

Commissioner of Income-Tax v. Chittor Electric Supply Corporation and Another

Civil Appeal No. 1413 of 1977

[1995] 1 SCR 231 | 1995-01-13

Whether setting aside an assessment and directing a fresh assessment on a different basis itself made an amount refundable for historical section 244(1) interest.

237 | 240, including clause (a) of the proviso | 244(1) | 244(1A), expressly not decided | 264

3-judge bench | B.P. Jeevan Reddy, J. | N.P. Singh, J. | Suhas C. Sen, J.

Assessment years: See the source-scope notes; no year inferred.

Fresh-assessment remand only; other interest routes reserved

The remand did not itself establish a refund because a fresh assessment on a different basis was required. The holding is expressly confined to that situation. Section 244(1A) and other situations were not decided; no rule or interest rate under section 244A is certified. The paid principal refund was not recovered, and comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The company, then in liquidation, had been taken over by the Government in November 1960 and received compensation. Its original assessment was completed on 31 January 1966. On 6 March 1969 the AAC set it aside and ordered a fresh assessment under section 12B rather than section 10(2)(vii) of the 1922 Act. The assessee's Tribunal appeal failed in September 1971. After further particulars were furnished, the fresh assessment of 14 August 1973 established a refund of Rs 84,562, which was paid in the same month (physical page 3).

The assessee sought interest under section 244(1) of the 1961 Act for the intervening period. The ITO and Commissioner rejected it; the High Court directed interest at 6% from 7 September 1969 to 14 August 1973. Revenue appealed. The Supreme Court was deciding this interest claim, not the proper compensation-tax computation or recovery of the refund already paid. The report gives no assessment year (physical pages 3–4 and 9).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 237 ties the refund to tax paid in excess of the amount properly chargeable. Sections 240 and 244(1) require an amount to become due as a consequence of the relevant order. Here the AAC did not fix that excess; it directed a fresh assessment on a different legal basis. The outcome could be more or less tax, so the remand itself did not establish a presently refundable amount (physical pages 4–6).

The Court rejected the theory that the whole original payment automatically became refundable when the assessment was set aside, only to become payable again after the fresh assessment. It also rejected treating a genuine fresh assessment as a merely ministerial calculation. The assessment proceedings remained pending, and the refund amount became ascertainable on 14 August 1973. In this setting, clause (a) of the later proviso to section 240, effective 1 April 1989, was clarificatory of the existing principle (physical pages 6–8).

The ruling was expressly confined to an assessment set aside or cancelled with a direction for a fresh assessment. The Court did not determine other situations or the operation of section 244(1A), including its second proviso. It also declined the suggestion to leave the High Court order untouched merely because the sum was small and the company had long been in liquidation: its order would prevent an additional claim, not require repayment of money already received (physical page 9).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed. The High Court judgment was set aside and the Commissioner's order rejecting the interest claim was restored, without costs. The Rs 84,562 refund already made was not ordered to be repaid (physical page 9).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the historical interest claim

Appeal allowed; Commissioner's rejection restored; no costs

Final refund-interest ruling for a fresh-assessment remand

No general rule against every refund after appellate relief, no decision on section 244(1A) or section 244A, and no recovery of the paid principal refund.

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

05 AKHB REVIEW POINT

Read the operative appellate direction before starting an interest calculation. A remand requiring a fresh determination of taxable income is materially different from an order that itself establishes an excess requiring only implementation. In the former situation decided here, the statutory refund did not arise merely because the first assessment was set aside.

Keep the provision and dates separate. The Court was construing historical section 244(1) and expressly left section 244(1A) out of account. Its reference to payment before 1 October 1975 is not an independent adjudication of every eligibility date under that other subsection. Nor should the report's quotations of later rates and periods be substituted for the particular High Court award or carried into a computation under section 244A. Clause (a) of the section 240 proviso was treated as clarificatory only in the expressly confined remand setting. The different annulment situation and other statutory interest routes require their own analysis. No comprehensive later-treatment or 2025 Act mapping is certified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and historical refund/interest facts

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3; 4

Paragraphs: Unnumbered judicial text; editorial material identified separately

Source role: judicial text and identified report metadata

2.

Topic: Sections 237, 240 and 244(1) and historical changes

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Unnumbered judicial text; editorial material identified separately

Source role: judicial text and identified report metadata

3.

Topic: Fresh assessment required; no immediate refundable amount

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered judicial text; editorial material identified separately

Source role: judicial text and identified report metadata

4.

Topic: Express reservations, no repayment and operative result

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: Unnumbered judicial text; editorial material identified separately

Source role: judicial text and identified report metadata

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 refund provisions; underlying assessment under the Indian Income-tax Act, 1922

OTHER PROVISIONS AND THEIR DISTINCT SCOPE

Indian Income-tax Act, 1922, sections 10(2)(vii) and 12B: underlying assessment basis; Section 220(2), comparison only

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 9 PDF pages; SHA-256

e42b24e549333c306d29c7bf3f8f2f47f251ab0acc7c9c4b44148164fee378a1. Original bytes preserved.

Complete judicial text physical pages 3–9/SCR 233–239; earlier editorial material separated. Underlying compensation assessment used the 1922 Act, while the disputed refund-interest holding directly construes 1961 Act provisions.

Open cited source rendition

The underlying compensation assessment is under the 1922 Act, but this is a direct 1961 Act refund-interest holding. It is not excluded merely because the earlier assessment used a repealed enactment.; The source does not give an AY. The 1960 takeover and 1966 assessment dates are not converted into an inferred tax year.; The stated claim began with the AAC order of 6 March 1969, whereas the High Court award began 7 September 1969. These describe the claim and award respectively, not a date conflict to be silently harmonised.; The quoted section 244(1) text includes later three-month/fifteen-percent wording, and the report notes the earlier six-month period and rate changes. The actual High Court award described is 6%; no fresh interest calculation is made here.; The Court expressly does not decide section 244(1A) and mentions payment before 1 October 1975 in explaining that reservation. Do not use this note to erase the distinct payment cutoff considered in other cases.; The Court confines its holding to cancellation/set-aside coupled with a direction for fresh assessment; it does not decide every annulment or other appellate-relief case.; The primary report uses Chittor in the caption; minor OCR variants do not establish another party. The judicial body's New Woodlands citation page 796 differs from editorial 795; no parallel citation correction is certified.

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

SHA-256: e42b24e549333c306d29c7bf3f8f2f47f251ab0acc7c9c4b44148164fee378a1

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