

Commissioner of Income-Tax, Orissa v. Orissa Corporation (P) Ltd.

Civil Appeal Nos. 1379–1380 (NT) of 1974

[1986] 1 SCR 979 | 1986-03-19

Whether the Tribunal's conclusion that the assessee had discharged its burden for three hundi loans raised a question of law requiring a reference under section 256(2), and whether the linked penalty issue required a reference.

68 | 131 | 256(2) | 271(1)(c) | 274(2)

Two-judge bench | R.S. Pathak, J. | Sabyasachi Mukharji, J.

Assessment years: 1962-63

Fact-bound creditor evidence and reference review; no automatic section 68 or penalty immunity

Orissa Corporation upheld a supported Tribunal finding after the assessee supplied creditor particulars and the Revenue failed to pursue the lenders beyond unserved summons. Tax identity, confirmations or non-appearance alone are not universal proof of creditworthiness and genuineness. The linked penalty followed the quantum result by common ground. The headnote's accounting-date discrepancy is resolved by the judicial narrative. The later NRA comparison is bounded; comprehensive later treatment and present-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

For AY 1962-63, the company's calendar-year accounts ending 31 December 1961 showed Rs. 1,50,000 received as three loans from individual Calcutta creditors under hundis. It produced confirmation letters, discharged hundis and creditor particulars; the creditors' income-tax general index numbers were available to the Department. Section 131 notices requested by the assessee were returned marked "left". The officer added the entire amount as unproved cash credits, and the Appellate Assistant Commissioner upheld the addition (physical pages 4–5 / SCR 982–983).

The officer noted inconsistencies in confirmations and referred to the prevalence of a hundi name-lending racket. The assessee said its own efforts to produce the creditors had failed and sought further opportunity to trace them. In the companion proceeding, the Inspecting Assistant Commissioner imposed a penalty of Rs. 50,000 under section 271(1)(c) (physical pages 5–6).

The Tribunal considered the evidence as a whole. Although the creditors had admitted name-lending in their own assessments and had supplied a list of assessees, this company did not appear in that list. Their non-production did not automatically establish that these particular credits were the company's undisclosed income. The Tribunal deleted the addition and the penalty, and refused the Revenue's reference applications. The Orissa High Court also refused relief under section 256(2), leading to these two appeals (physical pages 4–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court explained that section 68 gave statutory recognition to taxing unsatisfactorily explained book credits as income of the previous year for which the books were maintained. It distinguished the 1922 Act position and observed that the unexplained sum might be assessed as business profits or income from other sources. That discussion did not remove the assessee's obligation to explain the nature and source of a credit (physical pages 6-7 / SCR 984G-985E).

The Court's review of earlier authorities preserved both sides of the evidentiary rule. Findings based on irrelevant material, conjecture, improper rejection of relevant evidence or no evidence can raise a question of law. Equally, probabilities properly drawn from the evidence are factual inferences. The Tribunal's order must be read fairly as a whole, considering the material for and against the assessee. The Department may reject an unconvincing explanation but cannot turn satisfactory proof into no proof by rejecting it unreasonably (physical pages 7-9).

Here the assessee had supplied the creditors' names and addresses, and the Department knew that they were income-tax assesseees and possessed their index numbers. Beyond the unsuccessful summons, the Revenue did not pursue them or investigate their income and capacity to make the particular loans. In those circumstances the Court considered that the assessee could do no further. The Tribunal's conclusion that its burden was discharged was supported by evidence and was neither unreasonable nor perverse. A different view on reappraisal did not itself create a question of law for section 256(2) (physical page 9 / SCR 987C-H).

The holding is therefore tied to the actual evidence, the Department's limited investigation and the reference posture. It neither makes creditor identity a universal substitute for creditworthiness and genuineness nor prevents scrutiny where contrary evidence exists. On the penalty issue, it was common ground that the answer depended on the quantum issue; the Court did not formulate an independent general immunity from penalty (physical page 10).

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

03 JUDICIAL DECISION

Both Revenue appeals were dismissed with costs. The High Court was right to refuse the requested references because no question of law arose on this record. The Tribunal's deletion of the Rs. 1,50,000 addition and the linked Rs. 50,000 penalty remained undisturbed (physical page 10 / SCR 988A-B).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Both Revenue appeals dismissed with costs; refusal to call for a reference sustained

Reasoned determination of the reference/evidentiary issue, leaving the Tribunal's quantum and linked penalty findings intact

Fact-bound sufficiency of evidence and section 256(2) review; no blanket discharge of section 68 burdens by tax particulars or creditor non-appearance, and no independent general penalty immunity.

