

## Income Tax Appellate Tribunal through President v. V.K. Agarwal and another

Contempt Petition No. 287 of 1998

[1998] Supp. 2 SCR 707 | 1998-11-17

**Whether a confidential, undated draft signed by one member was an ITAT order alongside the later order signed by both members and communicated to the parties, and whether the Law Secretary's consequent demands interfered with the Tribunal's judicial functioning.**

Two-judge bench | Sujata V. Manohar, J. | G.B. Pattanaik, J.

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

### Procedure-only note; contempt outcome and printed Rules-year defect

The actual disposition is contempt with a Rs. 2,000 fine against V.K. Agarwal, not a Supreme Court tax-assessment decision. The income-tax holding is limited to rules 34(1)/35: the undated, uncommunicated draft signed by one member was not the Bench's order; the later order was signed by both members, dated and communicated. The judicial print calls the Rules 1961 while the headnote says 1963, and the cover's section 2(1) label conflicts with the judgment's section 2(c). Preserve those defects and follow the judicial reasoning. Section 255(5), current Rules, later treatment and 2025 Act mapping are not verified.

### 01 FACTS OF THE CASE

In a pending institutional-independence matter, the Tribunal through its President sought contempt action over official interference with its decision-making. The underlying Neerja Birla appeal for AY 1992-93 had been decided for Revenue on 23 October 1997, denying a claimed Rs. 1,50,00,000 benefit. The Judicial Member had first prepared a draft favourable to the assessee; the Accountant Member disagreed. After discussion, the Judicial Member accepted the other view, and both signed the final dated order which was communicated to the assessee and Department. The first draft bore only the Judicial Member's signature and no date; it was never communicated as an order (physical pages 7–8 and 18/SCR 713 C–714 F; 724 A–D).

Acting on an unverified pseudonymous complaint enclosing the draft and final order, then Law Secretary V.K. Agarwal wrote on 30 December 1997 alleging contradictory orders and demanding an inquiry and report within ten days. His letter of 3 February 1998 threatened adverse inferences unless a report arrived by 6 February. The President and members viewed this as interference with their judicial functions. The Court issued suo motu contempt notice. The application against the second respondent, Deputy Secretary A.K. Sonik, was not pressed after his explanation (physical pages 7–10/SCR 713 E–716 H).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The narrow tax-procedure holding rests on rules 34(1) and 35. The Court read rule 34(1) to require a written order signed and dated by the members constituting the Bench; unless all members signed it and it was dated, it was not an order of the Tribunal. Rule 35 required the signed order to be communicated to the assessee and Commissioner. The uncommunicated, undated, single-member draft failed those requirements. The only Tribunal order here was the order of 23 October 1997, signed by both members, dated and communicated. Their discussion and change of view did not produce two contradictory judicial orders (physical pages 17–18/SCR 723 E–724 D).

For the contempt disposition, the Court upheld its Article 129 jurisdiction to protect the Tribunal and its ability to take suo motu action. It applied section 2(c) of the Contempt of Courts Act, 1971, and rejected reliance on section 3 in these circumstances. Acts tending to obstruct justice or lower judicial authority could be contempt even after the particular appeal had ended. Departmental supervision was administrative and did not authorise control or questioning of the Tribunal's judicial decisions (physical pages 11–16/SCR 717 A–722 H).

The letters insinuated improper conduct, threatened independent functioning and risked chilling the confidential exchange of views between members. The Law Secretary had not first checked the complaint or whether either document had been pronounced and communicated. In their tone, demands and context, the letters exceeded administrative oversight and amounted to gross contempt (physical pages 15–19/SCR 721 A–725 E).

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

## 03 JUDICIAL DECISION

The Court held the first respondent, V.K. Agarwal, guilty of contempt and rejected his apology. Taking account of his retirement as Law Secretary, it imposed a Rs. 2,000 fine. The petition was allowed. The application against the second respondent was not pressed; no penalty against him was imposed in the operative order. The Court did not adjudicate Neerja Birla's tax entitlement (physical pages 10 and 19/SCR 716 C–F; 725 D–G).

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

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Tribunal's institutional independence vindicated; first respondent held in contempt

Contempt petition allowed; V.K. Agarwal fined Rs. 2,000; application against second respondent not pressed

Final contempt disposition with an express, narrowly applicable construction of rules 34(1) and 35 distinguishing a confidential draft from the Tribunal's order

No Supreme Court income-tax assessment merits ruling, no determination of the underlying Rs. 1,50,00,000 benefit and no interpretation of section 255(5).

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

**05 AKHB REVIEW POINT**

Before treating internal drafting differences as conflicting Tribunal orders, identify the document signed and dated by the entire Bench and the version actually communicated under the rules. The earlier draft here was not wholly unsigned: one member had signed it, but the other had not, it lacked a date and it had not been communicated. Confidential deliberation and a member's changed view were part of arriving at the final order.

