

M/s K. Govindan and Sons v. Commissioner of Income-tax, Cochin

Civil Appeal No. 1144 of 1999

[2000] Supp. 5 SCR 285 | 2000-12-01

Whether an initial assessment made after a section 148 notice was a regular assessment for historical section 139(8) interest, and whether Explanation 2, inserted with effect from 1 April 1985, clarified the law applicable to AY 1984-85.

139(8), Explanation 2 (historical late-return interest) | 2(40) (regular assessment) | 143(3) | 144 | 147 and 148 (first assessment distinguished from reassessment) | 217 (procedural and precedent background) | 256(1) (reference background)

Three-judge bench | S.P. Bharucha, J. | D.P. Mohapatra, J. | Y.K. Sabharwal, J.

Assessment years: 1984-85

First assessment only; historical section 139(8)

The holding concerns the first/initial assessment for AY 1984-85 and Explanation 2 to historical section 139(8). It does not make every reassessment regular or every Explanation retrospective, and it is not a present interest or reopening computation. The compressed intermediate appeal narration is not reconstructed into a separate section 217 holding. Vatika Township is a bounded methodological comparison only; comprehensive later treatment and 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

For AY 1984-85, the assessee furnished its income return in response to a section 148 notice. The assessing authority charged interest under sections 139(8) and 217. The dispute turned on the assessee's contention that the assessment was outside the defined expression regular assessment. The Tribunal described it as a reopened assessment; the High Court held that an assessment made for the first time under section 147(a), read with section 148, was a regular assessment and that Explanation 2 to section 139(8) was clarificatory (SCR 287C-288B).

The question formally referred and decided concerned the legality of section 139(8) interest in an assessment under section 143(3), read with section 147(a). The report's intermediate appellate narration mentions differing treatment of sections 139(8) and 217, but it supplies no independent section 217 reference question or interest calculation. The Supreme Court appeal challenged the High Court's affirmative section 139(8) answer (SCR 287E-288B).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished a first or initial assessment from a subsequent reassessment or revised assessment where an assessment had already been made. It read sections 143, 144, 147 and 148 together: a first assessment following a return supplied in response to a section 148 notice attracted the regular-assessment concept for section 139(8). Treating a delayed filer as liable while wholly exempting a person who initially filed no return would contradict the purpose of this interest provision (SCR 288C–291F).

The Court approved K. Gopalaswami Mudaliar, National Agricultural Co-operative Marketing Federation and Lally Jacob on the initial-assessment distinction. It held the contrary views in Triple Crown Agency and Sushma Saxena incorrect. Modi Industries' discussion of regular assessment as the first/original assessment supplied further support. The extracts about sections 214, 215 and 217 explain the reasoning; they do not make every interest provision and every assessment order interchangeable (SCR 291G–295D).

On that construction, the law already included this first assessment before Explanation 2 was added. The Explanation removed doubt generated by conflicting High Court views rather than creating the liability for the first time. It therefore applied to AY 1984–85 despite its stated effective date of 1 April 1985 (SCR 288F–H; 295E–F).

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

03 JUDICIAL DECISION

The assessee's appeal was dismissed with costs. The High Court's conclusion permitting section 139(8) interest for the first assessment in this case remained in force. No recalculation, waiver or remand was ordered (SCR 295D–G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee appeal dismissed with costs

Final historical section 139(8) determination; Explanation 2 held clarificatory and applicable to AY 1984–85

Limited to the first/initial assessment distinction and this Explanation. Does not hold that every reassessment is a regular assessment, every amendment is retrospective, or every historical/new interest provision produces the same result.

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

05 AKHB REVIEW POINT

Establish whether an assessment had already been made before relying on this case. A label such as reassessment or a notice under section 148 does not itself answer that factual and statutory question. Also identify the exact charging provision, year and credits: the Court decided power to levy historical section 139(8) interest, not the amount of a modern interest demand.

