

Commissioner of Income-tax, Calcutta v. Biju Patnaik

Civil Appeal Nos. 1793-1798 (NT) of 1974

[1986] 3 SCR 26 | 1986-05-09

When factual findings by the Tribunal raise referable questions of law under section 256, particularly where material evidence may have been ignored or conclusions may be unsupported or perverse; whether the eight questions pressed concerning Trust funds and 39,000 shares required a statement of case.

256(1) (Tribunal reference application) | 256(2) (High Court power to require a reference)

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

Assessment years: 1962-63, 1963-64, 1964-65

Reference-jurisdiction ruling; merits and later procedure remain separate

The Court declares when factual findings raise legal questions under historical section 256 and requires statements on eight pressed questions for AYs 1962-63 to 1964-65. It does not finally decide the Trust's genuineness, ownership of the money or 39,000 shares, the additions, or the referred answers. Questions 6 and 8 remain conditional. The six-month direction runs from receipt of the order; appeal costs await the ultimate reference order. Do not turn the judgment into an automatic section 68 rule or apply section 256 procedure wholesale under later section 260A. Comprehensive later treatment, current-law status and 2025 mapping remain unverified.

01 FACTS OF THE CASE

For AYs 1962-63, 1963-64 and 1964-65, the assessee claimed interest deductions on loans attributed to Kalinga Foundation Trust and others. The Income-tax Officer treated disputed Trust credits, interest, dividends and investments as the assessee's undisclosed funds and treated the ostensible holders of 39,000 Kalinga Tubes shares issued in 1958 as his benamidars. Those were assessment findings contested by the assessee, not final Supreme Court findings (physical pages 7-8/SCR 32-33).

The Appellate Assistant Commissioner set aside the assessments and directed further opportunity, including cross-examination. The Tribunal instead decided on the record, accepting a separate Trust funded by public donations, its ownership of investments and the independent ownership of the shares; it directed the disputed amounts to be excluded. The Revenue sought references under section 256(1), then applied under section 256(2) after the Tribunal refused. The Orissa High Court rejected its applications on 5 April 1974. Six appeals reached the Supreme Court; only the eight questions reproduced at physical pages 5-7 were pressed there (physical pages 5-10).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court stated and applied the legal limits of reference jurisdiction, rather than merely announcing that these particular facts deserved reconsideration. A pure question of law, such as construction of a statute or title document, is referable. In a mixed question, the primary facts found remain final but their legal effect is a question of law. A pure factual finding may be attacked in law for absence of supporting evidence or perversity; the fact that it is an inference from other facts does not alone convert it into a question of law. Evidence must be evaluated cumulatively in its full setting, not by isolating each fact, and a High Court's different preferred factual conclusion is insufficient (physical pages 10–12/SCR 35 G–37 E).

The Court also explained that factual conclusions can be legally vitiated by irrelevant or inadmissible material, conjecture, misreading or non-consideration of relevant evidence, or a result no properly instructed judicial decision-maker could reach. It recalled that the party challenging the apparent state of affairs bears the onus and that the conclusion must have a direct connection to the primary facts. The statutory reference process does not license unrestricted factual rehearing, but calling a finding factual does not immunise such legal defects (physical pages 12–14/SCR 37 F–39 B).

For the alleged Trust donations, evidence about some collectors did not itself establish who supplied the money or their capacity to donate. The Court identified omitted matters about substantial cash collections, their long uninvested retention and the absence of donor particulars. Those omissions raised the legal question whether the Tribunal had reached its conclusion without material evidence or perversely. The Court expressly declined to decide what ultimate conclusion should be drawn from the facts (physical pages 14–16/SCR 39–41, especially SCR 41 B–G).

The share issue likewise required consideration of whether the named allottees were real owners and, if not, who owned the shares. Materials collected after the earlier S.P. Jain corporate litigation, including the officer's material about an allottee's financial position, had not received proper consideration. The Court required a reference; it did not finally hold that the seven named holders were benamidars or decide the binding effect of the earlier corporate judgment on the tax merits (physical pages 17–19/SCR 42–44).

