

Commissioner of Income Tax, Orissa v. Dhadi Sahu

Civil Appeal Nos. 1788–1789 of 1977

[1992] Supp. 3 SCR 168 | 1992-11-18

Did the amendment to section 274(2), effective 1 April 1971, remove the IAC's jurisdiction over a penalty reference validly made before that date where the concealed income did not exceed the new Rs 25,000 threshold?

271(1)(c) | 274(2) | 256(1) | 261

Two-judge bench | Yogeshwar Dayal, J. | Dr. A.S. Anand, J.

Assessment years: 1968-69, 1969-70

Pending IAC reference survives this amendment; jurisdiction is distinct from penalty quantum

The holding concerns a valid reference made before 1 April 1971 under historical section 274(2). The change from a Rs 1,000 minimum-penalty trigger to a Rs 25,000 concealed-income trigger did not divest the IAC because no contrary transfer or abatement intention was shown. It is not a rule for every later amendment, a fresh post-amendment reference or the date fixing substantive penalty quantum. The original source conflicts between 23 and 28 February 1970 and once prints the Act year as 1951; these anomalies do not change the expressly established pre-amendment reference or the direct 1961 Act issue. The Court resolved jurisdiction without a new quantum ruling. Later treatment and 2025 Act mapping remain not_verified.

01 FACTS OF THE CASE

The assessee individual's returns for AYs 1968-69 and 1969-70 disclosed his own share of a firm's profits but omitted the income described in the judgment as falling to his minor children's share from house property standing in his wife's name but belonging to him. Returned incomes were Rs 6,940 and Rs 7,020; assessed incomes were Rs 30,840 and Rs 14,472. The source places the assessments in February 1970 but conflicts between 23 and 28 February. The ITO initiated section 271(1)(c) proceedings and made references to the IAC before 1 April 1971, when the minimum penalty exceeded the then Rs 1,000 jurisdictional threshold (physical pages 5 and 8–9).

While the references were pending, the 1970 Amendment Act changed section 274(2) from 1 April 1971 so that the ITO was to refer cases where the relevant concealed income exceeded Rs 25,000. On 15 February 1973 the IAC imposed penalties of Rs 24,000 and Rs 12,500. Concealment itself was not disputed in the penalty proceedings. The Tribunal cancelled the penalties for want of jurisdiction, and the Orissa High Court agreed on a section 256(1) reference. The Revenue appealed by special leave after certificates under section 261 were refused (physical pages 6–8).

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

02 DISCUSSION BY THE HON'BLE COURT

The IAC acquired jurisdiction through a valid reference under the pre-amendment section 274(2). A statutory change of forum generally does not affect pending actions unless a contrary intention is clearly shown, for example by a provision transferring existing proceedings. The amending Act contained no requirement that valid pending references be returned, transferred or treated as abated merely because the concealed income did not exceed Rs 25,000 (physical pages 9–10 and 12).

Section 6(b) of the General Clauses Act preserved the earlier operation of section 274(2) and things duly done under it. Consequently, the material date for this issue was the initiation of the valid reference, not the later date on which the IAC passed the penalty order. The Court distinguished ordinary procedural changes from a change of forum once proceedings had begun, while preserving the qualification that express words or necessary implication could indicate the opposite legislative intention (physical pages 9–10).

The Court drew support from High Court decisions preserving the pending forum and from Manujendra Dutt and Mohd. Idris. It held that the contrary views in CIT v. Om Sons, 116 ITR 215, and Addl. CIT v. M.Y. Chandragi, 128 ITR 256, did not lay down the correct law (physical pages 10–12).

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

03 JUDICIAL DECISION

The Supreme Court held that the IAC to whom the cases had been validly referred before 1 April 1971 retained jurisdiction to impose the penalties. It answered the reference in favour of the Revenue, allowed both appeals and set aside the Orissa High Court order of 5 December 1975. Because the High Courts had differed, the parties were left to bear their own costs (physical page 12).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the IAC's continuing jurisdiction

Two appeals allowed; High Court order set aside; reference answered for Revenue; parties to bear their own costs

Final legal ruling on retention of jurisdiction in valid pending penalty references

The Court resolved the jurisdictional objection. It did not newly calculate penalty quantum, independently adjudicate concealment or ownership attribution, determine a post-amendment fresh reference, or establish that every later change of forum preserves all pending matters regardless of statutory wording.

