

## Varkey Chacko v. Commissioner of Income Tax

Civil Appeal No. 1151 of 1982

[1993] Supp. 1 SCR 800 | 1993-08-24

**Whether the ITO's authority to impose a concealment penalty was governed by section 274(2) as amended from 1 April 1971, when assessment and initiation occurred in March 1972, although the offending return had been filed in April 1970.**

271(1)(c), historical concealment-penalty provision | 271(1)(iii), historical penalty clause referenced in section 274(2) | 274(2), before and after the amendment effective 1 April 1971 | 256(2)

Two-judge bench | B.P. Jeevan Reddy, J. | S.P. Bharucha, J.

Assessment years: 1968-69

### Historical competence and penalty measure have distinct dates

The decision sustains ITO competence under section 274(2) as amended from 1 April 1971; the permissible penalty measure remains tied to the offending return. It does not establish current penalty powers or a universal initiation rule. The source contains isolated section-number errors and conflicting 26/27 March 1974 penalty dates. Later treatment, current-law application and 2025 mapping remain unverified.

### 01 FACTS OF THE CASE

The appeal concerned AY 1968-69, with the accounting period ending 31 March 1968. The assessee filed the relevant return on 16 April 1970. On 27 March 1972, the ITO completed the assessment and initiated penalty proceedings after finding concealed income not exceeding Rs 25,000; the final application paragraph describes it as less than Rs 25,000. After considering objections, the ITO imposed a penalty of Rs 10,000 by an order dated 26 March 1974 in the judicial text. The editorial headnote instead gives 27 March 1974 (physical pages 1, 4 and 8 / SCR 800, 803 D-G and 807 D-E).

Before 1 April 1971, the relevant section 274(2) required reference to the Inspecting Assistant Commissioner when the minimum imposable penalty exceeded Rs 1,000. Following the 1970 amendment effective on that date, the referral test was whether the assessed income in respect of which particulars were concealed or inaccurate exceeded Rs 25,000. Thus the historical allocation rule had changed between the return and the assessment/initiation (physical pages 5-6 / SCR 804 G-H and 805 A-D).

The AAC set the penalty order aside for want of ITO jurisdiction, and the Tribunal agreed, reasoning that the law at the offending-return date governed and that the amendment was not expressly retrospective. On a section 256(2) reference, the Kerala High Court held against the assessee: competence depended on the law when penalty proceedings were initiated. The present appeal by certificate challenged that answer, delivered on 7 November 1980 in I.T.R. No. 42 of 1978 (physical pages 3-5 / SCR 802 H and 803-804).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The Court separated two questions which the assessee's argument had conflated: which authority can impose a penalty, and what penalty that authority may impose. Onkar Saran and Brij Mohan were discussed as authorities about the measure of penalty, for which the law at the date of the offending return mattered. Their statements did not freeze the allocation of authority under section 274(2) at that earlier date (physical page 6 / SCR 805 D-G).

The Court also considered the satisfaction/assessment reasoning described in Jain Brothers and D.M. Manasvi and the pending-reference situation in Dhadi Sahu. In Dhadi Sahu, as recounted here, a reference validly made to the IAC before 1 April 1971 remained within the IAC's jurisdiction despite the intervening amendment. The absence of a provision returning pending references, together with section 6(b) of the General Clauses Act, supported that earlier result. This was supporting precedent analysis, not a finding that the present case had been referred to the IAC before the amendment (physical pages 6-7 / SCR 805 H and 806).

For this case, the decisive event was the ITO's satisfaction recorded in the assessment and initiation on 27 March 1972. In its account of the historical scheme, the Court said the concealment finding in the assessment preceded initiation and that the authority competent at that stage was relevant. Whoever held that authority nevertheless remained bound by the penalty measure permissible under the law when the offending return was filed. Authority and measure therefore had distinct temporal reference points (physical page 8 / SCR 807 A-D).

On 27 March 1972 the amended section 274(2) was already in operation. Because the concealed amount here was less than Rs 25,000, the ITO had competence to impose the penalty. The statutory quotation uses "exceeds" Rs 25,000 for the referral trigger; the less precise "Rs 25,000 or more" wording in the account of Dhadi Sahu is not substituted for that text (physical pages 6-8 / SCR 805 B-D, 806 C and 807 D-E).

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

## 03 JUDICIAL DECISION

The Court upheld the High Court's negative answer to the question whether the Tribunal was right in finding the ITO without jurisdiction and requiring an IAC reference. The assessee's appeal was dismissed with no order as to costs. No remand or independent re-quantification of the Rs 10,000 penalty was ordered (physical page 8 / SCR 807 E-F).

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

#### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the historical penalty-competence question

Assessee's appeal dismissed; High Court's reference answer sustaining ITO competence upheld; no costs

Final determination of which historical authority could impose the penalty; no separate quantum recalculation or fresh remand

Section 274(2) as altered with effect from 1 April 1971, applied to assessment and initiation on 27 March 1972. The measure of penalty remains tied to the offending-return law; this is not a certification of present penalty authorities or procedures.

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

#### 05 AKHB REVIEW POINT

Create a dated chronology before applying this decision: offending return, effective date of the amendment, assessment/satisfaction, initiation, any IAC reference and final penalty order. Then separate the statutory allocation of authority from the amount legally imposable. Varkey Chacko rejects the assumption that one date necessarily controls both questions.