An Explanation's name is not enough to make it retrospective. This Court first construed the pre-amendment scheme and then found that Explanation 2 stated the position already implicit in it. As a bounded later comparison, the Constitution Bench in Vatika Township, paragraphs 31–35, explains the presumption against retrospective burdens and the substance-based exception for genuinely clarificatory provisions. That comparison concerns general interpretive method, not a verified reversal of Govindan or a decision about section 139(8).

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal and the actual referred question

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; SCR 287A–H

Source role: reported metadata and judicial text

2.

Topic: Headnote definition-number discrepancy versus judicial text

Source url: [Open cited source](#)

Pdf pages: 2; 4

Paragraphs: SCR 286A–B editorial text versus 288C judicial definition

Source role: editorial discrepancy checked against judicial text

3.

Topic: High Court answer, definition and Explanation 2 effective date

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 288A–H

Source role: judicial text

4.

Topic: Quoted assessment provisions and controlling first-assessment qualification

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: SCR 289–291, especially 291C–F

Source role: judicial text

5.

Topic: Precedent comparison, approvals and rejection of contrary views

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10; 11

Paragraphs: SCR 291G–295D

Source role: judicial text

6.

Topic: Clarificatory conclusion, applicable year and costs

Source url: [Open cited source](#)

Pdf pages: 11

Paragraphs: SCR 295D–G

Source role: judicial text

7.

Topic: Bounded later comparison: prospective burdens and genuinely clarificatory provisions

Source url: [Open cited source](#)

Pdf pages: 28; 29; 30; 31

Paragraphs: Paragraphs 31–35; SCR 1064–1067

Source role: bounded comparison judicial text

OTHER PROVISIONS CONSIDERED

Taxation Laws (Amendment) Act, 1984, insertion of Explanation 2 to section 139(8), stated effective date 1 April 1985

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

D.P. Mohapatra, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

COMPARISON OF DISTINCT HISTORICAL STATUTORY SETTINGS

1.

Case: CIT (Central)-1, New Delhi v. Vatika Township Private Limited

Asset id: 2014_12_1037_1079

Comparison type: Later general-principle comparison, not claimed direct treatment

Finding: Paragraphs 31–35 explain prospective burdens and the genuine clarificatory exception by substance; Vatika's actual section 113 surcharge outcome is different from the section 139(8) issue here. No overruling of Govindan is claimed.

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256

f507143e73fd204b48252b5a254dadb08e81f05353c3cc0ea8d8dcd676d09e05. Original bytes preserved.

Entire unnumbered judicial text, physical pages 3–11/SCR 287–295, including historical provisions and embedded precedent extracts. Pages 1–2 are editorial material; no adjacent judgment.

Open cited source rendition

The report's intermediate appeal account says the section 139(8) argument succeeded before CIT(A), then describes further assessee proceedings and a reference about that same interest. This compressed sequence is not silently reconstructed; the reference question and final Supreme Court disposition are clear.; The first/initial-assessment qualification is express at SCR 291C–D. Removing it would materially overstate the holding.; The headnote's isolated "section 2(4)" is not used; the judicial discussion and definition identify section 2(40).; The report quotes sections 147–148 without supplying a complete, separately authenticated year-by-year legislative history. The historic interest rate and the quoted reassessment wording are not modern advice.; The only independent later comparison in this note is the bounded Vatika Township passage. It is not represented as direct treatment or comprehensive validation of Govindan.

The decided levy is historical section 139(8) interest for AY 1984–85. The report states the 15% annual rate in describing that provision and quotes Explanation 2, with an insertion date of 1 April 1985; it does not calculate an amount due. Its quotation of sections 147–148 must not be treated as a certified consolidated reproduction of every statutory provision as it stood for AY 1984–85. No present section 234A/B/C computation, reopening validity, limitation rule or 2025 Act crosswalk is determined.

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: 11](#)

SHA-256: f507143e73fd204b48252b5a254dadb08e81f05353c3cc0ea8d8dcd676d09e05

[bounded comparison judgment - PDF pages: 43](#)

SHA-256: 4892de497ff80aa17d11d66c23196f4ea79d62857d8a872213f2b312aaa20a24

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