 863 A–D

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.P. Sen, J. for himself and E.S. Venkataramiah, J.; separate concurring opinion by R.S. Pathak, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Finance (No. 2) Act, 1965: section 24 voluntary disclosure scheme, and Income-tax Act, 1961: section 68

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance (No. 2) Act, 1965: section 24(1)–(6) and (8), including declarant-only scheme, limited fiction and Board-order finality; Finance Act, 1965: First Schedule, Part I, paragraphs A and F, incorporated by section 24(3); Indian Income-tax Act, 1922: section 22 and historical income periods included in the scheme, not an exclusively 1922-law holding; Section 18 of Act 8 of 1976, the voluntary-disclosure income-and-wealth legislation discussed as a later express clarification, not the governing scheme

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 15 PDF pages; SHA-256

02e8c7a46352723df4f865a57f29aee9a9d505935d0948f758d3a5ea98310e93. Original bytes preserved.

Separate concurrence of Pathak J. begins physical page 4/SCR 852 B and ends page 5/SCR 853 A. Sen J. for himself and Venkataramiah J. begins page 5/SCR 853 B and ends page 15/SCR 863 D. Pages 1–3 contain editorial headnotes and reference metadata. No neighbouring judgment.

Open cited source rendition

Physical page 3's reporter metadata says section 256 and prints assessment year "1957-68"; the judicial body at pages 5 and 7 unequivocally identifies direct section 257 reference and AY 1967-68. The judicial body controls.; The editorial headnote at physical page 2 inaccurately attributes section 24 to the Income-tax Act, 1961. The governing disclosure provision is section 24 of the Finance (No. 2) Act, 1965.; The source uses inconsistent minor/major descriptions around the sons; the operative evidence is their lack of independent income and the firm's failed explanation. The note does not convert the headnote's blanket minor label into a factual holding.; An isolated sentence on physical page 12/SCR 860 contains a printed "not" in describing the scheme's charge; the statutory quotation at pages 9–10 and the clear holdings at pages 13–15 govern. No contrary exemption is inferred from that apparent slip.; The majority's finality discussion and Pathak J.'s separate concurrence are preserved; no dissent or separate second-question merits answer is invented.; No specific underlying assessment year for each declaration, refund adjudication, or current disclosure-scheme immunity is inferred.

The assessee-firm's relevant accounting year ended at Diwali 1966. This is distinct from the disclosure scheme's eligible income years commencing on or before 1 April 1964. No specific underlying year for each creditor's declaration is supplied or 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. The judicial text itself compares the 1976 voluntary-disclosure legislation, but that is contemporaneous reasoning rather than a later-treatment check. Bounded corpus and web discovery was undertaken; no later judicial source was authenticated and relied on for this note. No comprehensive subsequent-treatment review, present scheme validation or 2025 mapping is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 15](#)

SHA-256: 02e8c7a46352723df4f865a57f29aee9a9d505935d0948f758d3a5ea98310e93

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