

Y.P. Chawla and Others v. M.P. Tiwari and Another

Criminal Appeal Nos. 207–208 of 1992

[1992] 2 SCR 440 | 1992-03-31

Whether the Commissioner's discretion to compound offences under section 279(2) was subject to CBDT instructions requiring prior approval, in light of the retrospective Explanation inserted in 1991.

279(2), read with the Explanation to section 279 | 119(1) | 276B, prosecution background only

Two-judge bench | Kuldip Singh, J. | R.M. Sahai, J.

Assessment years: 1979-80, 1980-81, 1981-82, 1982-83

Statutory compounding-control ruling; historical policy only

Revenue succeeded because the retrospective Explanation to section 279 expressly supported Board directions, including prior approval. The Court did not decide either applicant's compounding merits or criminal guilt, and did not generally authorise circulars to override statutes. Instruction numbers 1307/1317 conflict in the report; the judicial years belong only to Tiwari's matter. Historical categories, approval routes and monetary limits are not current policy. Comprehensive later treatment and 2025 mapping remain unverified.

01 FACTS OF THE CASE

M.P. Tiwari, secretary and principal officer of Hans Raj Gupta and Co. Pvt. Ltd., faced section 276B prosecution with other directors for alleged failure to deposit employee-salary TDS for AYs 1979-80 through 1982-83. M.L. Passi, managing director of Inspi Auto Industry Pvt. Ltd., faced a separate alleged TDS-deposit default; its assessment years are not stated. Both applied to the Commissioner for compounding (physical page 3).

They separately challenged the CBDT instructions dated 11 March 1980. Those historical guidelines regulated categories and approvals, required prior Board approval before compounding, and prohibited giving assurances before approval. The Delhi High Court quashed them on 30 November 1990 as an impermissible restriction of the Commissioner's statutory discretion. Revenue appealed (physical pages 2–5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court reproduced the former section 279(2) power to compound before or after proceedings and section 119(1), including its limits on directions concerning particular assessments and appellate discretion. It then recorded the competing positions on binding Board circulars. Although earlier decisions were discussed, it expressly found it unnecessary to resolve the High Court's distinctions on that general question because the statutory position had changed (physical pages 3–6).

The Finance (No. 2) Act 1991 inserted an Explanation to section 279, operative from 1 April 1962, expressly including Board directions for proper composition of offences and directions to obtain its previous approval. Read with section 279(2), that Explanation subjected the Commissioner's compounding discretion to the Board's instructions. The Court treated it as operating in the nature of a proviso to that power and upheld the prior-approval requirement on this express statutory footing (physical page 6).

The ratio is therefore not an unrestricted proposition that every circular can override every Act provision. Nor does the judgment decide that these respondents must be granted or refused compounding on their individual merits. It resolves the legal challenge to the instruction-making power and the resulting constraint on the Commissioner (physical pages 5–6).

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

03 JUDICIAL DECISION

The Court allowed both Revenue appeals, set aside the High Court judgments and dismissed both writ petitions. There was no order as to costs. It did not compound the offences, determine the applicants' guilt, impose sentences or quantify unpaid TDS (physical page 6).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on validity and binding effect of the compounding instructions

Both appeals allowed; both High Court judgments set aside; Tiwari and Passi writ petitions dismissed; no costs

Final reasoned statutory-power determination under section 279 and its retrospective Explanation

No individual compounding entitlement or refusal adjudicated; historical guidelines and amounts are not present-day eligibility criteria.

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

05 AKHB REVIEW POINT

Locate the statutory source and time reach of an administrative direction before challenging or applying it. Here the retrospective Explanation expressly supported the very prior-approval mechanism that the High Court had regarded as an unlawful transfer of discretion. The outcome rests on that enacted power, not a free-standing ability of circulars to replace legislation.

Keep the power question separate from the merits of a particular compounding application. A public note should not reproduce the old monetary limit, industry categories or ministerial process as today's rules. The operative guideline version, later amendments, available judicial-review grounds and comprehensive later treatment require fresh verification before professional use; no 2025 mapping is supplied.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, two appeals and originating orders

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: Separate alleged defaults and actual assessment-year scope

Source url: [Open cited source](#)

Pdf pages: 3

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

Source role: judicial text

3.

Topic: Historical section 119 limits and quoted compounding instructions

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

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

Source role: judicial text

4.

Topic: High Court reasoning and general-circular question not decided

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: Retrospective Explanation, ratio and final disposition

Source url: [Open cited source](#)

Pdf pages: 6

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

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Kuldip Singh, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ASSESSMENT-YEAR SCOPE AND LIMITS OF THE OPERATIVE DIRECTION

The stated years concern M.P. Tiwari's company. No assessment years are expressly allocated to M.L. Passi's separate prosecution.

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

a7652434df3a40dd40174aaa76760cc0cd1e17e456052af0fd3a6ee6c1187370. Original bytes preserved.

Complete judicial text physical pages 3–6; editorial material on pages 1–2 separated; no neighbouring judgment.

[Open cited source rendition](#)

The headnote identifies the instruction as No. 1307; the judicial body on physical page 4 identifies No. 1317. The date is 11 March 1980 in both. The underlying instruction was not independently recovered; the number conflict is preserved.; The headnote prints an anomalous AY 1970-80 start, while the judicial facts on page 3 clearly state AYs 1979-80 to 1982-83 for Tiwari. Those years are not automatically assigned to Passi.; The judicial opening on page 3 calls the statute the Income-tax Act, 1962; the cover, quoted provisions and operative scheme concern the 1961 Act. No separate 1962 enactment is inferred.; The Court's preceding discussion of circulars is followed by an express refusal to determine that general issue because the retrospective statutory Explanation governs. Do not detach the broad statement from the final basis.; The note reports the historical 1991 amendment and its stated 1962 effective date from the judgment, not an independently certified present consolidation or current compounding policy.

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: a7652434df3a40dd40174aaa76760cc0cd1e17e456052af0fd3a6ee6c1187370

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