

Claggett Brachi Co. Ltd., London v. Commissioner of Income-Tax, A.P.

Civil Appeal Nos. 208 and 209(NT) of 1975

[1989] 2 SCR 731 | 1989-04-26

Whether information obtained during a later assessment justified reopening under historical section 147(b), and whether time-barred reassessment notices to the non-resident's agent prevented direct reassessment of the non-resident.

147(b), historical information-based reopening | 148 | 149(3), historical two-year agent-notice limit

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

Assessment years: 1959-60, 1960-61

Historical reopening and barred agent notices; no duplicate assessment rule

The Revenue succeeded under historical section 147(b) because later-year records supplied the relevant overhead-allocation information. Time-barred reassessment proceedings against the agent did not bar direct proceedings against the non-resident. This does not authorise duplicate effective assessments or dispense with direct-notice conditions. The old two-year agent limit and section 147(b) are not current-law statements. Later treatment and present-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

The assessee was a non-resident sterling company buying tobacco in India and selling it abroad, both on its own account and for commission. Purchases were made through British India Corporation Ltd., Guntur, appointed its agent under section 43 of the 1922 Act. The agent filed the returns for AYs 1959-60 and 1960-61, and the Income-tax Officer completed the original assessments under section 23(3) of that Act after examining the accounts. The allocation of overhead expenses produced losses attributed in part to purchasing operations in India (physical pages 3-4 / SCR 733-734).

During the assessment for AY 1962-63, the officer obtained information from that year's return and documents that the overheads related to the company's entire business, including its commission activity, rather than only purchases and sales of tobacco. He considered that the earlier allocation therefore overstated the overheads attributable to the trading profits and led to escaped income. On 18 January 1964 he issued section 148 notices to the agent, but accepted its objection that the historical two-year limit in section 149(3) had expired and dropped those proceedings (physical pages 4-5).

The officer then issued notices directly to the assessee at its London address on 29 February 1964. It filed returns under protest on 19 August 1964. Reassessments followed; the Appellate Assistant Commissioner upheld them. The Tribunal set them aside as a mere change of opinion and as impermissible direct proceedings following assessments through the agent. The High Court answered the referred questions for the Revenue, producing these two appeals (physical page 5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court applied the then section 147(b): information in the officer's possession must give him reason to believe that taxable income had escaped assessment. On the materials in this case, the information about the scope of overhead expenses came to the officer while examining the subsequent assessment year's documents. The High Court had acknowledged that due diligence at the original assessment might have uncovered it earlier. Nevertheless, nothing then before the officer appeared to have directed his attention to the fact that the overheads covered the entire business. The later information therefore satisfied the historical clause (b) on these facts; the Court did not accept the Tribunal's characterisation as merely a different computation opinion (physical pages 5-6 / SCR 735G-736D).

On the second issue, the Court recognised that the officer could assess either the non-resident or its agent, and that an assessment on one could not be duplicated on the other. It then focused on the attempted reassessment proceedings against the agent. Notices after the statutory two-year period were prohibited, and those proceedings had been dropped when the prohibition was pointed out. They had to be ignored and did not bar proceeding directly against the non-resident. This is a distinction between ineffectual, time-barred agent proceedings and an effective competing assessment, not an approval of duplicate assessments of the same income (physical page 6 / SCR 736D-G).

The original assessments' use of the 1922 Act is background. The questions actually decided concerned jurisdiction to reopen under the 1961 Act and the effect of that Act's special limitation rule for notices to a non-resident's agent. The Court did not formulate a rule dispensing with the statutory conditions for a valid direct notice.

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

03 JUDICIAL DECISION

Both appeals were dismissed with costs. The Court sustained the High Court's conclusions for the Revenue on the historical information-based reopening and on direct proceedings after the time-barred agent proceedings had been dropped (physical page 6, final operative paragraph).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Both assessee appeals dismissed with costs; High Court conclusions for the Revenue sustained

Final reasoned determination of the two referred reassessment-jurisdiction questions

Historical section 147(b) and section 149(3) applied to the two identified assessment years; no licence for duplicate assessment, disregard of limitation or automatic use under a later reopening regime.

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

05 AKHB REVIEW POINT

Identify what the officer actually learned later, when and from which records. A claim of subsequent information is not established merely by relabelling an earlier computation; here the specific new information concerned the business activities to which the overheads related. Keep the Court's acknowledgment of possible earlier discovery alongside its finding that the relevant fact had not been brought to the officer's attention.

For the agency issue, distinguish the original assessment history from the failed reassessment attempt. The operative reasoning ignored the time-barred agent notices and permitted the direct route; it did not endorse two effective assessments of the same income. Separate checks of the direct notice's statutory authority and applicable limitation remain necessary.

Both rules are historical. The bounded 2011 compilation records substitution of section 147 effective 1 April 1989 (physical page 720, footnote 71). That amendment-history check is a reason to examine the applicable statutory version, not a certification of later reopening law. The two-year period reported under section 149(3) is not represented as a current deadline. Comprehensive later treatment, present-law application and any 2025 Act mapping remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, both appeal numbers and questions referred

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; appeal metadata; SCR 733C-G

Source role: reported metadata and judicial text

2.

Topic: Original 1922 Act assessments and overhead allocation

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 733H-734D

Source role: judicial text

3.

Topic: Subsequent-year information and agent notices

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 734D-H and 735A-B

Source role: judicial text

4.

Topic: Appellate history and historical clause (b)

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 735C-H and 736A-D

Source role: judicial text

5.

Topic: Barred agent proceedings distinguished from direct reassessment; costs

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 736D-G and final operative paragraph

Source role: judicial text

6.

Topic: Later substitution of section 147, historical caution 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

R.S. Pathak, C.J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

c7441f9d6d95c5d3e9986368ffadf8502dc34e92798c978c34d4571837acb54f. Original bytes preserved.

Complete unnumbered judicial text from physical page 3 / SCR 733, beginning with Pathak C.J., through physical page 6 / SCR 736; editorial headnotes and appeal metadata before that opening distinguished. No adjacent judgment.

[Open cited source rendition](#)

The judicial text begins midway through physical page 3; preceding headnotes are editorial and not the Court's reasons.; The original assessments were made under the 1922 Act, but the independent holdings apply the 1961 Act's historical sections 147(b), 148 and 149(3). This is not a 1922-only case.; The report's first referred question is awkwardly phrased. The note states the Court's clear reasoning and operative dismissal without inventing a yes/no reformulation.; The agent proceedings ignored on physical page 6 are the time-barred reassessment proceedings. The decision must not be paraphrased as permitting duplicate effective assessments.; No unverified neutral or parallel citation is added. The original PDF is unchanged despite OCR and typographical variants.; The 2011 compilation and its amendment-history footnote provide bounded historical context only; no current-law or full amendment audit is certified.

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: 6](#)

SHA-256: c7441f9d6d95c5d3e9986368ffadf8502dc34e92798c978c34d4571837acb54f

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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