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

05 AKHB REVIEW POINT

Record what the assessee actually supplied, the quality of that proof, what adverse material concerned this assessee and what the officer did to investigate. The creditors' name-lending admissions were not ignored: the Tribunal noted that this company was absent from the list. The case is strongest where the factual finding has a genuine evidentiary foundation and the officer has stopped at unserved summons; it does not make confirmations or a tax number conclusive.

A bounded later doctrinal comparison was made with the 5 March 2019 NRA Iron & Steel judgment, paragraphs 8.1–8.3, 9 and 11–16. Under pre-Finance Act 2012 section 68, that Court required proof of identity, capacity and genuineness, as well as proper investigation by the officer. It restored an addition where detailed enquiry contradicted the documentation. This is a comparison of records and evidentiary rules, not a verified express treatment of Orissa Corporation and not a comprehensive citator result.

Keep the judgment's actual accounting period, 31 December 1961, rather than the editorial headnote's 31 March date. Apply the statutory version and appellate route relevant to the matter being researched. Later statutory amendments, comprehensive later treatment, present-law application and any 2025 Act mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date and both appeal numbers

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; SCR 981F–H

Source role: reported metadata

2.

Topic: Referred questions, actual accounting date and creditor record

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 982–984

Source role: judicial text

3.

Topic: Section 68 and limits of factual/reference review

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: SCR 984F–987D

Source role: judicial text

4.

Topic: Unpursued creditor enquiry and supported Tribunal finding

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 987E–H

Source role: judicial text

5.

Topic: Linked penalty and dismissal with costs

Source url: [Open cited source](#)

Pdf pages: 10

Paragraphs: SCR 988A–B

Source role: judicial text

6.

Topic: Bounded later doctrinal comparison, not express Orissa treatment

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16; 17; 18; 22; 23; 24; 25; 26; 27

Paragraphs: NRA paragraphs 8.1–8.3, 9, 11–16

Source role: bounded later primary comparison

PROVISION-SPECIFIC SCOPE

1.

Section: 68

Role: Cash-credit explanation and evidentiary burden under the 1961 Act

2.

Section: 256(2)

Role: Principal procedural holding: when the Tribunal's factual conclusion raises a referable question of law

3.

Section: 131

Role: Creditor summons and extent of actual investigation

4.

Section: 271(1)(c), read with 274(2)

Role: Companion penalty proceeding; parties accepted that its outcome depended on the quantum issue

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER PRIMARY-SOURCE COMPARISON AND LIMITS

Status: verified bounded comparison only

Source url: [Open cited source](#)

Later decision date: 2019-03-05

Paragraphs: 8.1–8.3, 9, 11–16

Relationship: Later section 68 doctrinal and factual comparison; no express treatment of Orissa Corporation claimed

Comprehensive later treatment: not verified

SOURCE & VERIFICATION

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

Identified source rendition: 10 PDF pages; SHA-256

3ed81e055e40f6411be6315176397a494f4404d5cd594b35e2fe22a3e11fc26f. Original bytes preserved.

Complete unnumbered judicial text from physical page 4 / SCR 982, beginning with Sabyasachi Mukharji J., through physical page 10 / SCR 988. Editorial headnotes, appeal metadata and discussion of earlier 1922 Act authorities distinguished. No adjacent judgment.

[Open cited source rendition](#)

The judicial reasons begin on physical page 4; headnotes on pages 1–3 are editorial; The headnote states an accounting year ending 31 March 1961; the judicial narrative expressly states calendar-year accounts ending 31 December 1961. The note follows the reasons and discloses the discrepancy.; The catalogue identifies only Civil Appeal 1379/1974; the reported jurisdiction block verifies both appeals, 1379–1380 (NT) of 1974.; The creditor admissions concerning other assessees and this company's absence from the supplied list are material, not interchangeable with proof of this company's participation.; NRA Iron & Steel is a bounded later doctrinal comparison only; no express citation, overruling or comprehensive treatment relationship is claimed.; No neutral or parallel citation inferred from unverified catalogue metadata.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search is certified. Any actually checked later judgment or historical statutory compilation is expressly identified and bounded.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 10](#)

SHA-256: 3ed81e055e40f6411be6315176397a494f4404d5cd594b35e2fe22a3e11fc26f

[official signed judgment - PDF pages: 28](#)

SHA-256: d8131b377b56d28b29ce79a1fb4b201108e7f96995a877a9eba2ba0900a74080

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