

Jaswant Rai and another v. Central Board of Direct Taxes and Revenue and others

Civil Appeal Nos. 435–441 of 1982

[1998] 3 SCR 139 | 1998-05-04

Whether the Board's rejection of the Commissioner's proposal for penalty relief under historical section 271(4A) could stand without reasoned consideration of the disclosure evidence, and whether a section 271(1)(c) penalty itself foreclosed that relief.

271(1)(c) | 271(4A) (historical waiver/reduction provision) | 273A (successor provision mentioned, not separately adjudicated)

Two-judge bench | Sujata V. Manohar, J. | S. Rajendra Babu, J.

Assessment years: 1958-59, 1959-60, 1960-61, 1961-62, 1962-63, 1963-64, 1964-65

Waiver request remitted; no penalty cancellation or present-law certificate

The Supreme Court quashed the Board's rejection and ordered reconsideration; it did not waive or cancel the Rs. 4,90,365 penalties or fix a reduction. The case applies historical section 271(4A), whose deletion and succession by section 273A the judgment records from 1 October 1975. The opening prints Act 1960 and a malformed initial disclosure amount, Rs. 28,000,00; neither is silently repaired. Penalty years end in AY 1964-65, although the assessment narrative extends to AY 1965-66. Later treatment, later thresholds and any 2025 Act correspondence remain unverified.

01 FACTS OF THE CASE

The appellant firm applied on 12 February 1965 to disclose its financial affairs and filed a statement on 20 May 1965. After negotiations, the appellants agreed to assessment at Rs. 66,56,000, subject to usual allowances including depreciation, spread over AYs 1958-59 to 1965-66. Penalties totalling Rs. 4,90,365 were imposed under section 271(1)(c) for AYs 1958-59 to 1964-65 and upheld by the Tribunal. The initial disclosure amount is malformed in the printed source and is not restated as a corrected figure (physical pages 3–4/SCR 141 F–142 B).

During the penalty proceedings, the appellants sought relief under section 271(4A). The Commissioner's report of 23 March 1968 concluded that the disclosure conditions were satisfied and recommended reduction; a further report followed on 18 April 1969. Board approval was required in this case, but the Board declined the proposal. The Delhi High Court dismissed the writ petition, rejecting arguments that the penalty was premature while the waiver application remained pending and that the subsequent voluntary disclosure negated concealment. The appellants challenged the failure properly to consider the distinct waiver jurisdiction (physical pages 4–5/SCR 142 B–143 G).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated historical section 271(4A) as a power coupled with a duty to do justice. Where all its conditions were fulfilled, the Commissioner had a statutory obligation to exercise the power in the assessee's favour and could not rely on invalid or extraneous considerations. The principal disclosure requirement was a voluntary, good-faith and full disclosure before detection; disclosure need not be made only through a return and could be made by petition to the Commissioner. Imposition of a section 271(1)(c) penalty did not itself exclude the assessee from section 271(4A) (physical page 7/SCR 145 C–F).

The Tribunal had upheld concealment penalties while also describing the disclosure as voluntary and earnest, preceding the Finance Bill 1965 voluntary-disclosure provisions. Its reasoning recognised that the disclosure might not show the full extent of concealment, yet treated the confession as evidence that the escaped income was genuinely the assessee's. The Supreme Court used those findings to reject a blanket assumption that no income had been disclosed before scrutiny; it did not treat the Tribunal's penalty order as a final adjudication of waiver entitlement (physical pages 6–7/SCR 144 A–145 C).

Revenue's contention that the disclosure lacked voluntariness, good faith or appropriate timing required further examination against those findings and the Commissioner's detailed reports. The Board's endorsement did not show that it had undertaken that examination or revealed its reasoning in a speaking order. The Court therefore required reconsideration, rather than itself fixing a reduction or granting complete waiver (physical pages 7–8/SCR 145 G–146 C).

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

03 JUDICIAL DECISION

The Board's order was quashed. The Board was directed to restore the proceedings to its file and reconsider them in light of the judgment. The High Court's order was modified accordingly; the appeals were allowed without costs. The Court did not cancel the penalties or award any specified waiver or reduction (physical page 8/SCR 146 A–C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee/appellants to the extent of fresh consideration of penalty relief

Appeals allowed; Board rejection quashed and proceedings remitted to the Board; High Court order modified; no costs

Final statement of the historical waiver principles, but substantive waiver or reduction entitlement remained for reconsideration

No automatic waiver, penalty cancellation, quantified reduction or independent decision under a later version of section 273A.

