

## Commissioner of Income Tax v. Mussadilal Ram Bharose

Civil Appeal No. 2083 of 1972

[1987] 2 SCR 67 | 1987-01-28

**Whether the Tribunal's evidence-based finding rebutting the historical 80%-income presumption raised a question of law requiring a reference under section 256, notwithstanding the assessed-income estimate.**

271(1)(c) | Former Explanation to section 271(1), introduced by the Finance Act, 1964 | 274(2) | 256(1) | 256(2)

2-judge bench | Sabyasachi Mukharji, J. | S. Natarajan, J.

Assessment years: 1965-66

### Historical 80% presumption; evidence-based rebuttal, not automatic immunity

This AY 1965-66 decision applies the Finance Act 1964 Explanation, including its adjusted assessed-income comparison and rebuttable burden. The Tribunal accepted relevant evidence, so no question of law warranted a section 256 reference; Revenue's appeal was dismissed with costs and the Rs 8,300 penalty cancellation stood. Neither estimated income nor filing from books automatically prevents penalty. Do not reuse the old 80% threshold, neglect language or rates for later periods; comprehensive later treatment and statutory mapping remain unverified.

### 01 FACTS OF THE CASE

The assessee was a two-partner firm licensed to sell country liquor. For AY 1965-66 the ITO rejected the books because sales and expenses were unverifiable and the disclosed profit margin was low. He estimated turnover at Rs 7,60,000 and net profits at 8%, arriving at business profit of Rs 60,800 and total income of Rs 60,936 after interest; the AAC affirmed. The IAC separately imposed Rs 8,300 penalty under section 271(1)(c), read with section 274(2), finding that the assessee had not discharged the Explanation's burden (physical pages 4-5/SCR 70-71).

In the quantum appeal, the Tribunal reduced the turnover estimates to Rs 6,25,000 and Rs 1,00,000 for the two shops and the profit rate to 7%; the report states final assessed income of Rs 50,750. Revenue pointed out that 80% of that figure, Rs 40,600, still exceeded returned income of Rs 30,138. In the penalty appeal, however, the Tribunal accepted that the firm maintained the relevant books in the regular course and honestly believed them sufficient; the disparity arose from the estimates and applied profit rate, without fraud or gross or wilful neglect on these facts. It cancelled the penalty and refused a section 256(1) reference. The Allahabad High Court also refused Revenue's section 256(2) application because the relevant finding was factual (physical pages 5-7/SCR 71-73).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the pre-1964 Revenue burden from the Explanation actually governing this case. Once its stipulated income disparity existed, the assessee bore the initial burden of showing that failure to return the correct income did not arise from fraud or gross or wilful neglect. The statutory comparison included the deduction adjustment printed in the Explanation. But the deemed-concealment presumption was rebuttable, not an automatic final penalty merely because income had been estimated upwards (physical pages 7–9/SCR 73–75).

Approving the relevant approach in Vishwakarma Industries, H. Abdul Bakshi and Nathulal Agarwala, the Court required relevant, cogent and acceptable rebuttal material. Any fanciful or unacceptable explanation would not discharge the burden. The fact-finding body judges sufficiency; after the initial burden is discharged, further Revenue evidence may still matter. The Court distinguished a case in which the assessee had furnished no explanation (physical pages 9–10/SCR 75–76).

Here the Tribunal kept the correct principles in view and assessed the evidence. Its finding was neither unsupported by evidence nor one no reasonable fact-finder could reach. The Court therefore treated the accepted rebuttal as a conclusion of fact raising no referable question of law. The embedded discussion of other courts' bookkeeping observations must be read in that evidentiary setting, not as a universal exemption whenever a return follows books of account (physical page 11/SCR 77).

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

## 03 JUDICIAL DECISION

The Court upheld the refusal of the section 256 reference: the Tribunal correctly rejected Revenue's section 256(1) request and the High Court correctly declined the section 256(2) application. Revenue's appeal was dismissed with costs. The Rs 8,300 penalty cancellation remained undisturbed; there was no fresh quantum assessment or remand and no quantified costs award (physical page 11/SCR 77).

