

Commissioner of Income Tax, Jabalpur v. M/s Durga Engineering and Foundry Works

Civil Appeal No. 4089 of 1998

[2000] Supp. 2 SCR 135 | 2000-08-03

Whether a question of law arising from a Tribunal rectification order under section 254(2) could be referred under section 256.

254(1) | 254(2) | 256 | 68 (underlying question left for reference)

Three-judge bench | S.P. Bharucha, J. | U.C. Banerjee, J. | N. Santosh Hegde, J.

Assessment years: 1987-88, 1988-89

Reference remedy decided; cash-credit merits left open

The Court required a statement of case and reference of Revenue's two questions. It did not finally restore the additions or decide the partners' tax position. The judgment does not create a general review power under section 254(2), and its quoted time limits and section 256 machinery are historical. No individual author is stated. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

The AO added sums in partners' names as unexplained credits in the firm's assessments for AYs 1987-88 and 1988-89. On 7 November 1994 the Tribunal set the assessments aside and remitted them for consideration of evidence. Neither side sought a reference from that order (physical page 2).

On the firm's rectification application, the Tribunal on 4 January 1995 instead directed deletion of additions of Rs 5,00,851 and Rs 85,700, leaving possible investigation in the partners' hands. Revenue sought reference of two questions concerning section 68 and those deletions. The Tribunal refused, and the High Court dismissed the section 256(2) application by treating rectification orders as outside reference jurisdiction (physical pages 2-3).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 256 referred to an order under section 254, which included both the appeal-order power in subsection (1) and rectification under subsection (2). The Court rejected the High Court's narrower construction: a rectification order can materially change the assessment, and the statutory reference remedy is not lost merely because the order was made on a rectification application (physical pages 3–5).

Revenue's proposed questions were questions of law fit for reference. The Court rejected the contrary view in *Popular Engineering*. It did not itself answer the section 68 merits or validate every use of the rectification power. The firm's assertion that the partners had already been assessed, and whether those assessments were protective, were matters the High Court could examine in the reference (physical pages 5–6).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed without costs and the High Court order set aside. The Tribunal was directed to prepare a statement of case and refer the two identified questions to the High Court. The underlying cash-credit and deletion questions were left for that consideration (physical page 6).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on access to the reference remedy

Appeal allowed; Tribunal to state case and refer two questions; no costs

Reference maintainability decided; underlying tax merits reserved

Does not finally restore the additions, determine partners' tax, or enlarge rectification into a general review power.

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

05 AKHB REVIEW POINT

Separate the availability of a challenge from the answer to the underlying tax question. This order establishes the historical section 256 route for a legal question arising from rectification; it is not an affirmation that the Tribunal correctly deleted or incorrectly deleted these particular credits.

The reproduced four-year rectification period and reference machinery belong to the historical statutory setting. Do not use them as present filing deadlines. The claimed assessments of partners were submissions with unresolved details, rather than a Supreme Court finding that the same income had conclusively been taxed twice.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, years, amounts and both proposed questions

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Statutory reference scope and rejected narrow interpretation

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Partners-assessment submission, merits reservation and operative reference direction

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered judicial text

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Order of the Court; no individual author identified

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 6 PDF pages; SHA-256

41f115fcde3055f5019eedcf95467ab8e2a7843ccc893b903b1988fb5c76b948. Original bytes preserved.

Complete Court order physical pages 2–6/SCR 136–140; statutory extracts and assessee submissions distinguished.

[Open cited source rendition](#)

The two additions were deleted by the Tribunal's rectification order. The Supreme Court directed a reference rather than finally deciding whether section 68 applied.; The four-year section 254(2) period and section 256 procedure quoted in the source are historical, not current deadline advice.; The order has no individually named author.; Neither side's failure to seek a reference against the first remand order was treated as eliminating the statutory challenge to the subsequent rectification order.

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 has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

SHA-256: 41f115fcde3055f5019eedcf95467ab8e2a7843ccc893b903b1988fb5c76b948

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