

Indian Oil Corporation v. Income Tax Officer, Central Circle V, Calcutta & Others

Civil Appeal Nos. 1189–1190 of 1974

[1986] 2 SCR 1107 | 1986-05-08

Whether the 25 November 1965 reopening notices under former sections 147(a) and 148 were supported by material showing non-disclosure of primary facts, when the management-charge basis and the inability to supply an auditor's opinion were known during the original assessments.

147(a) | 148

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

Assessment years: 1957-58, 1958-59, 1959-60

Historical reopening jurisdiction only; deduction merits and audit-opinion question preserved

This case applies former sections 147(a) and 148 to 1965 notices concerning three earlier 1922 Act assessments. It quashes those notices for lack of material supporting prior non-disclosure; it does not validate the management-charge deduction or quantify reasonable expenses. Possible section 147(b) information was not an operative authorization, and whether an auditor's opinion could itself be a basic fact was left open. The report contains a 1953-54/1963-64 certificate-year inconsistency. Both appeals were allowed with costs to the assessee. Later treatment and present/2025 statutory mapping remain unverified.

01 FACTS OF THE CASE

The relevant assessee was Assam Oil Company, a United Kingdom company operating at Digboi, whose assets and liabilities later vested in Indian Oil Corporation. The Court substituted Indian Oil as appellant. The disputed AYs were 1957-58, 1958-59 and 1959-60, originally assessed under the 1922 Act. The company claimed London management and secretarial charges allocated by Burmah Oil Company, which employed staff serving several group companies. Earlier correspondence described the functions, the pro-rata allocation and the absence of a fixed mathematical formula; time spent and relative complexity of work were the stated basis. Charges around £100,000 or more had been claimed, and the report records £250,000 for AY 1959-60 (physical pages 6–12/SCR 1112–1118).

The officers had queried the allocation and sought an auditor's certificate of reasonableness, but completed the assessments allowing the charges despite the certificate not being furnished. Relying on a later London auditor's view that a 10% share of total administrative expenses was reasonable for AY 1963-64, the department requested similar certificates for the three earlier years. It issued three notices dated 25 November 1965 under section 148 on the former section 147(a) basis. The single judge quashed them; the Division Bench reversed, reasoning that the basis, correspondence and existence of an auditor's certificate had not been fully disclosed. The two Supreme Court appeals challenged that reversal (physical pages 12–15/SCR 1118–1121).

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 6, 7, 8, 9, 10, 11, 12 / judicial text](#); [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 13, 14, 15 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated both limbs of former section 147(a) as jurisdictional conditions: reason to believe there had been escaped or underassessed taxable income, and reason to believe the escapement resulted from the relevant failure to disclose material facts fully and truly. Courts could examine the existence of the requisite belief and its rational basis, without substituting their view on the adequacy of otherwise relevant grounds. A suspicion of excessive expenses was not enough. The disclosure obligation concerned all material primary facts, fully and truthfully; once those facts were before the officer, the assessee did not have to draw the officer's inferences. Mere production of evidence could still leave material facts undisclosed, so this was not a blanket rule excusing facts embedded in documents (physical pages 15–19/SCR 1121–1125).

On the record, the department knew what the London company did, what amounts it charged, the allocation basis and the difficulties in obtaining the accounts or requested opinion. The assessee's audit report had been supplied; the Court expressly said it was unclear whether the London company's audit report had been supplied or requested. The nature and quantum of work and the amounts charged were primary facts already disclosed. Whether the charge was excessive in relation to that work was an inference (physical pages 19–20/SCR 1125–1126).

The later auditor's 10% opinion might amount to information for former section 147(b), but did not by itself show a prior failure under section 147(a). There was no evidence that the relevant opinion existed and was available to the assessee before completion of the original assessments. The Court expressly left open whether an auditor's opinion could itself be a basic fact. The officers had proceeded with assessment instead of making an adverse inference or best-judgment assessment when the certificate was not produced. Suspected excessive diversion of funds therefore did not establish the necessary non-disclosure (physical pages 20–21/SCR 1126–1127).

