

Income Tax Officer, Azamgarh & Anr. v. Mewalal Dwarka Prasad and vice versa

Civil Appeal No. 1970(NT) of 1975 / Civil Appeal No. 855(NT) of 1975

[1989] 1 SCR 604 | 1989-02-10

Whether a reopening notice could be restricted item by item after being held valid for one credit, and whether any valid jurisdiction to reopen existed when all primary facts had already been disclosed and the historical clause (b) limitation period had expired.

147(a), historical failure-to-disclose clause | 147(b), historical information clause | 148 | 149(1)(b), historical four-year limit | 142(1) | 143(2)

Two-judge bench | R.S. Pathak, C.J. | Ranganath Misra, J.

Assessment years: 1965-66

The notice was quashed despite acceptance of the Revenue's scope argument

The Court accepted that a valid reopening should not be split item by item at the writ stage, but held this notice invalid: primary facts had been disclosed, historical section 147(a) was unavailable and the clause (b) four-year limit had expired. The assessee's appeal succeeded and the Revenue's appeal failed. Do not rely on the contrary "did apply" headnote wording. Historical clauses and limits are not certified current law; later treatment and present-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

The assessee's regular assessment for AY 1965-66 was completed on 22 January 1966. Its accounts contained three cash-credit entries dated 22 August 1964: Rs.30,000 from Meghraj Dulichand, Rs.30,000 from Associated Commercial Organisation Private Ltd. and Rs.40,000 from Laxminarain Atmaram. During the original assessment the officer called for support for their genuineness, examined the material produced and accepted all three transactions (physical pages 3 and 7 / SCR 606 and 610).

Notices dated 7 March 1973 under section 148, with notices under sections 142(1) and 143(2), sought to reopen the assessment concerning those credits. On the assessee's Article 226 petition, the High Court sustained jurisdiction only for the Meghraj Dulichand credit of Rs.30,000 and directed the officer not to reopen for the other Rs.70,000. The Revenue appealed the restriction concerning those two items; the assessee cross-appealed the part sustaining the remaining item (physical pages 3-4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first accepted the Revenue's legal objection to the High Court's item-wise approach. Drawing on earlier authorities, including *V. Jaganmohan Rao*, it held that if the notice was valid at least for the remaining item, the High Court should not have pre-emptively decided its validity separately for the other two items. Whether those credits should be taken into account was for the officer in the fresh assessment proceeding. The quoted 1922 Act authorities supported this proposition, which the Court itself applied to the section 148 notice before it (physical pages 5–7 / SCR 608-610D).

That proposition did not decide the assessee's cross-appeal or validate the notice. The Court then examined whether historical section 147(a) could operate at all. All three primary credit facts had been before the officer, who required supporting material, accepted the documents and completed the assessment on that footing. If he thought further investigation necessary, he could have undertaken it then. Following *Calcutta Discount*, the Court distinguished disclosure of primary facts from the factual or legal inferences to be drawn from them; the assessee did not have to tell the officer what inferences to make. On this record the alleged escapement was not caused by failure to disclose fully and truly the material facts, so clause (a) did not apply (physical pages 7–8 / SCR 610D-611B).

The notice did not specify whether it rested on clause (a) or clause (b). With clause (a) unavailable, any reliance on clause (b) had to satisfy the then section 149(1)(b) period of four years from the end of the relevant assessment year. The 7 March 1973 notice was admittedly beyond that period. Its absence of a clause label was reported as part of the analysis, not adopted as an independent ground that automatically invalidates every unlabelled notice (physical page 8 / SCR 611B-C).

The Court also noted that the proceedings arose from a writ petition, not a statutory reference. Its appellate jurisdiction therefore was not confined to answering referred advisory questions, and it could grant the relief the established jurisdictional defect required. Thus the conditional breadth of a valid reopening could not save a notice that was itself out of time (physical page 8 / SCR 611C-D).