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

03 JUDICIAL DECISION

All six appeals were allowed and the High Court judgment/order was set aside. The Tribunal was directed to send a statement of case for the three years on the eight questions pressed and reproduced in the judgment to the High Court at Cuttack within six months of receiving the order. The records were to be sent immediately through the High Court and the reference disposed of as quickly as possible. Costs of the appeals were to abide by the ultimate order in the reference. No final answers to the referred merits questions or restoration of the disputed additions were ordered (physical page 19/SCR 44 B–E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on entitlement to a reference; substantive tax merits unresolved

Civil Appeals 1793–1798 (NT) of 1974 allowed; High Court refusal set aside; Tribunal to state the case within six months after receipt of the order; appeal costs to follow the ultimate reference order

Reasoned section 256 jurisdiction ruling with a consequential direction to state the case; ownership, genuineness, additions and final answers to the eight questions left for the reference process

No free-standing factual rehearing and no conclusion that a missing donor detail automatically establishes taxable undisclosed income. The Court identified legally reviewable defects and required their consideration through the statutory reference.

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

05 AKHB REVIEW POINT

Separate the legal defect alleged in a factual finding from the taxpayer's ultimate liability. A useful challenge identifies the material ignored, the unsupported inference or the legal misdirection, while acknowledging the finality of adequately supported pure facts. Biju Patnaik establishes that reference-jurisdiction distinction; it does not itself determine that the Trust was fictitious, that the assessee owned the 39,000 shares, or that the additions were correct. It should not be reduced to an automatic section 68 donor-capacity rule, since no section 68 issue is finally decided in this report.

A bounded check of the Department of Revenue-hosted 2011 compilation confirms a later and distinct High Court appeal framework in section 260A, including a substantial-question-of-law requirement and formulation of that question (physical pages 914–915). That comparison cautions against transferring the section 256 procedure wholesale to a later appeal. It is not a comprehensive later-treatment search or verification of present statutory text.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, six appeals, Orissa order and 1961 reference route

Source url: [Open cited source](#)

Pdf pages: 1; 5

Paragraphs: SCR 26 A–B; 30 B–G

Source role: reported metadata and judicial text

2.

Topic: Eight pressed questions, conditional questions and actual assessment years

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: SCR 30 G–32 D

Source role: judicial text

3.

Topic: Assessment allegations and appellate history

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: SCR 32 D–35 F

Source role: judicial text

4.

Topic: Independent legal rule: pure law, mixed questions, pure facts and perversity

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: SCR 35 G–37 E

Source role: judicial text

5.

Topic: Evidence nexus, cumulative appraisal and legally defective factual findings

Source url: [Open cited source](#)

Pdf pages: 12; 13; 14

Paragraphs: SCR 37 F–39 B

Source role: judicial text

6.

Topic: Donation evidence, reviewability and express refusal to determine merits

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: SCR 39 B–41 G

Source role: judicial text

7.

Topic: Share issue and unconsidered post-corporate-litigation material

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19

Paragraphs: SCR 42 D–44 B

Source role: judicial text

8.

Topic: Exact relief, receipt-based deadline, records and deferred costs

Source url: [Open cited source](#)

Pdf pages: 19

Paragraphs: SCR 44 B–E

Source role: judicial text

9.

Topic: Bounded later section 260A procedural comparison

Source url: [Open cited source](#)

Pdf pages: 914; 915

Paragraphs: Section 260; section 260A(1)–(7); separate amendment-history footnotes

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Trust Act, section 20 (possible application expressly left aside in discussing the Revenue's factual argument; no ruling on it); Indian Companies Act, sections 397, 398, 402 and 403 (background to earlier corporate litigation over Kalinga Tubes; not provisions decided in this tax-reference appeal)

QUESTIONS DIRECTED FOR REFERENCE; NO FINAL ANSWERS

1.

Number: 1

Question: Whether the Tribunal's findings were legally vitiated by ignored relevant/admissible evidence and incorrect or misstated facts.

