

Income Tax Officer, Cuttack and Others v. Biju Patnaik

Civil Appeal No. 571 (NT) of 1976

[1990] Supp. 3 SCR 488 | 1990-12-07

Whether the historical reopening conditions were supported by the existing record, and whether the writ court could nevertheless decide that the disputed receipt was non-taxable goodwill consideration before assessment.

147(a), historical text | 148 | 142(1), related records notice

Two-judge bench | Kuldip Singh, J. | K. Ramaswamy, J.

Assessment years: 1957-58

Reopening upheld; goodwill and capital gains left open

This judgment sustains historical reopening jurisdiction; it does not finally tax Rs 15 lakh or decide whether only goodwill was transferred. Existing recorded material supported the officer's belief, and the final paragraph reserves all assessment merits. Do not convert it into permission for post-hoc reasons or disregard of modern notice requirements. Comprehensive later treatment and current-law/2025 mapping remain unverified.

01 FACTS OF THE CASE

The assessee's AY 1957-58 assessment had excluded a Rs 15 lakh receipt on his claim that the relevant transfer or receipt preceded 31 March 1956. The Department later obtained information through the Director of Mines, by letter dated 29 June 1965, concerning an agreement dated 3 November 1956 for transfer of the mining business's assets and goodwill to a company. This produced a different accounting-year premise for the officer's belief; the final tax character of the receipt remained disputed (physical pages 3–5).

The ITO recorded proceedings on 2 July 1965, obtained approval and issued a notice dated 31 July 1965 seeking a return, followed by a records notice of 17 September 1965. The Single Judge sustained the action. The Division Bench agreed on the section 147(a) power but quashed the notices after characterising the whole receipt as goodwill. Revenue appealed (physical pages 3–4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court required a prima facie belief, grounded in material facts, that income chargeable for the relevant year escaped assessment because the assessee omitted or failed to disclose the material facts fully and truly. The newly available transfer information, contrasted with the earlier date asserted, supplied the recorded basis for that belief on these facts (physical pages 5–6).

Although the notice itself did not set out satisfaction of the conditions, the contemporaneous proceedings and record, which the assessee inspected, disclosed the material and application of mind; the affidavit placed those facts before the court. The holding does not authorise invention of new reasons after a defective decision or dispense with requirements imposed by later reassessment legislation (physical pages 5–6).

The Division Bench had treated Revenue counsel's indecisiveness or a wrong concession as establishing that the receipt concerned only goodwill. The Supreme Court rejected that approach. Whether assets and goodwill together, or only goodwill of a going concern, had been transferred still required examination by the ITO. It was premature to decide the capital-gains question in the writ proceeding. The closing direction expressly says no observation by either court should be treated as an opinion on those merits (physical pages 6–7).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed without costs. The Division Bench judgment was set aside and the Single Judge judgment restored, sustaining the historical reopening jurisdiction. The assessee remained free to submit the return and material, and the ITO was to decide the assessment on its merits. No capital-gains addition or tax liability was finally imposed by the Supreme Court (physical page 7).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on reopening; substantive tax merits reserved

Appeal allowed; Division Bench set aside; Single Judge restored; no costs

Final legal-jurisdiction ruling with express reservation of capital-gains and transaction-character questions

Rs 15 lakh is the disputed receipt, not a Supreme Court tax demand. No final transfer-date, goodwill-only or current notice-law determination.

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

05 AKHB REVIEW POINT

Identify the material and reasons actually available to the officer when the action was taken. A court may examine that record without mistaking a sparse notice for an absence of all reasons, but the judgment is not a licence for post-hoc reasoning or for ignoring a later statutory notice requirement.

Then keep jurisdiction and assessment merits separate. The officer's belief was sufficient to proceed; it did not conclusively establish the composition or taxability of the consideration. A lawyer's uncertain response is no substitute for evidence about the transaction. Preserve the final reservation and the historical version of section 147(a); comprehensive later treatment and current-law/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, single appeal and author

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

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

Source role: reported metadata and judicial text

2.

Topic: Original assessment, recorded proceedings and notices

Source url: [Open cited source](#)

Pdf pages: 3; 4

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

Source role: reported metadata and judicial text

3.

Topic: Information source and two jurisdictional conditions

Source url: [Open cited source](#)

Pdf pages: 4; 5

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

Source role: judicial text

4.

Topic: Record-supported reasons and premature goodwill finding

Source url: [Open cited source](#)

Pdf pages: 5; 6

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

Source role: judicial text

5.

Topic: Explicit merits reservation, restored order and costs

Source url: [Open cited source](#)

Pdf pages: 7

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

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K. Ramaswamy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 7 PDF pages; SHA-256

b73a70000609615c5b531662ae2cc8c5acb0acd48a28f67ba7878b69e6e1bd7b. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–7; preceding editorial material separated; no adjacent judgment.

[Open cited source rendition](#)

The opening labels the later records notice under section 147(a), while the submissions and closing discuss sections 142(1)/142 with the reopening notice. The note describes its function without treating section 147(a) as a general records-production provision.; The judicial text states on physical page 4 / SCR 491 that section 12B came into force from 1 April 1957, but on physical page 6 / SCR 493 says it had come into force by the 3 November 1956 transfer. These differing printed commencement references are not reconciled or independently authenticated here. The note does not turn that background into a final capital-gains charging ruling.; The recorded information about the November 1956 agreement and the taxpayer's earlier date claim are part of the jurisdictional analysis. The final paragraph expressly reserves assessment merits.; The case concerns one assessment year, 1957-58; the earlier 1956-57 reference explains the taxpayer's argument and is not an additional appealed assessment.

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: 7](#)

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