

Kumar Jagdish Chandra Sinha (Dead) through LRs. etc. v. Commissioner of Income-Tax, West Bengal

Civil Appeal Nos. 1604–1605 of 1985

[1996] Supp. 1 SCR 657 | 1996-04-23

Under the historical provisions for AYs 1964-65 and 1965-66, whether returns filed under section 139(4) could be revised to extend assessment time under section 153(1)(c), and whether later concealment proceedings could attract the alternative eight-year period under section 153(1)(b).

139(1) | 139(2) (historical provision) | 139(4) | 139(5) (historical wording) | 153(1)(a)(i), (b) and (c) (historical provisions) | 256(1) | 271(1)(c)

Two-judge bench | B.P. Jeevan Reddy, J. | K.T. Thomas, J.

Assessment years: 1964-65, 1965-66

Historical return rule; both assessments finally time-barred

This decision applied the old section 139(5) exclusion of section 139(4) returns and the former section 153 limits. The checked CBDT Circular 3/2017 explains a later amendment permitting such revision from AY 2017-18; current deadlines and successor-law mapping are not certified. Both assessee appeals were allowed without costs, with no fresh-assessment remand. Preserve the source's question-3 mismatch and its dispatch-before-expiry footnote. Comprehensive later judicial treatment remains unverified.

01 FACTS OF THE CASE

For AY 1964-65, the assessee filed an admittedly belated section 139(4) return on 13 August 1964 showing Rs 42,131; no section 139(2) notice had been served. He filed what was styled a revised return on 18 January 1969 showing Rs 40,388 and a land-sale capital loss of Rs 1,60,672. The ITO assessed on 15 January 1970, after the normal four-year deadline of 31 March 1969, and initiated concealment-penalty proceedings (physical page 4).

For AY 1965-66, a section 139(4) return filed on 17 December 1965 showed Rs 3,76,628, including capital gains of Rs 3,52,420. The 17 July 1969 revised return reported total income of Rs 2,50,719 and capital gains of Rs 2,52,119. Assessment followed on 6 July 1970, after the four-year deadline of 31 March 1970, with penalty proceedings also initiated. These are separate reported figures, not a newly reconciled computation (physical page 5).

The AAC held both assessments out of time. The Tribunal agreed that the revised returns were invalid but allowed Revenue's appeals because it considered the longer concealment-related period applicable. The High Court accepted both the revised-return route and the eight-year route. The assessee appealed from the Calcutta High Court's 10 June 1981 decision in ITR 83/1975 (physical pages 3–6).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the statutory versions set out in the judgment. Historical section 139(5) expressly permitted revision of a return under section 139(1) or (2), excluding one filed under section 139(4). Section 153(1)(c), which referred to a return or revised return under subsections (4) or (5), did not indirectly create a revising right that section 139(5) withheld. It paired a section 139(4) return with a section 139(5) revised return. The Court was addressing avowedly revised new returns, not deciding the separate concept of a rectified return (physical pages 6–10).

The Court then considered the former section 153(1)(b) eight-year period for a case falling within section 271(1)(c). It described competing interpretations but followed its earlier decision in CIT v. Suraj Pal Singh, (1991) 188 ITR 297. Before the normal limitation expired, the ITO had to initiate the concealment proceedings or record the requisite opinion that the case fell within section 271(1)(c). Here neither had occurred within the four-year period. A later initiation could not supply the missing basis for an extended assessment period (physical pages 10–13).

If an order or file note recording the opinion had been made, it also had to be communicated within the required period in the sense explained in Khemi Ram. The judgment's footnote states that putting it into the course of transmission before expiry sufficed; actual receipt within that period was unnecessary. The Court did not decide that every modern assessment-limit extension or penalty provision has the same prerequisites (physical page 13).

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

03 JUDICIAL DECISION

Both assessee appeals were allowed, with no order as to costs. Question 1 was answered affirmatively: a section 139(4) return could not be revised under the then section 139(5). Question 2 was answered negatively: the assessments were barred and not saved by the historical section 153(1)(b). The Court further held that the invalid revised returns could not save them under section 153(1)(c). Both assessment orders were invalid as time-barred; no fresh-assessment remand or capital-gains recomputation was directed (physical page 13).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Two appeals allowed; both assessments held time-barred and invalid; no order as to costs

Final historical return-validity and assessment-limitation ruling

The result turns on the then wording of sections 139(5) and 153 and absence of timely concealment initiation or recorded opinion. No current bar on revising belated returns is stated.