2.

Number: 2

Question: Whether the conclusion that the Trust began in 1947 and differed from the 1949 Trust followed from the record or was perverse.

3.

Number: 3

Question: Whether the Tribunal failed to consider relevant matters concerning alleged public donations.

4.

Number: 4

Question: Whether the disputed dividends, loan interest, investments, remittances, receipts and payments in the Trust name properly stood excluded from the assessee's assessment.

5.

Number: 5

Question: Whether evidence supported the finding that the assessee collected public donations for the Trust.

6.

Number: 6

Condition: Only if question 5 is answered negatively

Question: Whether the amounts the assessee donated to the Trust were satisfactorily explained and properly excluded.

7.

Number: 7

Question: Whether the Revenue was bound by the earlier S.P. Jain v. Kalinga Tubes ownership decision despite subsequently collected evidence.

8.

Number: 8

Condition: Only if question 7 is answered negatively

Question: Whether the Tribunal's finding that the named shareholders were not benamidars was perverse for non-consideration of the officer's detailed materials.

EDITORIAL QUESTION SUMMARY AND ITS LIMITS

Editorial paraphrase of the eight questions at physical pages 5–7, preserving their order and the conditional structure. The source contains the exact wording. None is represented as finally answered by this Supreme Court decision.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 19 PDF pages; SHA-256

c726e43dde59ce66ef93e4910db8461ee24de1642d67847e6152433b3a5b2111. Original bytes preserved.

Unnumbered judicial body begins physical page 5/SCR 30 E and ends page 19/SCR 44 E. Editorial headnotes and appellate metadata precede it on pages 1–5. No neighbouring judgment.

Open cited source rendition

The judicial body identifies the 1961 Act and sections 256(1)/(2), and expressly gives AYs 1962-63 through 1964-65. Earlier Trust/share dates do not make this a 1922-only decision.; The scope of the Supreme Court appeal was whether the pressed questions were referable. The refusal to decide ultimate factual conclusions is express at physical page 16/SCR 41 B–E.; Eight questions were pressed before the Supreme Court; questions 6 and 8 are expressly conditional on answers to questions 5 and 7. Not every question formerly sought in the High Court was pursued.; Physical page 8 attributes part of the Trust-genuineness account to the Revenue, while the surrounding text at pages 8–9 identifies the competing submissions. The headnote at page 2 similarly mislabels Revenue arguments as those of the appellant-assessee. The note distinguishes the parties' positions by the coherent judicial account, without treating contradictory labels as independent admissions.; The lead title identifies the Commissioner at Calcutta, but the challenged order was made by the Orissa High Court and the directed reference went to Cuttack. The 1990 same-party reopening decision is distinct.; Section 68 is not named or finally applied in this report. The Trust Act and Companies Act references are incidental background, not separate holdings.; The 2011 government-hosted compilation has a Taxmann imprint and flags prospective National Tax Tribunal insertions as awaiting notification. It is used for a bounded procedural comparison, not as operative current text.

All three years are expressly identified in the judicial body at physical page 7/SCR 32 C. The six appeals arise from Orissa High Court S.J.C. Nos. 211–216 of 1971; no unsupported assignment of individual appeal numbers to particular years is made. The earlier dates of the alleged Trust formation and share issues are factual history, not earlier assessment years adjudicated here.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Applicable statutory version and procedural route require separate verification.

LATER TREATMENT

Source checked 2026-10-04. not_verified. Actual bounded later check: Department of Revenue-hosted Income-tax Act 2011 compilation, physical pages 914–915, section 260 and section 260A(1)–(7), with editorial amendment-history footnotes distinguished. This is a procedural-framework comparison, not verified direct citing treatment or present-law validation. A corpus identity check also distinguished the same taxpayer's 7 December 1990 reopening case concerning AY 1957-58; it is not presented as follow-on disposal of these references.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 19](#)

SHA-256: c726e43dde59ce66ef93e4910db8461ee24de1642d67847e6152433b3a5b2111

[official hosted statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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