

Killick Nixon Ltd., Mumbai v. Deputy Commissioner of Income Tax, Mumbai and Others

Civil Appeal No. 2614 of 2001

[2002] Supp. 4 SCR 348 | 2002-11-25

Whether the AO could pursue fresh assessment inquiries on remitted heads after an appellate-effect assessment, KVSS determination, payment and final certificate, without alleging false material particulars in the declaration.

142(1) | 143(3) | 143 (discussion; operative notices were under 142(1))

Two-judge bench | Ruma Pal, J. | B.N. Srikrishna, J.

Assessment years: 1992-93

Closed KVSS: covered-settlement finality subject to false-particulars exception

This is a Finance (No. 2) Act, 1998 KVSS ruling after determination, payment and certification. The Court quashed specified section 142(1) notices and found no allegation of false material particulars; it did not grant blanket immunity, decide unrelated years or order a remand. The report misgroups Finance Act sections in its headnote and contains inconsistent dates, figures and notice/certificate references, explained below. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1992-93 the original assessment disallowed several claims. The appellate authority confirmed premium, depreciation and interest items but remitted four heads: property/business-income treatment, bad debt, capital gains and rule 6D disallowance. The assessee appealed the confirmed items to the Tribunal. An appellate-effect order recomputed income at Rs 33,65,298 and raised a demand (SCR 350–351).

The company declared under KVSS on 20 November 1998. The designated authority determined Rs 9,35,888 payable on 19 January 1999; the company paid on 12 February 1999 and received a final settlement certificate. The AO subsequently called for details about licence income and the bad-debt claim under section 142(1). The company asserted settlement finality, but the AO continued and the Bombay High Court dismissed its writ petition. Revenue argued that the four remitted heads, representing about Rs 99 lakh, had never been finally assessed (SCR 352, 354–355).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected Revenue's factual premise after examining the appellate-effect order itself. Its computation had deducted the bad-debt and property-income items, indicating acceptance of the assessee's claims for that computation. Despite the order's concluding note listing remitted issues, the revised determination and consequential demand/refund process contradicted the assertion that the assessment remained incomplete. The Court treated the outstanding TDS correspondence and the unreflected capital-gain/rule 6D items as matters on which the assessee, rather than Revenue, could have a grievance in the stated circumstances (SCR 355–357). This reasoning is confined to the particular order; it is not an independent substantive ruling on deductibility or heads of income generally.

Under KVSS the section 90 determination was a considered settlement order, not a mechanical acknowledgment. Once the amount was determined and paid and the certificate issued, the settlement and section 91 immunity prevented reopening the covered assessment on the basis advanced here. The Court preserved the second-proviso exception for false material particulars in the declaration; Revenue had not alleged such falsity. Section 94, quoted in the judgment, limits Scheme benefits to the assessment or proceedings to which the declaration relates (SCR 353–354, 357–358).

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

03 JUDICIAL DECISION

The appeal was allowed and the High Court judgment set aside. The Court quashed the section 142(1) notices dated 16 August and 30 December 1999, read with the letters dated 16 August 1999, 30 December 1999 and 15 February 2000. No remand or fresh tax computation was directed, and there was no order as to costs (SCR 358B–C).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Appeal allowed; High Court judgment set aside; specified section 142(1) notices and connected letters quashed; no costs

Final protection of the covered settled assessment on the facts and absence of false material particulars

No immunity for unrelated years/proceedings, no protection for false material particulars, and no freestanding allowance of all bad debts or property-income claims.

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

05 AKHB REVIEW POINT

Before calling a remitted issue unresolved, read the actual appellate-effect computation together with the determination and certificate. A residual note cannot be isolated from the amounts already allowed and the tax demand actually issued. At the same time, counsel's submission that every head for a year is conclusively settled must be read with the Court's record-specific analysis and the express section 94 boundary.

Distinguish a later view that the settlement was too favourable from an identified false material particular supplied by the declarant. The former did not supply reopening jurisdiction here. The case concerns completed KVSS determination, payment and certification; it does not decide what follows from a payment default or an unsuccessful declaration. The operative relief is against section 142(1) notices, even though the reasoning also mentions section 143.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench and appeal

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Unnumbered text; SCR 348, 350

Source role: reported metadata and judicial text

2.

Topic: Assessment history, Scheme declaration, payment and certificate

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Unnumbered text; SCR 351–352

Source role: judicial text

3.

Topic: Statutory definitions and assessment-specific limit

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Unnumbered text; SCR 352G–354B

Source role: judicial text

4.

Topic: Revenue submission and appellate-effect computation

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: Unnumbered text; SCR 354E–357E

Source role: judicial text

5.

Topic: Certificate finality, false-particulars exception and operative quashing**Source url:** [Open cited source](#)**Pdf pages:** 10; 11**Paragraphs:** Unnumbered text; SCR 357F–358C**Source role:** judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.N. Srikrishna, 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

87(e); 87(f); 87(m); 88; 90(1) and second proviso; 91; 94

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: 11 PDF pages; SHA-256

47e99316786793880e5261691f28891c4f5d35f6efc25a16b8dd0832fa94c4b0. Original bytes preserved.

Complete unnumbered judicial text from physical page 3/SCR 350, after the delivery formula, through physical page 11/SCR 358, including statutory and assessment-order quotations. Earlier editorial material excluded. No adjacent judgment.

[Open cited source rendition](#)

The editorial heading places sections 90 and 91 under the Income-tax Act, 1961. The judicial text identifies the relevant provisions as those of KVSS in the Finance (No. 2) Act, 1998; they are kept separate in this note.; The narrative at SCR 351 dates the CIT(A) order 25 September 1998, while the quoted appellate-effect order at SCR 355D refers to CIT(A)'s order dated 16 March 1998. The appellate-effect order itself is dated 25 September 1998. The underlying order dates are not silently harmonised.; The assessment tables and submissions at SCR 351 and 354–356 contain differing figures and totals, including depreciation and the displayed computation totals. No corrected arithmetic or reconstructed revised assessment is supplied.; SCR 352B describes the final certificate as under section 92 read with section 91. The note reports its issuance and effect without silently replacing that printed reference with a different subsection.; The reasoning at SCR 357G–358A speaks of a section 143 notice; the opening account and operative paragraph expressly identify section 142(1) notices. The operative identification controls the description of what was quashed.; Revenue's assertion that substantial income had escaped taxation is a submission rejected on this record, not a judicial finding of fraud or a finding that the declaration contained false material particulars.

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: 11](#)

SHA-256: 47e99316786793880e5261691f28891c4f5d35f6efc25a16b8dd0832fa94c4b0

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.