

Smt. Sushila Rani v. Commissioner of Income Tax and Another

Civil Appeal No. 938 of 2002

[2002] 1 SCR 809 | 2002-02-04

Whether Revenue could amend completed KVSS determinations for allegedly overlooking prior refund/bank-guarantee adjustments that the declarant had disclosed, without alleging a false declaration.

245

Two-judge bench | S. Rajendra Babu, J. | Ruma Pal, J.

Assessment years: 1988-89, 1989-90, 1991-92

Closed KVSS: no false-declaration allegation; notice quashed, no quantified refund

The governing Scheme is KVSS under the Finance (No. 2) Act, 1998. The completed settlement could not be reopened on the disclosed-adjustment ground stated in this notice, which alleged no false declaration. A general inherent rectification power was only assumed for argument, and the Court did not award a quantified refund or interest. The report's assessment-year and one-rupee amount discrepancies are flagged. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The appellant, widow of the original assessee, sought KVSS settlement of pending appeals for AYs 1988-89, 1989-90 and 1991-92. Her declarations disclosed prior refund adjustments and recovery by invoking a bank guarantee, contending that the adjustments were involuntary and that the required section 245 procedure had not been followed. The designated authority evaluated the declarations, determined an aggregate amount under section 90(1) on 26 February 1999, accepted payment and issued the final-payment/immunity certificate on 31 March 1999. A later departmental certificate stated that no demand remained outstanding (SCR 811-812).

After she sought refund with interest, Revenue issued a notice dated 23 June 2000 proposing to amend the settlement determinations. It said earlier collections and adjustments should have been taken into account and characterised the problem as a calculation mistake. The Delhi High Court declined to decide the jurisdiction objection at that show-cause stage and left it to the Commissioner. The assessee appealed (SCR 812-814).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the section 90(1) determination as conclusive on matters covered, subject to the false-declaration exception. Before resorting to that exception there had to be satisfaction that the declarant had made a false declaration. The notice contained no such allegation: it concerned information already available to Revenue when it accepted the declarations and completed the Scheme process. The assessee had expressly put forward her position that the earlier adjustments did not extinguish the arrears because section 245 had not been followed; Revenue could not now reopen the settlement merely by changing that accepted position (SCR 813–815).

The Court did not affirm a general inherent rectification jurisdiction. Even assuming an inherent power to correct a clerical or arithmetical mistake, it said the mistake would have to be obvious and beyond debate. Here the authority would have to establish prior notice and valid adjustment, matters the appellant disputed and which required factual investigation and legal debate. That was not the kind of patent error contemplated by the assumption (SCR 816A–B). The Allahabad High Court's refund-adjustment decision appears as part of the appellant's declared position and procedural account, not as a separately re-decided general refund rule.

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

03 JUDICIAL DECISION

The Court allowed the appeal and writ petition, set aside the High Court order and quashed Revenue's notice dated 23 June 2000 proposing amendment of the earlier section 90(1) determination. There was no order as to costs. The operative paragraph does not quantify or independently direct payment of the requested refund or interest, and it orders no remand (SCR 816C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal and writ petition allowed; amendment notice quashed; no costs

Final ruling that this notice lacked jurisdiction given the completed settlement and absence of false-declaration allegation

No general inherent correction power affirmed, no false declaration immunised, and no separately quantified refund or interest award.

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

05 AKHB REVIEW POINT

Compare the declaration, the authority's determination and the actual ground in the later notice. An accepted, expressly disclosed legal position about an adjustment cannot be recast as concealed facts merely because Revenue later changes its view. The statutory false-declaration exception requires the relevant factual basis; an asserted calculation error does not establish it.

Keep the assumed possibility of correcting a truly patent error separate from authority to revisit a disputed legal and factual basis of settlement. Likewise, distinguish success in quashing the reopening notice from a judicial award of every refund or interest amount requested. This closed KVSS decision does not resolve the procedure or eligibility rules of a later settlement scheme.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench, appeal and headnote year discrepancy

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered text; SCR 809, 811

Source role: reported metadata and judicial text

2.

Topic: Judicial assessment years, declared adjustments and completed certificates

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: Unnumbered text; SCR 811E–812H

Source role: judicial text

3.

Topic: High Court approach, statutory finality and actual notice

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: Unnumbered text; SCR 813–814

Source role: judicial text

4.

Topic: No false declaration; disclosed position; amount difference in affidavit

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: Unnumbered text; SCR 815

Source role: judicial text

5.

Topic: Assumed patent-error power and precise operative relief

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: Unnumbered text; SCR 816

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S. Rajendra Babu, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Finance (No. 2) Act, 1998 — Kar Vivad Samadhan Scheme, 1998

CONNECTION WITH INCOME-TAX ACT PROCEEDINGS

The dispute concerns liabilities, assessments or recovery under the Income-tax Act, 1961, but the settlement/disclosure provisions belong to the separately identified Finance Act.

PROVISIONS OF THE SEPARATELY IDENTIFIED SETTLEMENT OR DISCLOSURE SCHEME

88; 89; 90(1) and second proviso; 90(2); 91

HISTORICAL SCHEME STATUS

Closed historical scheme. This note does not describe an available present-day settlement or disclosure facility.

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256

f2c641fed7f04cafd87addfe178b04b571fd6243442630a53eebf13b634d50f8. Original bytes preserved.

Complete unnumbered judicial text from physical page 3/SCR 811, after the delivery formula, through physical page 8/SCR 816, including the impugned notice and counter-affidavit quotations. Earlier editorial material excluded. No adjacent judgment.

[Open cited source rendition](#)

The opening headnote lists 1990-91, but the judicial narrative and reproduced notice consistently identify 1991-92 as the third assessment year. The note follows the judicial text, with the discrepancy expressly retained.; The judicial narrative at SCR 812 records Rs 14,40,189 as the determined and deposited amount, while Revenue's quoted counter-affidavit at SCR 815 states Rs 14,40,188. No independent payment record has been used to resolve the one-rupee difference; the note does not rely on either figure to calculate a refund.; The false-declaration exception is discussed because it supplies the statutory limit on finality. The Court states that no such allegation appeared in the challenged notice; it makes no affirmative finding of fraud.; The possibility of correcting clerical or arithmetical errors is assumed for argument, not held to be an inherent power in every KVSS authority.; The refund and interest request explains how the challenged notice arose. The operative relief is quashing the notice, not a quantified refund/interest 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. Comparisons with the lower-court proceedings and cited precedents are confined to the treatment expressly recorded in this judgment; those separate decisions have not been independently reviewed here. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

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

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