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

05 AKHB REVIEW POINT

Build the chronology before analysing limitation: original-return provision and date, alleged revision, normal assessment deadline, assessment date, and any timely concealment initiation or recorded opinion. A document called a revised return does not itself create a statutory right to revise or extend assessment time. Preserve the dispatch-versus-receipt distinction in the Court's communication footnote.

The belated-return holding is historical. CBDT Circular 3/2017, paragraphs 55.8 and 55.10, explains that the Finance Act, 2016 amendment brought section 139(4) returns within section 139(5), applying from AY 2017-18. That bounded check prevents presenting this judgment's old exclusion as present law; it does not verify today's filing deadline, further amendments, assessment-limit provisions or any Income-tax Act, 2025 mapping.

Read the substantive conclusions rather than relying only on the numbered answers. The opening's question 3 concerns section 271(1)(c), while the ending calls question 3 consequential to question 1 and discusses section 153(1)(c). The source's mismatch is retained. The unmistakable result is that neither historical extension saved these two assessments.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Reported identity, date, appeal group and originating decision

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Three referred questions and AY 1964-65 chronology

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: AY 1965-66 chronology and appellate history

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Historical statutory text

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Revised-return exclusion and rejection of indirect extension

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Competing concealment-period readings and Suraj Pal Singh

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Application, communication footnote, question mismatch, disposition and costs

Source url: [Open cited source](#)

Pdf pages: 13

Paragraphs: Unnumbered judicial text

Source role: judicial text

8.

Topic: Bounded later amendment admitting revision of section 139(4) returns

Source url: [Open cited source](#)

Pdf pages: 60; 61

Paragraphs: CBDT Circular 3/2017, paragraphs 55.1–55.10; operative comparison at 55.8 and 55.10

Source role: official statutory history only

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: 13 PDF pages; SHA-256

c219e31b383bb1aeee825423e52965d7026518215957460b05c90f5a0e80a680. Original bytes preserved.

Complete judicial text from physical page 3/SCR 659 through physical page 13/SCR 669, including the communication footnote. Physical pages 1–3 read separately for editorial headnote, identity and appeal details.

Open cited source rendition

The frozen metadata lists only CA 1604/1985; the PDF identifies Civil Appeal Nos. 1604–1605/1985.; The opening question 3 concerns whether the cases fell within section 271(1)(c). The ending instead describes question 3 as consequential to question 1 and addresses section 153(1)(c). This internal numbering/content mismatch must not be silently rewritten.; The opening lines on physical page 13 continue the quotation dismissing the earlier Suraj Pal Singh appeal. The operative disposition of the present case farther down that page allows the assessee's two appeals.; The historical sections and deadlines quoted on pages 6–9 are not certified as current. The no-revision rule for a belated return must accompany the specifically checked later statutory-change warning.; The reported AY 1965-66 income and capital-gain figures are not arithmetically reconciled by the judgment; the note neither invents an adjustment nor decides their substantive tax treatment.; The communication footnote concerns dispatch before expiry, not proof of actual receipt before expiry. No actual timely note or initiation was found in these appeals.; The isolated reference to both assessment orders in the concluding text is understood with the expressly identified two assessment years, not as an additional proceeding.; The auxiliary circular was read only within the stated boundary. It provides no basis for saying the judgment was later overruled, or that all current return and penalty machinery was verified.

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 for subsequent judicial treatment. The only bounded later-law check is CBDT Circular 3/2017, paragraphs 55.1–55.10, explaining the Finance Act, 2016 change to section 139(5). It is not a comprehensive citator search or current deadline/2025 Act verification.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 13

SHA-256: c219e31b383bb1aeee825423e52965d7026518215957460b05c90f5a0e80a680

official cbdt explanatory circular - PDF pages: 79

SHA-256: 9e6e754524165ff1c1d7b9a62bcbf0c2cdf99a161a97779aa223f9e5d4d2bd5c

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