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 15, 16, 17, 18, 19 / judicial text](#); [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 19, 20, 21 / judicial text](#)

03 JUDICIAL DECISION

Both assessee appeals were allowed. The Division Bench's order and judgment were set aside and the single judge's order and judgment quashing the notices were restored. The assessee was entitled to the costs of these appeals; the Court fixed no amount. The ruling invalidated these section 147(a) notices, without determining the substantive deductibility or correct amount of the management charges (physical page 21/SCR 1127 F–H).

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 21 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee, on reopening jurisdiction

Civil Appeals 1189–1190 of 1974 allowed; Division Bench reversed; single-judge quashing of the notices restored

Reasoned final determination of former section 147(a) jurisdiction; no fresh determination of expense deductibility or tax quantum

No holding that 40% or any other management-charge percentage was substantively reasonable, no blanket exclusion of audit opinions from primary facts, and no operative approval of reopening under section 147(b).

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 21 / judicial text](#)

05 AKHB REVIEW POINT

For a legacy reopening problem, reconstruct what was actually disclosed and known before the original assessment, then compare it with the material relied on for the later notice. Separate the allocation data and work performed from an auditor's later opinion on reasonableness. The decisive defect here was the missing evidentiary link to the assessee's prior non-disclosure, not a judicial finding that the charge itself was proper.

Retain the historical clause (a)/clause (b) distinction and the express reservation concerning an auditor's opinion as a possible basic fact. This is a directly adjudicated 1961 Act reopening case despite the earlier 1922 Act assessments. Neither its limitation discussion nor its treatment of information should be transplanted to another statutory version without review.

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 19, 20, 21 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: Assessee entitled to the costs of these appeals; amount not quantified

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

147(b)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

HISTORICAL STATUTORY VERSION AND TEMPORAL LIMITS

Operative scheme: Former section 147(a), with notices under section 148 dated 25 November 1965, for AYs 1957-58, 1958-59 and 1959-60. Although the original assessments were under the 1922 Act, the Supreme Court directly adjudicated jurisdiction under the 1961 Act. Former section 147(b) is discussed only as a possible information-based route, not as the upheld basis of these notices.

Source pin: Physical pages 6–7, 12–16 and 19–21/SCR 1112–1113, 1118–1122 and 1125–1127.

Limit: The Court's historical beyond-four/within-eight-year discussion is not a present limitation rule. No separate transition holding under section 297, later reopening regime or current statutory crosswalk is inferred.

OTHER STATUTES AND THEIR CONTEXTUAL ROLE

Indian Income-tax Act, 1922: original assessments and analogous section 34 precedents; Constitution of India, Article 226

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 21 PDF pages; SHA-256

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Editorial headnote occupies physical pages 1–5/SCR 1107–1111. Reported proceedings on pages 5–6 identify Civil Appeals 1189–1190 of 1974. Complete unnumbered Mukharji J. judgment begins on physical page 6/SCR 1112 and ends on page 21/SCR 1127. Quoted correspondence, lower-court views and precedent facts are distinguished from this Court's findings. No neighbouring judgment.

Open cited source rendition

The cover and page 12/SCR 1118 refer to an auditor's certificate for 1953-54, whereas the sanction-report narrative and the Court's repeated dispositive reasoning identify 1963-64 (pages 13–14 and 20–21). The note follows the latter for the later opinion and preserves the inconsistency rather than silently changing the source.; The headnote prints section 147(1)(a); the judicial analysis consistently addresses former section 147(a). The note does not add a subsection (1) or modernize the provision.; The catalogue lists Civil Appeal 1189/1974 only. The reported proceedings on page 5 and plural operative order confirm both Civil Appeals 1189–1190 of 1974.; Amounts and assessment years in quoted earlier correspondence and precedent facts are contextual, not extra appeals or fresh tax determinations in this judgment.

STATUTORY SCOPE

Historical statutory scheme only. No automatic mapping to the Income-tax Act, 2025 or certification of present law.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 21

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