Retain this judgment in an income-tax collection only for its genuine appellate-procedure holding and related protection of independent adjudication. Do not classify the contempt fine as a tax penalty or count the underlying assessee's lost appeal as a Supreme Court revenue victory. The historical quoted rule text, subsequent amendments and broader present-day contempt law require separate checking; this note gives no universal rule on every defect in communication or every later attempt to alter a final order.

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

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

1.

**Topic:** Identity, bench, contempt petition number and judicial-text boundary

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

**Pdf pages:** 1; 6

**Paragraphs:** Unnumbered text; SCR 707; 712 E–G

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

2.

**Topic:** Underlying tax appeal as background; confidential draft and final order

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

**Pdf pages:** 7; 8

**Paragraphs:** Unnumbered text; SCR 713 C–714 F

**Source role:** judicial text

3.

**Topic:** Letters, contempt initiation and second respondent not pressed

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

**Pdf pages:** 7; 8; 9; 10

**Paragraphs:** Unnumbered text; SCR 713 E–716 H

**Source role:** judicial text

4.

**Topic:** Article 129 jurisdiction, suo motu cognizance and section 2(c)

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

**Pdf pages:** 11; 12; 13; 14

**Paragraphs:** Unnumbered text; SCR 717 A–720 H

**Source role:** judicial text

5.

**Topic:** Administrative versus judicial supervision; confidential deliberation

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

**Pdf pages:** 15; 16

**Paragraphs:** Unnumbered text; SCR 721 A–722 H

**Source role:** judicial text

6.

**Topic:** Rules 34(1)/35: all-member signatures, date and communication

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

**Pdf pages:** 17; 18

**Paragraphs:** Unnumbered text; SCR 723 E–724 D

**Source role:** judicial text

7.

**Topic:** Printed Rules-year discrepancy and headnote section-label defect

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

**Pdf pages:** 1; 5; 14; 17

**Paragraphs:** Unnumbered text; SCR 707; 711 A–D; 720 A–E; 723 E–H

**Source role:** editorial headnote compared with judicial text

8.

**Topic:** Contempt, rejected apology and first respondent's Rs. 2,000 fine

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

**Pdf pages:** 19

**Paragraphs:** Unnumbered text; SCR 725 D–G

**Source role:** judicial text

## JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sujata V. Manohar, J.

## ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

## SOURCE & VERIFICATION

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

Identified source rendition: 19 PDF pages; SHA-256

3c6c3c9383de632310906299f5f634c1154197e809c6d513198646c82b6b56c2. Original bytes preserved.

Complete unnumbered judicial text physical pages 6–19/SCR 712 G–725 G, beginning with Mrs. Sujata V. Manohar J. Reporter headnotes occupy pages 1–6 above that boundary. Narrow income-tax appellate-procedure reasoning is on pages 17–18/SCR 723 E–724 D; the ultimate disposition is criminal contempt, not assessment merits.

[Open cited source rendition](#)

Procedure-only inclusion: the Court actually construed rules 34(1) and 35, but the proceeding and remedy were contempt. AY 1992-93 and the Rs. 1,50,00,000 claim belong only to the underlying Neerja Birla Tribunal appeal, so assessment\_years and sections\_1961 are left empty rather than misclassified.; The draft was signed by the Judicial Member alone, not wholly unsigned; it was undated and uncommunicated. The signed, dated and communicated order of both members is the actual comparator.; The cover and headnote on physical pages 1 and 5 identify the ITAT Rules as 1963; the judicial print on physical page 17/SCR 723 F says Rules of 1961. The instrument title is normalised for indexing to Income-tax (Appellate Tribunal) Rules, 1963, while the printed discrepancy is retained here. The rule wording applied is the historical quotation in this judgment; no separate historical Rules edition or later amended text is certified.; The cover headnote prints Contempt of Courts Act sections 2(1) and 3, whereas the judicial discussion on physical page 14/SCR 720 quotes and applies section 2(c). The note follows the judicial provision, not the erroneous cover label.; The front matter on physical page 6 says Under Article 145; the judicial jurisdiction discussion is under Article 129, with section 15 and the relevant suo motu procedure discussed on page 13. Front-matter labels are not substituted for that reasoning.; Section 255(5) is not interpreted in this judgment. It must not be inserted as an adjudicated section merely because it supplies a structural link to Tribunal procedure.; The transferred institutional-independence writ petitions are described as pending on physical page 7. This contempt disposition is not reported as final disposal of those petitions. Nor is the underlying tax appeal independently reviewed.; No costs direction appears in the operative ending; none is inferred. The second respondent's matter was not pressed, not decided by a reasoned exoneration on the merits.

## 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: 19](#)

SHA-256: 3c6c3c9383de632310906299f5f634c1154197e809c6d513198646c82b6b56c2

## AI DISCLOSURE

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