

Hemalatha Gargya v. Commissioner of Income Tax

Civil Appeal No. 6266 of 2000 / Civil Appeal Nos. 6267–6269 of 2000 / Civil Appeal Nos. 1804–1805 of 2001
[2002] Supp. 4 SCR 382 | 2002-11-28

Whether the time for paying tax under section 67 of VDIS 1997 could be extended on equitable or sufficient-cause grounds, and what should happen to payments outside the Scheme.

119(2)(b) (contextual argument; no general condonation ruling)

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

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

Closed VDIS: mandatory payment period; deposits separately refundable or adjustable

Sections 66 and 67 here belong to VDIS under the Finance Act, 1997, not the Income-tax Act, 1961. The Court rejected an equitable extension of the three-month payment-and-proof period, yet directed refund or lawful adjustment of deposits and preserved already-final favourable decisions. No general tax-condonation power, present filing facility or fixed refund amount is established. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The batch included appeals by individual declarants and by Revenue arising from conflicting High Court decisions about late VDIS payments. In the declarants' cases it was undisputed that tax had not been paid within section 66 or the three-month period under section 67(1). The periods of default and explanations differed; the declarants asserted circumstances beyond their control. The order does not supply an individual default chronology or assessment year for each appeal (SCR 384–386).

The declarants argued that the Scheme's revenue-raising purpose, the interest provision, equity and the overall period ending in March 1998 justified extension. They also relied on Revenue's failure to challenge an earlier favourable interpretation and urged that Revenue could not both reject Scheme benefits and retain the deposited money. Revenue answered that the Scheme was a self-contained statutory code with no extension power, and accepted that deposits outside it had to be refunded or lawfully adjusted (SCR 386–387).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 66 generally required payment with proof before the declaration. Section 67(1) allowed filing first, but required payment within three months of that declaration, simple interest at 2% for each month or part of a month, and proof of payment within the same three-month period. Section 67(2) expressly deemed a declaration never to have been made when tax was not paid in time. The language and specified consequence made the requirement mandatory; the authority could not imply an extension power and equitable considerations could not rewrite the Scheme (SCR 385, 387–388).

The Court rejected the equitable-extension approach taken in the cited Laxmi Mittal and E. Prahalatha Babu decisions, while expressly leaving intact decisions already final in assessees' favour. It treated the described bank-holiday circular as an ordinary next-working-day rule, not a sufficient-cause condonation power, and expressed doubt whether section 119(2)(b) could confer an extension power for this separate Scheme. The circular was not on the record (SCR 388–389).

A prior in-limine dismissal of special leave did not affirm the reasoning below. Kaumudini Narayan Dalal and Satish Panalal Shah did not prohibit every later Revenue challenge: the Court considered the conflicting High Court authorities just cause, while tentatively describing the earlier principle as confined to jurisdictional High Court decisions. Hindustan Steel's penalty reasoning was distinguished because the loss of Scheme benefit under section 67(2) was a statutory consequence, not the imposition of a penalty requiring a mens rea inquiry (SCR 389–390). These are the present Court's recorded comparisons, not independent reviews of the cited decisions.

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

03 JUDICIAL DECISION

Assessees' appeals were dismissed and Revenue's appeals allowed. Because the payments did not qualify under the Scheme, the Court directed Revenue to refund or adjust the amounts already deposited in purported compliance in accordance with law. All appeals were disposed of without any order as to costs; the order fixes no individual refund amount or separate compliance deadline (SCR 390E–F).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on Scheme eligibility; assessees receive a direction for refund or lawful adjustment of deposits

Assessee appeals dismissed; Revenue appeals allowed; deposits to be refunded or adjusted in accordance with law; no costs

Final statutory interpretation of the VDIS payment period in the appeals before the Court

No general condonation power under the Income-tax Act is decided, no late declaration is validated, and no already-final favourable High Court decision is reopened.

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

05 AKHB REVIEW POINT

Distinguish a disclosure filing deadline from the declaration-specific payment period. Paying interest does not buy unlimited time: under this Scheme it accompanied a defined three-month exception, including timely proof. Nor did the latest possible payment date for a declaration filed on the final filing date give every earlier declarant the same enlarged period. Do not convert three calendar months into a universal 90-day rule merely because a circular was described that way.

The loss of Scheme benefit and the disposition of money already paid are different questions. The result requires lawful refund or adjustment, not automatic retention as the price of an ineffective declaration. A contemporary disclosure or settlement scheme must be read on its own terms; this closed 1997 Scheme's sections 66 and 67 are not provisions of the Income-tax Act, 1961.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench, batch and nature of order

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: Unnumbered text; SCR 382–384

Source role: reported metadata and judicial text

2.

Topic: Scheme terms and payment defaults

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: Unnumbered text; SCR 384–386

Source role: judicial text

3.

Topic: Mandatory period and strict statutory conditions

Source url: [Open cited source](#)

Pdf pages: 6; 7

Paragraphs: Unnumbered text; SCR 387–388

Source role: judicial text

4.

Topic: Circular, precedent differences and finality qualification

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9

Paragraphs: Unnumbered text; SCR 388G–390D

Source role: judicial text

5.

Topic: Disposition and refund/adjustment direction

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: Unnumbered text; SCR 390E–F

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Order of the Court; no individual author identified in the report

ACT IDENTIFIED IN THE REVIEWED SOURCE

Finance Act, 1997 — Voluntary Disclosure of Income Scheme, 1997

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

64; 65; 66; 67(1); 67(2)

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: 9 PDF pages; SHA-256

65fafb2fb45f27a55367fa4453d205d542c81808f60d0b21b9a6ac2a3a35af28. Original bytes preserved.

Complete unnumbered reasoned order from physical page 3/SCR 384, after the appearance block and delivery formula, through physical page 9/SCR 390. Earlier editorial material excluded. No adjacent judgment.

[Open cited source rendition](#)

The report identifies an order of the Court, not an individually authored judgment. It gives no appeal-by-appeal default dates, amounts or assessment years; none is inferred.; The opening discussion and headnote cite Laxmi Mittal as 238 ITR 97, while SCR 386E prints 238 ITR 51. The inconsistent citation is not silently treated as a second case.; The circular was not produced; SCR 388G–H prints the awkward phrase assuming the reproduction is incorrect. The note records only the Court's limited bank-holiday analysis, without inventing the circular number, date, authenticated text or a general 119(2)(b) ruling; The judicial text expressly preserves final decisions favourable to assessees despite rejecting the equitable-extension approach. The headnote's overruled label is not presented as an order reopening them.; The source's statutory requirement is three months, whereas the discussion of the unproduced circular uses 90 days. These are not treated as universally interchangeable.

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: 9](#)

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