

Commissioner of Income Tax, Bhopal v. M/s. Shelly Products and Anr.

Civil Appeal Nos. 7501–7504 of 1997

[2003] Supp. 1 SCR 79 | 2003-05-08

Whether annulment of regular assessments, with no lawful fresh assessment possible, alone entitled the assesseees to a refund of tax they had paid on their own admitted returned-income liability, and whether section 240 proviso (b) clarified the pre-amendment position.

4 | 139 | 140A | 143(3) | 144B (assessment history) | 190 | 199 | 207–211 | 237 | 240

Two-judge bench | N. Santosh Hegde, J. | B.P. Singh, J.

Assessment years: 1976-77

Admitted tax survives assessment failure; genuine excess remains refundable

The holding rejects refund of admitted returned-income tax solely because a valid regular assessment cannot be made. It preserves refund of actual excess and appropriate relief for mistaken exempt/non-income inclusions, and bars a further demand in the stated no-fresh-assessment situation. All four appeals were allowed, both miscellaneous petitions dismissed, and no remand or quantified refund ordered. The separate jurisdiction reference and printed chronology anomaly must stay distinct. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

For AY 1976-77, the assesseees' regular assessments dated 23 August 1980 were eventually declared void by the Tribunal on 14 January 1984 for a jurisdictional defect in the assessment directions. A separate reference concerning that jurisdiction ruling was described as still pending before the High Court. The present dispute concerned the assesseees' demand for refund, including advance tax and self-assessment tax (PDF pp 5–6 / SCR 83C–84E).

The Madhya Pradesh High Court's common judgment of 9 July 1996 dealt with refund references MCC 368–369/1993 and Miscellaneous Petitions 2750/1984 and 3773/1987. It upheld entitlement to refund of tax on returned income. Revenue brought four appeals. The assesseees did not contend that this admitted tax was unchargeable; they relied on the failure to make a valid regular assessment as the reason for repayment (PDF pp 5–8 and 17 / SCR 83–86, 95D–H).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the premise that advance tax or self-assessment tax became lawful income tax only after a regular assessment. Section 4 supplied the charge, and the Act required returns, self-assessment and advance payment or deduction. Tax paid on income returned at the applicable rates represented an admitted liability authorised by law. The invalidity or absence of a regular assessment did not itself defeat that charge or make retention of this admitted tax violate Article 265 (PDF pp 8–13 and 17–18 / SCR 86–91, 95–96).

The limits were equally important. If a fresh assessment could no longer lawfully be made after the earlier one was nullified, the return had to be accepted for this purpose. The AO could not re-examine it or raise a further demand, even for a shortfall against the returned-income computation. Tax paid above the properly computed returned-income liability had to be refunded. The Court also expressly preserved relief for excess deposits, arithmetic error, or mistakenly included exempt or non-income amounts: those facts could be brought to the authority calculating the refund, which was to grant appropriate relief when satisfied. Section 240 required a refund becoming due without a separate claim (PDF pp 18–20 / SCR 96H–98A).

Section 240 proviso (b), introduced with effect from 1 April 1989, made explicit the limit already implicit in the unamended section and was held clarificatory and retrospective in this setting. The Court did not infer that result merely because proviso (a) had previously been held declaratory. It distinguished the situation under proviso (a), where a fresh assessment was directed and remained pending, from annulment under proviso (b). The 23 January 1990 circular did not change this reading; the relevant passage supplied no contrary binding instruction, and the wider issue of the binding force of circulars was left unnecessary to decide (PDF pp 14–15 and 20–22 / SCR 92–93, 98–100D).

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

03 JUDICIAL DECISION

All four Revenue appeals were allowed. The High Court's common judgment and order were set aside; the question in MCC 368–369/1993 was answered in the negative and in Revenue's favour. Miscellaneous Petitions 2750/1984 and 3773/1987 were dismissed. There was no order as to costs. The Supreme Court ordered no remand, quantified no refund or interest, and did not decide the separate pending reference about assessment jurisdiction (PDF p 22 / SCR 100D–E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the claimed automatic refund of admitted tax

Four appeals allowed; High Court judgment set aside; refund-reference question answered for Revenue; both miscellaneous petitions dismissed; no costs; no remand

Final rejection of the proposition that assessment failure alone requires return of admitted advance/self-assessment tax

Does not permit retention of genuine excess or tax on exempt/non-income amounts merely because they appeared in a return, and does not authorise a fresh demand where assessment is barred.

