

Salem Cooperative Central Bank Limited v. Commissioner of Income Tax, Madras

Civil Appeal No. 2169(NT) of 1993

[1993] 2 SCR 997 | 1993-04-06

Whether the High Court could require reconsideration of surcharge liability on a legal ground implicit in the referred issue, despite both parties having previously assumed that income classification alone controlled the result.

256(1) | 81(1)(a), historical exemption background as printed in the judicial report

Two-judge bench | B.P. Jeevan Reddy, J. | N. Venkatachala, J.

Assessment years: 1963-64

Reference reconsideration, not a final surcharge award

The High Court could require reconsideration of a legal aspect within the referred surcharge issue despite the parties' earlier legal assumption. The Supreme Court did not finally impose Rs 81,920 surcharge or prescribe a rate on the Rs 19 receipt. Editorial section labels conflict with the judicial text. The historical procedure and later outcome remain qualified; comprehensive later treatment is unverified.

01 FACTS OF THE CASE

The cooperative bank received Rs 19 as interest on a security deposit required by the Salem-Erode Electricity Distribution Company for electricity supply. Its business income was exempt under the historical cooperative provision. For AY 1963-64, with the previous year ending 30 June 1962, the ITO treated the interest as other-sources income and levied additional surcharge of Rs 81,920. The AAC and Tribunal treated the interest as business income and removed the surcharge (physical pages 4–5).

Before the Tribunal, both sides had agreed that the appeal turned on whether the Rs 19 was business or other-sources income. In the High Court reference, Revenue raised a different legal aspect: the Finance Act might attract surcharge even if the interest was business income. The High Court returned the reference unanswered and directed the Tribunal to examine all relevant aspects of surcharge liability. The bank appealed on the ground that this exceeded reference jurisdiction (physical pages 4–5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court held that a reference court need not perpetuate an erroneous legal assumption embedded in a question. Otherwise its answer could itself be legally wrong. Revenue's earlier agreement with that assumption did not prevent it from asking that the legal assumption be reconsidered. In this case the High Court had not required a fresh factual investigation; it asked whether surcharge followed even on the business-income premise (physical page 6).

The Court relied on *Scindia Steam Navigation's* distinction between a question in issue and different legal aspects of that question. Where the issue properly arises from the Tribunal's order, every new legal aspect need not be treated as a wholly separate, impermissible question. The earlier case's shipping compensation and 1922 Act facts were illustrative precedent material, not present surcharge facts (physical pages 6–8).

The overall issue was whether additional surcharge was leviable for AY 1963-64. The High Court was therefore entitled to require the Tribunal to consider Revenue's legal contention within that issue. The Supreme Court did not itself determine that surcharge necessarily applied, finally classify the Rs 19, or quantify the resulting tax. Nor did it approve adding arbitrary new factual controversies in every reference (physical pages 8–9).

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

03 JUDICIAL DECISION

The bank's appeal was dismissed with no costs. The High Court's direction for the Tribunal to reconsider the surcharge issue stood; the reference remained unanswered by that order. Final surcharge liability was not adjudicated by the Supreme Court (physical page 9, read with pages 4–6 and 8).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue procedurally, on the scope of reconsideration

Assessee appeal dismissed; High Court reference-remand direction sustained; no costs

Reference-jurisdiction issue finally decided; tax liability left for Tribunal consideration

No final restoration of Rs 81,920 surcharge and no rule that any fresh question or factual inquiry may be added regardless of the reference's scope.

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

05 AKHB REVIEW POINT

Separate the referred question from the legal assumptions used to formulate it. A party's concession on a point of law does not necessarily bind the reference court to an incorrect answer. Show how the additional legal contention remains within the real issue arising from the Tribunal's order; do not treat this authority as permission to invent a new dispute.

The dramatic contrast between Rs 19 interest and Rs 81,920 surcharge must not become a misleading tax-rate example. These are the receipt and the historical disputed surcharge, not a Supreme Court computation applying a rate to Rs 19. The Court upheld reconsideration only. The old cooperative exemption, Finance Act charge and section 256 procedure require year-specific treatment; the result after reconsideration, comprehensive later treatment and 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, case number and inconsistent editorial sections

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Unnumbered judicial text; editorial metadata separately identified

Source role: reported metadata and judicial text

2.

Topic: Facts, amounts and reference direction

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered judicial text; editorial metadata separately identified

Source role: judicial text

3.

Topic: Legal assumption and question-versus-aspect distinction

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text; editorial metadata separately identified

Source role: judicial text

4.

Topic: Scope of upheld direction and final dismissal

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: Unnumbered judicial text; editorial metadata separately identified

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER PROVISIONS AND THEIR DISTINCT SCOPE

Relevant Finance Act additional surcharge; final liability left for reconsideration

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

c997021801e2c16ef63f4bc6968935318dda1cbad75a0847e8b9d3cea74fba57. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–9 / SCR 999–1005. Editorial synopsis and quoted Scindia Steam Navigation facts and principles separated; no adjoining judgment.

[Open cited source rendition](#)

The editorial first page prints section 86(i) and section 80(1); the judicial body uses section 81(1) and 81(1)(a). The note identifies the historical 81 provision and does not infer separate 80 or 86 holdings.; The editorial page 2 at one point says the AAC upheld Revenue's contention; the judicial account clearly says the AAC accepted the bank's business-income position.; Rs 19 is the interest receipt and Rs 81,920 the disputed additional surcharge. The decision neither supplies a fresh rate calculation nor finally holds that sum payable.; Scindia Steam Navigation's AY 1946-47, ship loss and compensation figures belong to the quoted precedent, not this bank.; The High Court reference direction is upheld; a modern appellate provision or current surcharge rule is not substituted for it.

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: 9](#)

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