The particular amendment matters. The old test looked to a minimum penalty exceeding Rs 1,000; the amended test looked to concealed or inaccurately particularised income exceeding Rs 25,000. Do not restate these as one unchanging threshold or convert the exact "exceeds" wording into "Rs 25,000 or more". Likewise, the preserved pre-amendment reference in Dhadi Sahu is a distinct procedural fact, described within this judgment rather than independently researched for this note.

The result sustains competence, not a newly computed penalty. Read the assessment-initiation discussion within the historical scheme actually before the Court; the judgment is not a substitute for checking later amendments, subsequent authorities or present procedures. Keep the original report's 26/27 March 1974 discrepancy visible when using its chronology, and use the quoted statutory text rather than the isolated misprinted section numbers.

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

#### PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Title, date, bench, appeal number, underlying High Court order and author

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 3; 4

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** reported metadata and judicial text

2.

**Topic:** Present AY, return, assessment/initiation, penalty and date discrepancy

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 4

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** editorial headnote and judicial text

3.

**Topic:** Tribunal versus High Court jurisdiction reasoning

**Source url:** [Open cited source](#)

**Pdf pages:** 4; 5

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** judicial text

4.

**Topic:** Verbatim pre- and post-1 April 1971 section 274(2) text

**Source url:** [Open cited source](#)

**Pdf pages:** 5; 6

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** judicial text

5.

**Topic:** Quantum authorities distinguished from competence

**Source url:** [Open cited source](#)

**Pdf pages:** 6

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** judicial text

6.

**Topic:** Supporting discussion of earlier pending IAC reference in Dhadi Sahu

**Source url:** [Open cited source](#)

**Pdf pages:** 7

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** judicial text

7.

**Topic:** Two temporal questions, ITO competence and dismissal with no costs

**Source url:** [Open cited source](#)

**Pdf pages:** 8

**Paragraphs:** Physical PDF pages are one-based. SCR pagination and, where material, lettered margin locations are stated in the note. Judicial paragraphs are unnumbered.

**Source role:** judicial text

## JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.P. Bharucha, J.

## ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

## SCOPE OF THE INCOME-TAX ACT ISSUE

**Eligibility:** included substantive 1961 act

**Operative basis:** Historical sections 271(1)(c) and 274(2) determine the ITO's actual competence; section 256(2) is the reference route. The 1961-Act connection is direct and substantive.

**Physical pages:** 4; 5; 6; 8

**Purely 1922 or incidental 1961:** False

**Historical version:** Section 274(2) before and after the Taxation Laws (Amendment) Act, 1970 amendment effective 1 April 1971; competence assessed at 27 March 1972, measure by offending-return law.

## SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

6cd58d8d711b88613c7a5c889357d70c747f081416aa999984116ed1a9b85faf. Original bytes preserved.

Complete judicial text from the author introduction on physical page 4 through the operative ending on physical page 8 / SCR 803-807; case caption on physical page 3 included. Editorial headnote on physical pages 1-3 separated. No neighbouring judgment text. Quoted statutory texts, earlier authorities and the particular historical competence question distinguished.

[Open cited source rendition](#)

The judicial text gives the penalty order date as 26 March 1974, whereas the editorial headnote says 27 March 1974. The note follows the judicial text and preserves the inconsistency.; Physical pages 1 and 4 print section 276 in an introductory account, and physical page 5 prints section 27(1)(c)(iii). The quoted section 274(2) text on physical pages 5-6 and the substantive discussion identify section 271; no section 276 holding is inferred.; The exact amended referral test is income exceeding Rs 25,000. The Dhadi Sahu summary's "Rs 25,000 or more" wording is not used to change that statutory boundary.; The present assessment year is 1968-69. Dhadi Sahu's separate years, child-income facts, reference dates and penalties are cited-case facts only.; Court observations about the assessment/penalty sequence are reported in their historical section 274(2) setting, without conversion into a universal current-law initiation rule.; Dismissal sustains the High Court's competence answer; the Supreme Court did not recalculate penalty quantum or order a remand.; No subsequent treatment, present-law application or 2025 statutory crosswalk has been verified.

AY 1968-69, with accounting period ending 31 March 1968. AYs 1968-69 and 1969-70 later mentioned in the Dhadi Sahu discussion are that earlier case's facts and do not add a second assessment year to Varkey Chacko.

The operative issue is allocation of penalty competence under historical section 274(2), amended by the Taxation Laws (Amendment) Act, 1970 with effect from 1 April 1971. The quoted before-and-after text refers to section 271(1), clause (iii), in cases falling under section 271(1)(c). An earlier narrative occurrence of section 276 and another occurrence of section 27(1)(c)(iii) are not followed as operative section tags because the verbatim statutory quotation and the reasoning establish section 271. Section 271(1)(a) occurs only in discussion of the assessee's cited quantum authorities.

**STATUTORY SCOPE**

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. This note concerns the historical statutory version addressed by the Court.

**LATER TREATMENT**

Source checked 2026-10-04. No subsequent-treatment search completed and no later authority independently checked for this note. Discussion of authorities cited within the judgment is limited to how this judgment describes them.

**IDENTIFIED SOURCE LINKS**

[reported judgment - PDF pages: 8](#)

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