

Commissioner of Income Tax, Calcutta v. M/s. Park Hotel (P) Ltd., 15, Park Street, Calcutta-16

Civil Appeal No. 195 of 1996

[1996] 1 SCR 170 | 1996-01-05

Whether the High Court's reference answer could stand when its factual footing went beyond the stated record, the question's scope was unclear, and the Tribunal's principal reasoning about the unregistered sub-lease and attribution of income had not been addressed.

256(1), limits of the High Court's reference jurisdiction | 251, proceedings giving effect to the Commissioner (Appeals)' order, described as background

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

Assessment years: 1975-76, 1976-77, 1977-78, 1978-79, 1979-80

Revenue succeeded only in obtaining remand

The High Court's answer was set aside for fresh consideration; the Supreme Court did not finally attribute the rental income to Park Hotel or select its tax head. The section 256(1) factual limit, uncertainty about the earlier classification decision and unanswered Tribunal reasoning drove the remand. The two appellate rounds must remain distinct. AYs are 1975-76 through 1979-80. The order is silent on costs; later treatment and current-law mapping are unverified.

01 FACTS OF THE CASE

Park Hotel acquired the unexpired leasehold interest in specified Park Street premises on 3 September 1966. In the accounting year relevant to AY 1971-72, it sub-leased a portion to its associated company, M/s. Surrendra Overseas Limited. The deed was unregistered; the report says the associate was said to have paid a premium of Rs 63,13,000 and annual rent of Rs 15,000. Surrendra received rents from the premises. In separate proceedings the Tribunal held that, because it was not the owner, that rental income could not be taxed in its hands as income from house property; the Revenue's reference application was rejected (physical page 3/SCR 172).

For AYs 1975-76 to 1979-80, the officer included Surrendra's rental receipts in Park Hotel's assessment. The initial Commissioner (Appeals) order, dated 5 October 1982, directed business-income treatment without a specific direction on quantum. The Revenue's challenge to that classification failed before the Tribunal. In a subsequent appeal against the officer's order giving effect to the appellate decision, the Commissioner (Appeals) additionally excluded Surrendra's receipts from Park Hotel's income. This time the Tribunal allowed the Revenue's appeal: it relied on the absence of a registered sub-lease, rejected the notional-income objection and directed assessment of the receipts as Park Hotel's business income (physical pages 3-4).

The assessee obtained a reference under section 256(1). The Calcutta High Court's 18 September 1986 judgment in I.T.R. No. 88 of 1986 answered it in the assessee's favour. The Revenue brought this single Supreme Court appeal. The five assessment years do not establish five separate Supreme Court appeals (physical pages 2-4).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court first identified an unsupported factual implication in the High Court's narrative: its reference to a multistoreyed building could suggest that Surrendra constructed it, although neither the Tribunal's nor the Commissioner (Appeals)' order said so. For deciding this appeal, the Court proceeded on the footing that Park Hotel built it and sub-leased premises including the building. It emphasised that the High Court cannot introduce new facts in a reference under section 256(1). That footing must not be promoted into a fresh evidentiary finding about construction independently proved in the record (physical pages 4–5, paragraph 5).

Two deficiencies required remand. First, the referred question could concern only whether Surrendra's receipts belonged in Park Hotel's total income, or could also extend to classification as house-property versus business income. The earlier Tribunal decision on classification raised the question whether that issue was already concluded. The High Court's reliance on S.G. Mercantile Corporation, which concerned classification, made clarification necessary. The Supreme Court did not itself select the correct head of income (physical page 5/SCR 174).

Second, the High Court had not addressed the principal basis of the Tribunal's decision: whether the unregistered sub-lease failed to pass the relevant interest so that the rents remained Park Hotel's income. It also had not addressed the Tribunal's concern that accepting Park Hotel's case would leave the receipts untaxed after the associate's earlier success. These are reasons the reference needed a proper fresh answer, not Supreme Court adoption of a universal rule that another person must be taxed whenever the first person is not (physical page 5).

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

03 JUDICIAL DECISION

The Revenue's appeal was allowed, the High Court judgment was set aside, and the reference was remitted for fresh disposal according to law and the Supreme Court's observations. The source contains no express costs direction (physical page 5/SCR 174).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue obtained a fresh High Court hearing; no final tax-merits winner

Appeal allowed; High Court reference answer set aside; reference remitted; no express costs direction in the report

Final procedural remand; attribution of rental income and the scope of the head-of-income question remain unresolved in this judgment

This decision does not finally hold that Park Hotel must bear the disputed tax, validate or invalidate the sub-lease for all purposes, or classify the rents under either head.

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

05 AKHB REVIEW POINT

Do not turn an allowed Revenue appeal into a merits assessment ruling. The operative lesson is the discipline of reference jurisdiction: identify the exact question and the facts supplied by the Tribunal, distinguish an earlier concluded issue from the issue now referred, and answer the actual reasoning that produced the impugned result. The two rounds before the Commissioner (Appeals) and Tribunal are essential to understanding the uncertainty over classification.

The source's section 142/143 headnote labels do not yield a separate Supreme Court holding on those provisions; the substantive judicial discussion centres on section 256(1). Nor does the concern about receipts escaping taxation independently establish the correct taxable person. The eventual outcome after remand, later judicial treatment and present statutory correspondence have not been verified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, single appeal, High Court date and reference

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Cover; appeal-origin line; paragraphs 1–2

Source role: reported metadata and judicial text

2.

Topic: Sub-lease amounts, actual assessment years and separate associate proceedings

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Paragraph 3

Source role: judicial text

3.

Topic: Two appellate rounds and unsettled classification scope

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Paragraphs 3–4

Source role: judicial text

4.

Topic: No new facts in section 256(1) reference; limited construction assumption

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Paragraph 5

Source role: judicial text

5.

Topic: Two remand reasons, reserved tax questions, disposition and absence of costs direction

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: Final unnumbered judicial paragraphs

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Jeevan Reddy, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

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Complete judicial text physical pages 2–5/SCR 171–174, numbered paragraphs 1–5 and final unnumbered reasons/order; editorial headnote physical pages 1–2 separately identified.

[Open cited source rendition](#)

The editorial headnote compresses two appellate rounds. The judicial account distinguishes the 5 October 1982 classification-only order from the later order excluding Surrendra's receipts from Park Hotel's income; they must not be merged.; The source consistently uses Surrendra Overseas Limited in the material narrative. This note follows that spelling and does not silently substitute another corporate identity.; AYs 1975-76 to 1979-80 are the assessment years in question. AY 1971-72 identifies the accounting year of the sub-lease, and 1976-77 appears in the associate's earlier Tribunal appeal number; neither is added to the current assessment-year list.; The premium of Rs 63,13,000 and annual rent of Rs 15,000 are described as amounts said to have been paid, not independent Supreme Court fact findings.; The Court's assumption that Park Hotel constructed the multistoreyed building responds to the limits of the stated record. It is not an independently tried construction-ownership determination.; The headnote cites sections 142, 143 and 256(1). The judicial body does not decide any distinct question under sections 142 or 143. Section 251 is recited only in the procedural history.; The Tribunal's unregistered-sub-lease and untaxed-receipt reasoning is the omitted reasoning that the High Court must consider; this remand does not endorse it as the final tax ratio.; The final judicial order is silent about costs. No affirmative no-costs order is inferred.

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. not_verified. No later disposal of this reference or comprehensive later treatment of this procedural holding has been verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: c2d3d578a7f8dce341f9e1ec094b1d1fc05b8d9c955ac30e716cfad8c8432a81

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