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

05 AKHB REVIEW POINT

Record separately the date and validity of the reference, the commencement of the amendment, and the eventual penalty order. In this case, an already valid IAC reference survived the threshold change; applying the new threshold solely because the order was made later would ignore how jurisdiction had been acquired and the absence of a contrary transitional direction.

Do not confuse this jurisdictional date with the date of the offending return that may fix the substantive penalty measure. Nor should a conclusion about the 1971 amendment be carried automatically into a later amendment, omission or new statutory regime. The express-or-necessary-implication qualification matters. Preserve the source's February-date conflict and isolated Act-year error without inventing a corrected assessment or reference date. Concealment was undisputed here; the property narrative is not a new rule on clubbing or beneficial ownership.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Cover, bench, decision date, appeal numbers and origin

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: SCR 168 and 171; unnumbered text

Source role: reported metadata

2.

Topic: Judicial opening, AYs, income table, date/Act-year anomalies, penalty orders and undisputed concealment

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: SCR 171–173; unnumbered text

Source role: judicial text

3.

Topic: Section 256(1) question, certificate refusal and High Court's contrary answer

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: SCR 173–174; unnumbered text

Source role: judicial text

4.

Topic: Different pre- and post-amendment jurisdictional measures

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 175; unnumbered text

Source role: judicial text

5.

Topic: Valid reference, preserved pending forum, section 6(b), contrary-intention qualification

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: SCR 176–177; unnumbered text

Source role: judicial text

6.

Topic: Supporting authorities, rejected High Court views and final jurisdictional disposition

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12

Paragraphs: SCR 177–179; unnumbered text

Source role: judicial text

OTHER GOVERNING STATUTES

1.

Act: Taxation Laws (Amendment) Act, 1970

Sections: 49

Role: Substituted the section 274(2) jurisdictional threshold with effect from 1 April 1971; no transfer or abatement requirement for the valid pending references was found.

2.

Act: General Clauses Act, 1897

Sections: 6(b)

Role: Expressly applied to preserve the previous operation of section 274(2) and acts validly done under it, including the reference conferring IAC jurisdiction.

3.

Act: Calcutta Thika Tenancy Act, 1949

Sections: 29

Role: Discussed through Manujendra Dutt as an analogy concerning a pending suit validly transferred before deletion of the transfer provision; not a tenancy issue decided here.

4.

Act: Bengal General Clauses Act, 1899

Sections: 8

Role: Discussed in the Manujendra Dutt analogy as corresponding to section 6 of the Central Act; not independently applied to this income-tax proceeding.

5.

Act: Calcutta Thika Tenancy (Amendment) Act, 1953

Sections:

Role: Historical deletion in the Manujendra Dutt analogy only; no amending section number specified.

6.

Act: U.P. Agriculturists Relief Act

Sections:

Role: Background statute in the Mohd. Idris analogy only; no provision interpreted independently here.

7.

Act: U.P. Zamindari Abolition and Land Reforms (Amendment) Act, 1953

Sections:

Role: Background change-of-forum statute in the Mohd. Idris analogy; no operative income-tax rule derived from an unmentioned section.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Yogeshwar Dayal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

APPEAL GROUPING AND SOURCE LIMITS

Single judgment: True

Appeals included: Civil Appeal No. 1788 of 1977; Civil Appeal No. 1789 of 1977

Origin: Orissa High Court judgment and order dated 5 December 1975 in S.J.C. Nos. 176 and 177 of 1974; special leave granted on 4 August 1977

ROLE AND SCOPE OF EACH IDENTIFIED PROVISION

1.

Section: 274(2)

Role: Jurisdiction-conferring reference to the IAC and effect of its amendment from 1 April 1971 on a reference already validly pending; the legal issue decided.

2.

Section: 271(1)(c)

Role: Penalty proceedings within which the jurisdiction issue arose; concealment was not disputed in those proceedings and no new quantum ruling was made.

3.

Section: 256(1)

Role: Express statutory route for the Tribunal's consolidated reference to the Orissa High Court; no independent reference-procedure issue decided.

4.

