

Ganesh Dass Sreeram, etc. v. Income Tax Officer, 'A' Ward, Shillong and others, etc.

Civil Appeal Nos. 1032–1036 of 1973 / Civil Appeal Nos. 1927–1933 of 1978 / Civil Appeal Nos. 1288 and 1289 of 1980

[1988] 1 SCR 689 | 1987-10-30

Whether historical section 139 interest required an application for extension, whether its registered-firm tax base was constitutionally valid, and whether interest remained payable when advance tax covered all assessed tax.

139(4), read with clause (iii)(a) of the proviso to 139(1), in the historical version before 1 April 1971 | 139(2) (historical return-notice and extension provisions) | 143(3) (assessment context) | 2(39) and 183(b) (historical registered-firm context)

Three-judge bench | R.S. Pathak, C.J. | Ranganath Misra, J. | Murari Mohon Dutt, J.

Assessment years: 1968-69

Historical section 139; split outcome and rate discrepancy must be retained

This decision concerns the quoted section 139 regime before 1 April 1971. Only Civil Appeal 1035 of 1973 succeeded because advance tax covered the entire assessed tax; all other appeals failed. The source quotes nine per cent but describes six per cent charged, so do not extract a uniform rate. Later interest legislation requires separate year-specific analysis. Comprehensive later treatment, current-law status and 2025 mapping are not verified.

01 FACTS OF THE CASE

Registered firms filed returns late without applying for extensions. They filed before assessment and within the period contemplated by the historical section 139(4). The Income-tax Officers assessed them under section 143(3), and added interest calculated by reference to the tax that would have been payable had the firms been assessed as unregistered firms (physical pages 3–6).

The firms challenged both the power to charge interest without an extension application and the Article 14 validity of the historical registered-firm computation. The Gauhati High Court rejected these challenges, although in some writ petitions it directed credit for advance tax before calculation of interest. The report identifies three connected appeal groups, comprising Civil Appeals 1032–1036 of 1973, 1927–1933 of 1978 and 1288–1289 of 1980 (report page 1; judicial history on pages 3 and 6).

Civil Appeal 1035 of 1973 had a separately established payment position: for AY 1968-69 the assessed tax was Rs.16,288, while Rs.39,018 had been paid as advance tax in three instalments on 25 September 1967, 24 January 1968 and 2 March 1968. Nevertheless, Rs.14,233 was charged as return-delay interest. This individual appeal's figures and year cannot be attributed to every firm in the group (physical page 11).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court construed the version of section 139 before 1 April 1971 reproduced in the judgment. Section 139(4) was a substantive facility for a belated return, and independently attracted clause (iii) of the proviso to section 139(1). The expression concerning time allowed included both the original statutory period and an extended period. Interest could therefore attach where a firm made no extension application as well as where it filed beyond an extension. Making an application was not a prerequisite to liability in these cases (physical pages 3–7).

The Court distinguished the observation in *M. Chandra Sekhar* concerning extensions and cancellation of delay penalties: that discussion had not decided section 139(4). Relying on that case and *Central Provinces Manganese Ore*, it treated the interest as compensation rather than a penalty. *Jain Brothers*, concerned with section 271(2), did not turn this interest charge into a penal one. This judgment does not itself impose or cancel a section 271 penalty (physical pages 6–8).

On Article 14, the Court reasoned that registered firms enjoyed tax privileges, including a reduced rate at firm level with assessment of partners on their shares. The legislature could withhold that privilege for quantifying interest upon the specified filing default. Treating registered and unregistered firms alike for that purpose was not unlawful discrimination. It rejected the contrary Karnataka High Court view in *Nagappa* to that extent and approved the contrary line of High Court decisions. This was an interest-computation rule, not an order cancelling the firms' registration or reassessing all their income as unregistered firms (physical pages 8–11).

The Court then qualified the levy by its compensatory character: where advance tax duly paid covered the whole tax assessed, there was no unpaid tax calling for compensation through this return-delay interest. That condition was satisfied in Civil Appeal 1035, so its interest charge could not stand. The Court did not grant blanket relief to all late filers or all registered firms (physical page 11).