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

05 AKHB REVIEW POINT

Start with the source of the payment and the legally payable returned-income tax. Separate admitted liability from additions dependent on the annulled assessment, overpayment, and amounts shown by mistake to be taxable. The failure of assessment does not create a windfall refund, but neither does a label such as “advance tax” entitle Revenue to keep an actual excess. The Court’s protection for mistakes is tied to the limited refund calculation and the authority being satisfied; it is not a free-standing reopening of all assessment issues.

Identify whether the operative appellate order directs a fresh assessment, finally annuls one, or leaves other proceedings pending. Shelly Products supplies the outcome of these four refund appeals; it does not establish how the separately mentioned jurisdiction reference was later disposed of. Apply the statutory version and procedure for the relevant year. Current law, refund-interest entitlement and comprehensive later treatment have not been independently verified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, four appeals and assessment year

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5

Paragraphs: Cover; jurisdiction at SCR 82H; SCR 83C–H

Source role: reported metadata and judicial text

2.

Topic: Assessment history, separate pending reference and refund litigation

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: SCR 83C–86D

Source role: judicial text

3.

Topic: Statutory charge and self-assessment scheme

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11; 12; 13

Paragraphs: SCR 86D–91C

Source role: judicial text

4.

Topic: Different fresh-assessment situation discussed

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: SCR 92D–93B

Source role: judicial text

5.

Topic: Admitted liability and Article 265

Source url: [Open cited source](#)

Pdf pages: 17; 18

Paragraphs: SCR 95D–96G

Source role: judicial text

6.

Topic: No further demand; mandatory excess refund; mistake relief

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20

Paragraphs: SCR 96H–98A

Source role: judicial text

7.

Topic: Section 240 and retrospective clarification

Source url: [Open cited source](#)

Pdf pages: 20; 21

Paragraphs: SCR 98B–99C

Source role: judicial text

8.

Topic: Circular and exact final dispositions

Source url: [Open cited source](#)

Pdf pages: 21; 22

Paragraphs: SCR 99D–100E

Source role: judicial text

9.

Topic: Printed chronology and unusual section-reference cautions**Source url:** [Open cited source](#)**Pdf pages:** 6**Paragraphs:** SCR 84A, D–E**Source role:** judicial text source discrepancy

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

B.P. Singh, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 22 PDF pages; SHA-256

a9f57964d7b46fbda4e865a274ea5f6d283354013ec098768a9dae5eef19778d. Original bytes preserved.

Complete unnumbered judicial text, physical PDF pages 5–22 / SCR 83–100, beginning with B.P. Singh, J. and ending with the operative allowance, negative reference answer, dismissals and no-costs direction. Earlier editorial headnote excluded. No adjacent judgment.

[Open cited source rendition](#)

The source contains unnumbered judicial text; its numbered HELD passages on PDF pp 2–4 are editorial. Physical page/SCR letter pins identify the controlling text.; PDF p 6 / SCR 84D–E dates the appellate refund orders as 3 February 1981 even though the surrounding refund events are in 1984 and 1987. This printed chronology is internally inconsistent; no replacement date is invented.; PDF p 6 contains the unusual printed reference “section 144(N)(i)”. The note does not silently reconstruct that provision; the adjacent assessment history expressly refers to section 144B.; A separate reference on the assessment-jurisdiction ruling is described as pending at SCR 84B. It is distinct from the two refund references decided in the operative order.; Chittoor Electric’s discussion concerns fresh-assessment proceedings under proviso (a); it is not a remand direction made in these appeals. Earlier judgments and the CBDT circular are considered here only through the Court’s own account, not independently authenticated as additional sources.; The reported judgment author is B.P. Singh, J.; a metadata asterisk beside the first bench member is not treated as authorship.

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: 22](#)

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