

R. K. Upadhyaya v. Shanabhai P. Patel

Civil Appeal No. 544 of 1975

[1987] 3 SCR 42 | 1987-04-28

Reassessment notice: timely issue distinguished from service before assessment.

Income-tax Act, 1961: historical sections 147(b), 148 and 149 | Indian Income-tax Act, 1922: section 34 (distinguished)

2-judge bench | Ranganath Misra, J. | G. L. Oza, J.

Assessment years: 1965-66

Notice restored; service still required

The decision applies the then sections 147-149 for AY1965-66. It does not dispense with service before making a reassessment, or certify compliance with later reassessment amendments. The Court restored the notice; it did not determine the final taxable income.

01 FACTS OF THE CASE

For AY 1965-66 the Income-tax Officer issued the reassessment notice by registered post on 31 March 1970; the assessee received it on 3 April 1970. The Gujarat High Court quashed the notice as time-barred, relying on authority concerning section 34 of the 1922 Act. The Revenue appealed. The Supreme Court recorded that the respondent did not appear despite notice.

Source: [SCR p. 43 / PDF p. 2](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished the statutory schemes. Under the 1922 Act, service within the prescribed period founded jurisdiction. Under the then 1961 Act, section 149 governed when the notice must be issued, while section 148 required service before the assessment order. Consequently, timely issue and service were separate requirements. On the admitted dates, issue on 31 March 1970 fell within the prescribed period, even though receipt occurred later.

Source: [SCR pp. 44-45 / PDF pp. 3-4](#)

03 JUDICIAL DECISION

The Revenue's appeal was allowed and the High Court order vacated. The Income-tax Officer was directed to proceed to complete the assessment after complying with the requirements of law. No costs were ordered because the respondent had not appeared.

Source: [SCR p. 45 / PDF p. 4](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue on the limitation objection to the notice. The assessee did not lose a finally adjudicated merits dispute over escaped income: lawful completion of reassessment remained for the officer, and service before reassessment remained mandatory.

Source: [SCR p. 45 / PDF p. 4](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish evidence of actual issuance from service and calculate the relevant deadline under the precise statutory version. Preserve postal or other authorised dispatch and service evidence. Do not substitute the date typed on a notice for proof of actual issue, or use this historical ruling to bypass modern statutory conditions.

Source: [AKHB analysis based on SCR pp. 43-45 / PDF pp. 2-4](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Four-page SCR scan; judicial text begins on PDF page 2 and ends on page 4. Historical provisions are reproduced within the judgment.

[Open cited source rendition](#)

Full judicial text and operative relief read. Original bytes match the SHA-256 in the supplied source reconciliation.

STATUTORY SCOPE

Apply the historical statutory text governing the decision. Current statutory applicability and Income-tax Act, 2025 equivalence have not been verified.

LATER TREATMENT

Source checked 2026-10-10. Full historical judgment checked. Comprehensive subsequent judicial treatment has not been verified; no current citator clearance is represented.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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