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

03 JUDICIAL DECISION

The Court upheld the challenged historical section 139 mechanism and rejected the no-extension-application argument. Civil Appeal 1035 of 1973 alone was allowed, with a direction to refund the amount paid as interest for AY 1968-69. All remaining appeals were dismissed. There was no order as to costs in any appeal and no remand (physical page 11/SCR 699 B–F).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the general statutory and constitutional challenges; assessee in Civil Appeal 1035 of 1973 on its fully paid advance-tax facts

Civil Appeal 1035 of 1973 allowed with interest refund; remaining appeals dismissed; no order as to costs in any appeal

Final reasoned merits disposal of the connected appeals

Pre-1 April 1971 section 139 machinery; the judgment does not determine later section 234A liability, impose a penalty, or cancel registration.

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

05 AKHB REVIEW POINT

Start with the charging provision and assessment year, then identify the tax still unpaid and the actual payment dates. This case rejects a procedural escape based solely on failure to seek an extension, but also insists on the compensatory basis of the particular interest charge. A valid interest provision can coexist with no amount being payable on a fully satisfied tax liability.

The statutory machinery changed. The Department of Revenue-hosted 2011 compilation shows the later section 139(8), its AY 1988-89-and-earlier limit, and section 234A applying from AY 1989-90 (physical pages 693–694 and 859–861). The compilation's amendment-history footnotes identify the intervening substitutions; this is a bounded historical comparison, not current-law certification. Do not mechanically reuse this judgment's return period, firm classification, rate or refund result for a later year. Comprehensive subsequent judicial treatment and 2025 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 full reported appeal grouping

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: SCR 689 A–F; SCR 691 C–F

Source role: reported metadata and judicial text

2.

Topic: Historical statute and no-extension-application facts

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5; 6

Paragraphs: SCR 691 E–H through 694 B

Source role: judicial text

3.

Topic: Independent section 139(4) operation and extension argument

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 694 C–H; 695 A–F

Source role: judicial text

4.

Topic: Compensatory character and penalty distinction

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 695 G–H; 696 A–C

Source role: judicial text

5.

Topic: Article 14 and registered-firm tax-base reasoning

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: SCR 696 D–H through 699 A

Source role: judicial text

6.

Topic: Advance-tax exception, single appeal relief and costs

Source url: [Open cited source](#)

Pdf pages: 11

Paragraphs: SCR 699 B–F

Source role: judicial text

7.

Topic: Bounded later historical statutory framework

Source url: [Open cited source](#)

Pdf pages: 690; 693; 694; 859; 860; 861

Paragraphs: Section 139(4), 139(8), 234A(1) and (5); amendment-history footnotes separately identified

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Murari Mohon Dutt, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Article 14, Constitution of India

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 11 PDF pages; SHA-256

82b6e06cb5f6ac94c739b14f768661dd4d12de09066efbe165586cd3501e32a4. Original bytes preserved.

Complete unnumbered judicial body begins physical page 3/SCR 691 E and ends physical page 11/SCR 699 F. Editorial headnotes and report metadata on pages 1–3 separately identified; no neighbouring judgment.

Open cited source rendition

The decision date is 30 October 1987, printed on the source cover. The 1988 component of the asset name and SCR citation is the reporting year, not the decision year.; The reporter's page 1 enumerates all three appeal groups. The formal jurisdiction line on page 3 prints only 1032–1036 of 1973. The complete reported grouping is retained, and its source role is identified; the final judicial order allows only 1035 and dismisses the remaining appeals.; The quoted provision on page 4 prints nine per cent, while the judicial factual account on page 5 says six per cent was charged. These are different statements in the original source. No single uniform rate or independent historical rate correction is inferred.; Only AY 1968-69 in Civil Appeal 1035 is expressly identified. Neither all other years nor a separate assessee name for that appeal is supplied by the judicial text.; The Court's Article 14 discussion sometimes describes different rates of interest, but its underlying dispute is the tax base calculated by treating a registered firm as unregistered. The note does not recast this as a generally different statutory interest percentage.; The source contains apparent citation/typographical defects, including the year printed for M. Chandra Sekhar and the ITR pagination of Central Provinces Manganese Ore. No unverified correction is used as independent authority.; The later statutory compilation is government-hosted with a Taxmann imprint; statutory clauses and editorial amendment-history footnotes are distinguished. Original amending Gazette Acts, a comprehensive later-treatment chain and current provisions were not independently reviewed.

AY 1968-69 is expressly identified only for Civil Appeal No. 1035 of 1973. Other appeals' assessment years are not stated in the reviewed source.

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 bounded statutory comparison actually checked is expressly identified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 11

SHA-256: 82b6e06cb5f6ac94c739b14f768661dd4d12de09066efbe165586cd3501e32a4

official hosted statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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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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