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

03 JUDICIAL DECISION

The assessee's appeal was allowed and the Revenue's appeal dismissed. The entire section 148 notice was quashed. Both parties were directed to bear their respective costs throughout (physical page 8 / SCR 611E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the operative result; Revenue's conditional proposition about the scope of valid reopening accepted

Assessee appeal allowed; Revenue appeal dismissed; section 148 notice quashed in full; respective costs throughout

Final reasoned decision on reopening jurisdiction and limitation; no fresh adjudication of taxable amounts

The Court did not uphold this reopening, decide the cash credits taxable, or announce that prior production of any accounts always defeats reopening. The result depends on the recorded disclosure and examination of these primary facts under the historical clauses.

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

05 AKHB REVIEW POINT

Separate the threshold validity of reopening from the matters an officer may examine after a valid reopening. The Revenue prevailed on the latter legal proposition but lost the case because the threshold failed. A summary reporting only that reopening reaches other items reverses the practical outcome unless it also states that this notice was quashed.

The evidence of disclosure matters: these were not merely unexplained entries buried in accounts. The officer had identified all three credits, sought explanations and accepted the supporting documents. That record grounded the finding that historical clause (a) was unavailable. Once that route failed, the time limit for clause (b) supplied the decisive bar; the four years ran from the end of the assessment year, not the completion date of the original assessment.

Use the ruling with its original statutory framework. The separately checked 2011 compilation records section 147's substitution effective 1 April 1989 (physical page 720, footnote 71), reinforcing that the old clauses and limitation route must not be treated as unchanged present law. No comprehensive later judicial treatment, later reopening-regime applicability or 2025 Act mapping is verified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, cross-appeals and challenged notices

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover and SCR 606C-H

Source role: reported metadata and judicial text

2.

Topic: Partial High Court relief and Revenue's argument

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 606G-607H

Source role: judicial text

3.

Topic: Quoted earlier authorities on scope of valid reopening

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: SCR 608-610B; embedded authorities distinguished

Source role: judicial text including quoted authorities

4.

Topic: Court's acceptance of the conditional scope proposition

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 610B-D

Source role: judicial text

5.

Topic: Prior disclosure and investigation of all three cash credits

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 610D-H and 611A-B

Source role: judicial text

6.

Topic: Clause (a) unavailable, clause (b) out of time; full quashing and costs

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 611B-E

Source role: judicial text

7.

Topic: Later substitution of section 147, historical context only

Source url: [Open cited source](#)

Pdf pages: 720

Paragraphs: Section 147 opening/proviso and amendment-history footnote 71

Source role: historical statutory context

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ranganath Misra, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 8 PDF pages; SHA-256

fb7c00b8cb16d320b5d27f4169c3b9a813f8e51947990b7eb8ba1464e3719311. Original bytes preserved.

Complete unnumbered judicial text from physical page 3 / SCR 606, beginning with Misra J., through physical page 8 / SCR 611. Editorial headnotes on pages 1–3 and quoted earlier-case passages on pages 5–7 distinguished. No adjacent judgment.

Open cited source rendition

Judicial reasons begin on physical page 3. The headnote on physical page 2 says clause (a) “did apply”; the Court’s own reasons on physical page 8 say it did not apply. The latter control.; Physical page 3 prints “Income Tax Act of 1981”; the case concerns the 1961 Act. This source error is flagged without altering the original PDF.; The broad passages on de novo assessment on physical pages 5–7 are quotations from earlier cases, followed by the Court’s conditional adoption; they cannot be substituted for the final jurisdiction and limitation holding.; Civil Appeal No. 1970(NT) of 1975 is the Revenue’s appeal; No. 855(NT) of 1975 is the assessee’s cross-appeal. Both are included.; The notice’s failure to state clause (a) or (b) is not presented as a standalone universal invalidity rule. The judgment resolves disclosure and the applicable time bar.; Only the verified SCR citation is used. The historical statutory compilation is bounded context, not present-law certification.

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 actually checked later judgment or statute is expressly identified in this note.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 8

SHA-256: fb7c00b8cb16d320b5d27f4169c3b9a813f8e51947990b7eb8ba1464e3719311

official hosted statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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