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

05 AKHB REVIEW POINT

Keep penalty liability and statutory penalty relief analytically separate. Proof supporting concealment does not by itself answer whether a qualifying voluntary disclosure warrants relief under the applicable waiver provision. Conversely, a favourable Commissioner's recommendation and the quashing of a non-speaking Board rejection are not themselves an order cancelling the penalty. A renewed decision must engage with the actual disclosure chronology, completeness, good faith and all applicable conditions.

The judgment itself records deletion of section 271(4A) with effect from 1 October 1975 and placement of the power in section 273A (physical page 7). That historical observation does not certify that all conditions, monetary thresholds or procedures of any later provision are identical. Earlier assessment years in the facts do not turn the actual section 271 waiver issue into a 1922-Act-only decision.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, full appeal range, printed 1960 error and malformed initial amount

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered text; SCR 139; 141 D–H

Source role: reported metadata and judicial text

2.

Topic: Assessment versus penalty years, penalty amount, reports and Board refusal

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered text; SCR 141 H–142 F

Source role: judicial text

3.

Topic: High Court reasoning and appellants' distinct waiver argument

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered text; SCR 142 G–143 G

Source role: judicial history and counsel submission

4.

Topic: Tribunal findings as recounted and qualified by the Supreme Court

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered text; SCR 144 A–145 C

Source role: judicial text

5.

Topic: Duty attached to waiver power; disclosure outside a return; penalty not an automatic bar; statutory succession

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered text; SCR 145 C–F

Source role: judicial text

6.

Topic: Failure of reasoned Board scrutiny and limited remand disposition

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered text; SCR 145 G–146 C

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. Rajendra Babu, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

604a50e5759ebe0eaab9bb74b28941abd0bb8376fb81bd132aeb3ad305c50b. Original bytes preserved.

Complete unnumbered judicial text physical pages 3–8/SCR 141 F–146 C, beginning with Rajendra Babu J. Editorial headnotes occupy pages 1–3 above that boundary. The opening printed Act year and malformed initial disclosure figure are preserved as source defects, not silently corrected.

[Open cited source rendition](#)

The opening judgment on physical page 3/SCR 141 F prints Income Tax Act, 1960; the cover identifies the Income-tax Act, 1961 and the analysed provisions are sections 271(1)(c) and 271(4A). The printed year is anomalous, not a separate enactment adopted by this note.; Physical page 3/SCR 141 G–H prints the initial disclosure amount as about Rs. 28,000,00. This malformed figure is image-confirmed and has not been silently regularised or used as a quantified holding. Rs. 66,56,000 is the separately printed negotiated assessment figure, subject to allowances.; The front matter on physical page 3 verifies Civil Appeal Nos. 435–441 of 1982; the corpus's single-appeal metadata is incomplete. The full appeal range is used here without changing canonical metadata.; The negotiated assessment narrative covers AYs 1958-59 to 1965-66; the penalties in issue cover AYs 1958-59 to 1964-65. The eighth assessment year is not silently added to the penalty-year list.; The Commissioner's satisfaction of the conditions, the Tribunal's findings and Revenue's objections are separately attributed. The Supreme Court remitted the Board's consideration; it did not make an unconditional final finding that every condition of waiver stood satisfied.; The source describes Board approval for penalties above Rs. 50,000 on physical page 4. This case-specific historical explanation is not certified as the complete statutory threshold test or as a later-law rule. Section 271(4A)'s deletion and section 273A succession are recorded only as the Court states them.; The introductory reference to a scheme on page 3 is not treated as a finding that the appellants made a valid declaration under the later 1965 voluntary-disclosure scheme; pages 6–7 expressly discuss disclosure before that scheme.

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. Comprehensive subsequent judicial and statutory treatment is not verified. Earlier authorities are described only as treated within this judgment, not as independently reviewed decisions. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

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

SHA-256: 604a50e5759ebe0eaab9bb74b28941abd0bb8376fb81bd132aeb3ad305c50b

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