

Assistant Commissioner of Income Tax v. Rajesh Jhaveri Stock Brokers Pvt. Ltd.

Civil Appeal No. 2830 of 2007

[2007] 7 SCR 765 | 2007-05-23

Whether a prior section 143(1) intimation and the absence of scrutiny assessment barred the historical section 147 reopening on a bad-debt claim.

143(1) | 143(2) | 143(3) | 147 | 148 | 36(1)(vii) and 36(2) (underlying claim, not merits decided)

Two-judge bench | Dr. Arijit Pasayat, J. | D.K. Jain, J.

Assessment years: 2001-02

Reopening permitted on the identified historical issue; tax merits open

Prior section 143(1) processing did not create a scrutiny opinion or by itself prevent reopening. The Court retained the applicable section 147 conditions and did not finally decide the bad-debt deduction, tax amount or unurged objections. Kelvinator's separately checked review/reassessment distinction is preserved without claiming an express overruling. Return-date recitals differ; current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The company returned a loss of Rs 2,70,85,105 for AY 2001-02, and the return was processed under section 143(1). Revenue later issued a section 148 notice questioning a substantial bad-debt debit. The company returned the same loss under protest, obtained the recorded reasons, and raised jurisdictional and substantive objections. The AO rejected those objections in February 2005 (paragraphs 4–8).

The Gujarat High Court allowed the company's writ challenge by following Adani Exports, which involved a scrutiny assessment. Revenue appealed, stressing the difference between section 143(1) processing and section 143(3) assessment. The narration contains differing dates for the protest return; neither date is essential to the conceptual issue decided here.

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

02 DISCUSSION BY THE HON'BLE COURT

The Court traced the relevant versions of section 143. The statutory change from assessment to intimation was deliberate: summary processing permitted only the adjustments allowed by the governing text and did not constitute a scrutiny adjudication of a debatable deduction. Deeming the intimation a demand notice enabled recovery machinery; it did not transform it into a section 143(3) assessment. Since no assessment opinion had been formed through that process, the asserted change-of-opinion objection did not arise on that basis (paragraphs 9–15).

At reopening initiation, reason to believe requires relevant material capable of supporting the belief that income escaped assessment, not final proof of the eventual addition. The post-1 April 1989 version was wider than the earlier two-limb provision, but the Court expressly retained the additional conditions where the proviso applied and stated that this case fell under the main provision. Statutory prerequisites were not dispensed with (paragraphs 16–17).

Failure to proceed to scrutiny did not itself remove the power to reopen if section 147's ingredients were satisfied. The High Court had wrongly applied a scrutiny-assessment decision without recognising the conceptual difference. The Court declined to examine unspecified additional points that had not been urged before the High Court (paragraphs 18–20).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed without costs. The High Court's barrier to the challenged reopening could not stand. The judgment did not finally disallow the bad debt, determine escaped income or quantify additional tax, and it did not adjudicate the other unurged points (paragraphs 18–20).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on reopening jurisdiction

Revenue appeal allowed; adverse High Court ruling displaced; no costs

Final on the identified intimation-versus-assessment and reopening objection; underlying bad-debt tax merits not determined

A section 143(1) intimation is not itself a scrutiny opinion, but all applicable reopening conditions still matter. No perpetual power, current limitation rule or approval of every audit objection follows.

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

05 AKHB REVIEW POINT

Identify the exact earlier statutory act: acknowledgment, intimation and scrutiny assessment are not interchangeable. Then test the recorded reasons and every applicable jurisdictional requirement. This judgment defeats an automatic bar based only on earlier summary processing; it does not decide the bad-debt deduction or make every subsequent notice valid.

In the separately checked Kelvinator (2010) paragraph 6, reassessment is distinguished from review, and tangible material with a live connection is required rather than a mere change of opinion. That bounded comparison does not expressly overrule Rajesh Jhaveri or itself decide every intimation-only case; it cautions against describing the historical wider power as arbitrary. Later legislative versions, limitation, sanction and procedure require independent verification.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and AY

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Cover; jurisdiction; 1–4

Source role: reported metadata and judicial text

2.

Topic: Procedural facts and disputed claim

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 4–8

Source role: judicial text

3.

Topic: Historical provisions and intimation distinction

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8; 9; 10; 11; 12

Paragraphs: 9–15

Source role: judicial text

4.

Topic: Initiation threshold, conditions, unurged points and relief

Source url: [Open cited source](#)

Pdf pages: 13; 14

Paragraphs: 16–20

Source role: judicial text

5.

Topic: Bounded later comparison: review versus reassessment

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: 6 and conclusion

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. Arijit Pasayat, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 14 PDF pages; SHA-256

540d9cd29307dc1af558d0b0e6633429e2965e2af39edfb1e7c3b7e0f3842a1c. Original bytes preserved.

Complete judicial paragraphs 1–20 on physical pages 4–14/SCR 768–778, including historical statutory quotations. Earlier headnote excluded; no adjacent judgment.

[Open cited source rendition](#)

Paragraph 4 dates the protest return 12 May 2004, while paragraph 6 gives 31 May 2004; the challenged notice is also described as dated 12 May. No harmonised return chronology is invented.; Paragraph 2 calls the writ application the appellant's although the surrounding facts identify the respondent company as writ petitioner. The party roles follow the complete narrative.; The Court reproduces several historical versions. Their adjustment powers, time limits and notice language are not a certification of current sections 143, 147 or 148.; The bad-debt amount and alleged statutory failure appear in Revenue's submissions and the reopening context; they are not a final Supreme Court disallowance.; The headnote uses cause or jurisdiction where judicial paragraph 16 says cause or justification; the latter is used.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

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: 14](#)

SHA-256: 540d9cd29307dc1af558d0b0e6633429e2965e2af39edfb1e7c3b7e0f3842a1c

[bounded comparison judgment - PDF pages: 6](#)

SHA-256: cc18ad49419166de7ba5061fa93955805078d7cb08049acda980af79ab11ac94

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