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

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Revenue's appeal dismissed with costs; refusal of reference and penalty cancellation remain undisturbed

Reasoned final ruling on the historical statutory presumption and whether the accepted factual rebuttal raised a referable legal question

No blanket immunity for estimated additions, defective accounts or explanations of any quality. No current 80% threshold or penalty-rate formula is certified.

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

**05 AKHB REVIEW POINT**

Keep the gateway, the evidentiary rebuttal and the reference-jurisdiction question separate. The income disparity triggered the old presumption; it did not make the Tribunal's cogently supported acceptance of rebuttal legally impossible. Conversely, an addition based on estimation is not by itself an answer to a penalty case. Identify the governing Explanation and assemble the evidence supporting the explanation rather than relying only on the word "estimate."

This is the AY 1965-66 Finance Act 1964 scheme, distinct both from the earlier law discussed in Sir Shadi Lal Sugar and from later Explanation 1 formulations. The Court's result preserves a fact-finding conclusion under section 256; it is not a present-law direction about every appellate route. Comprehensive later treatment and statutory mapping remain unverified.

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

**PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES**

1.

**Topic:** Identity and appeal number

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 3; 4

**Paragraphs:** Unnumbered judicial text; physical PDF pages one-based

**Source role:** reported metadata and judicial text

2.

**Topic:** AY, assessments, IAC penalty and Tribunal factual rebuttal

**Source url:** [Open cited source](#)

**Pdf pages:** 4; 5; 6

**Paragraphs:** Unnumbered judicial text; physical PDF pages one-based

**Source role:** judicial text

3.

**Topic:** Section 256 route and complete old Explanation quotation

**Source url:** [Open cited source](#)

**Pdf pages:** 6; 7; 8

**Paragraphs:** Unnumbered judicial text; physical PDF pages one-based

**Source role:** judicial text

4.

**Topic:** Relevant and cogent rebuttal; unacceptable explanations insufficient

**Source url:** [Open cited source](#)

**Pdf pages:** 8; 9; 10; 11

**Paragraphs:** Unnumbered judicial text; physical PDF pages one-based

**Source role:** judicial text

5.

**Topic:** No referable question; dismissal with costs**Source url:** [Open cited source](#)**Pdf pages:** 11**Paragraphs:** Unnumbered judicial text; physical PDF pages one-based**Source role:** judicial text

## 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:** Section 271(1)(c) and the Finance Act 1964 Explanation quoted and applied for AY 1965-66; the old test compared returned income with 80% of assessed income after the stated bona fide-disallowed-expenditure adjustment. Sections 274(2) and 256 govern the penalty authority/reference route described.

**Source pin:** Physical pages 4–8/SCR 70–74, especially the statutory quotation on pages 7–8.

**Limit:** Neither the old 80% gateway, fraud/gross-or-wilful-neglect rebuttal wording nor quoted penalty rates are represented as a present penalty rule.

## SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256

1bd7d575b786eeab15ffed5b9687a083c7db00bcf2819a29d7b74b66a7ffd98f. Original bytes preserved.

Editorial headnote and reported proceedings on physical pages 1–3/SCR 67–69. Complete unnumbered Mukharji J. judgment begins on physical page 4/SCR 70 and ends on physical page 11/SCR 77. Lower-authority findings, statute and quoted High Court propositions distinguished from Supreme Court adoption. No adjacent judgment.

[Open cited source rendition](#)

The page 1 headnote attributes the penalty step to the AAC, but the judicial narrative at physical pages 4–6 identifies the Inspecting Assistant Commissioner as imposing Rs 8,300. The note follows the judicial text; The quoted provision on page 7 identifies the penalty limb as (iii), while a later narrative line on page 8 prints sub-clause (ii). No penalty rate or subsection transcription is silently corrected into a modern formula.; The final assessed income of Rs 50,750 is reported as stated; the note does not add the earlier Rs 136 interest a second time or recalculate the Tribunal's figure.; Facts in the quoted High Court authorities are not attributed to this assessee.

## STATUTORY SCOPE

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

## LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment has not been verified. Only expressly identified bounded primary-source comparisons have been checked; no current-law certification.

## IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 11](#)

SHA-256: 1bd7d575b786eeab15ffed5b9687a083c7db00bcf2819a29d7b74b66a7ffd98f

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