Section: 261

Role: Certificates sought and refused by the High Court before special leave; no independent section 261 ruling.

OPERATIVE 1961 ACT PROVISIONS

274(2); 271(1)(c)

PRECEDENTS CONSIDERED IN THIS JUDGMENT

1.

Case: Manujendra Dutt v. Purnedu Prosad Roy Chowdhury

Citation: AIR 1967 SC 1419

Treatment in this judgment: Relied on for preservation of jurisdiction over a validly transferred pending action despite later deletion; physical page 11

2.

Case: Mohd. Idris v. Sat Narain

Citation: AIR 1966 SC 1499

Treatment in this judgment: Relied on where a new forum did not displace the existing court without a pending-case transfer provision; physical page 11

3.

Case: CIT v. Royal Motor Car Co.; CIT v. Salabhai & Co.; CIT v. Ganga Dayal Sarju Prasad; CIT v. Raman Industries

Citation: 107 ITR 753; 122 ITR 301; 155 ITR 618; 121 ITR 405

Treatment in this judgment: Expressly identified as supporting the Court's pending-reference view; physical page 10

4.

Case: CIT v. Deorao Shrawan Maundekar; CIT v. Rizumal Pherumal; CIT v. Eastern Development Corporation; CIT v. A.N. Tiwari

Citation: 169 ITR 19; 169 ITR 25; 135 ITR 516; 124 ITR 680

Treatment in this judgment: Further supporting High Court decisions discussed at physical page 10

5.

Case: CIT v. Om Sons

Citation: [1979] 116 ITR 215 (Allahabad)

Treatment in this judgment: Contrary view expressly declared not to lay down the correct law; physical pages 10 and 12

6.

Case: Additional CIT v. M.Y. Chandragi

Citation: [1981] 128 ITR 256 (Karnataka)

Treatment in this judgment: Contrary view expressly declared not to lay down the correct law; physical pages 11–12

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256

64799a765459fb706a5cce4c8e630185182e4dfc9ed59baa35966a57050d0002. Original bytes preserved.

Complete unnumbered judicial text from physical page 4/SCR 171 through disposition on physical page 12/SCR 179. Editorial headnote and case metadata preceding the judicial opening were separately read. No adjacent judgment included.

[Open cited source rendition](#)

Repository title/OCR reads "Income Taj"; the original cover reads Commissioner of Income Tax, Orissa. The visually verified title controls.; Physical page 5/SCR 172 prints "Income-tax Act, 1951". The cover says 1961, and the operative provisions and amendment are those of the Income-tax Act, 1961. The isolated printed error is disclosed rather than creating a different Act classification.; Physical page 5 first dates the assessments 28 February 1970, then calls 23 February 1970 the assessment date. The headnote also says 23 February. No exact corrected assessment date is supplied. The holding rests on the expressly established valid reference before 1 April 1971, not resolution of this conflict.; The source does not give a separate exact reference date. It expressly establishes that the references were validly made before 1 April 1971. Do not equate a guessed reference date with the inconsistent assessment dates.; The Rs 1,000 threshold concerned the minimum penalty imposable; the post-amendment Rs 25,000 threshold concerned the relevant concealed income. They are not two monetary limits measuring the same thing.; The operative order sets aside the High Court's answer and affirms jurisdiction; it does not set out a fresh computation or adjudicate independent penalty merits. No such additional order is invented.; The property/minor-child facts are reproduced as the judgment's account, not as an independently adjudicated section 64, benami or ownership rule.; No paragraph numbers occur in this rendition; all pinpoints use physical PDF and SCR pages. The source gives Manujendra Dutt's respondent name as Purnedu Prosad; no external spelling correction is asserted.

STATUTORY SCOPE

The direct ruling concerns the 1 April 1971 amendment of historical section 274(2) and a valid pre-amendment IAC reference. The source's isolated printed "Income-tax Act, 1951" is a source error; the cover and provisions unmistakably identify the 1961 Act. No later omission, present penalty forum or 2025 Act mapping is certified.

LATER TREATMENT

Source checked 2026-10-04. No later-treatment search or current-law certification was undertaken for this note. Authorities discussed within the reviewed judgment are reported as its own reasoning, not as an independently verified subsequent-treatment history.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 12](#)

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