

M/s Anis Ahmad and Sons v. Commissioner of Income Tax (Appeals), Kanpur and another

Civil Appeal No. 582 of 2008

[2008] 1 SCR 1021 | 2008-01-22

Could the firm be treated as a trader for transactions involving five out-of-State traders whose summons were unserved, while accepted as a commission agent for similar transactions supported by the five traders who appeared?

131(1) | 143(3)

Two judges | P. P. Naolekar, J. | Lokeshwar Singh Panta, J.

Assessment years: 1984-85

Fact-bound commission-agent ruling; later/current law unverified

This is a fact-bound AY 1984-85 commission-agent assessment ruling. The Court relied on affirmative accounting and witness evidence, similar transactions being accepted for the five traders who appeared, unserved summons to out-of-State traders and the earlier year's treatment. It does not remove every taxpayer's evidentiary burden, decide a universal section 68 rule, or decide the separate penalty notices. No quantified refund or later reassessment outcome is verified. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain not_verified.

01 FACTS OF THE CASE

For AY 1984-85, the firm returned total income of Rs. 1, 32, 830 on the footing that it acted as a commission agent in raw hides and skins. The report describes traders bringing goods to the mandi, the firm recording quantities and lots, and traders later instructing sales. Its records included the Bilti register, quantity entries in individual ledgers and the Taul/Shumar Bahi. Sale proceeds net of commission and other charges were credited to the traders, while the gross sale price was debited to the purchasers. Commission rates were fixed by the trade association. These are the narrated business and accounting circumstances, not a statutory test that every agent must use identical books (physical 4-5/SCR 1024-1025, paragraphs 3-5).

The Income Tax Officer's assessment of 13 March 1987 under section 143(3) treated the firm as a trader and fixed total income at Rs. 4, 06, 810. Separate penalty notices were issued under sections 271(1)(a), 271(1)(c) and 273(2)(a), but their later results are not part of this appeal. The Commissioner (Appeals) partly allowed the first appeal on 4 April 1988. On both sides' cross-appeals, the Tribunal on 19 August 1993 set aside the assessment without deciding the merits and required fresh scrutiny, hearing and an opportunity to produce evidence (physical 5-6, paragraphs 5-6).

On remand, the assessing officer issued section 131(1) summons to ten traders. Five appeared and supported commission agency; the other five, residing outside Uttar Pradesh, could not be served. The officer drew an adverse inference for the latter transactions and assessed total income at Rs. 2, 30, 704, treating the firm as a trader for that part. The fresh order was dated 29 March 1996 (physical 6/SCR 1026 B-D, paragraphs 7-8).

On 9 June 1997 the Commissioner (Appeals) rejected that split treatment as arbitrary, noted the age of the year and absence of a market inquiry, and directed acceptance of the firm as an arhatiya and of the commission profit shown. Revenue succeeded before the Tribunal on 15 January 2004. Allahabad High Court then dismissed Income Tax Appeal 94/2004 in limine on 1 November 2004. The firm brought this single Supreme Court appeal (physical 6-7, paragraphs 8-10).

Source: [reported judgment / paragraphs Paragraphs 2-9; SCR 1024 C-1027 C / PDF pages 4, 5, 6, 7 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The assessee argued that non-appearance of traders who could not be served was not its fault, especially when the same goods were handled in the same way for traders whose evidence the officer accepted. Revenue urged restraint under Article 136, characterising the lower conclusions as findings based on proper appreciation of facts. The Court examined the record and accepted the assessee's challenge; the Revenue submission was not adopted as a rule barring interference (physical 7/SCR 1027, paragraphs 10-12).

The Court relied on the earlier AY 1983-84 acceptance of the firm as a commission agent, a chart concerning payments through the firm, and the five traders' affirmative evidence. Their evidence had been accepted for the transactions with them. The Court found satisfactory evidence of commission agency and held that the firm could not, on these circumstances, be held responsible for the other five out-of-State traders' non-appearance. It rejected drawing an adverse inference against the firm merely because those summons had not been served (physical 8/SCR 1028 A-E, paragraph 12).

The Court also considered the 10-11-year lapse before the renewed treatment of the old assessment and the unequal characterization of materially similar transactions. It regarded the contrary assessment as unreasonable, untenable and unjustified, and upheld the Commissioner (Appeals)' commission-agent conclusion for AY 1984-85. The earlier-year finding was corroborative in this factual analysis; the Court did not declare an absolute rule that one assessment binds every later year (physical 8-9/SCR 1028 E-1029 B, paragraphs 12-13).

Source: [reported judgment / paragraphs Paragraphs 10-13; SCR 1027 C-1029 B / PDF pages 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The appeal was allowed. The Supreme Court quashed the High Court order of 1 November 2004, the Tribunal order of 15 January 2004 and the assessing officer's fresh order of 29 March 1996 treating the firm as a trader. It restored the Commissioner (Appeals)' order of 9 June 1997 accepting the firm as a commission agent for AY 1984-85. The parties were left to bear their own costs. This was final merits relief, not another remand (physical 9/SCR 1029 B-D, paragraph 14).

Source: [reported judgment / paragraphs Paragraph 14; SCR 1029 B-D / PDF pages 9 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee

Single appeal allowed; contrary High Court, Tribunal and fresh assessment orders quashed; Commissioner (Appeals) order restored

Substantive fact-bound assessment characterization and adverse-inference ruling

No quantified tax refund, interest award, determination of separate penalty notices, or universal section 68/evidentiary-burden rule. The earlier AY 1983-84 is context only.

Source: [reported judgment / paragraphs Paragraph 14; restoration and own-costs direction / PDF pages 9 / judicial text](#)

05 AKHB REVIEW POINT

The decisive feature is the full evidentiary combination, not third-party non-appearance in isolation. The Court had affirmative witness evidence, the business records described in the judgment and a previous-year treatment supporting the same commission-agent explanation. The assessing officer accepted that explanation for some materially similar transactions but rejected it for the unserved out-of-State traders. A reliance note should preserve those conditions rather than convert the case into immunity whenever a witness fails to attend.

This judgment does not decide the statutory ingredients of a section 68 addition, transfer every evidentiary burden to Revenue, or prohibit adverse inference where the taxpayer has supplied no satisfactory evidence. Nor does its statement that the old assessment was opened after 10-11 years establish an independently adjudicated section 147/148 limitation rule: the narrated procedural history is a Tribunal remand and fresh assessment. The separate penalty notices remain background only.

The restored Commissioner (Appeals) order directs acceptance of the commission profit shown. The Supreme Court does not itself quantify a refund or set out a separate final tax computation, so the three income figures in the history should not be subtracted to invent a refund entitlement. No comprehensive later-treatment review or current statutory version check is completed. Present reliance and any Income-tax Act, 2025 crosswalk require separate verification.

Source: [reported judgment / paragraphs Paragraphs 5-14; notice/remand history, evidence-specific reasoning and bounded final relief / PDF pages 5, 6, 7, 8, 9 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 582 of 2008

Outcome: Allowed; Commissioner (Appeals) order dated 9 June 1997 restored for AY 1984–85; parties bear their own costs

Costs: Parties to bear their own costs, expressly stated in paragraph 14

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual income-tax assessment and evidence dispute. Section 131(1) is the stated power under which the assessing officer summoned traders; section 143(3) identifies the original assessment. No section 68 addition is identified or decided in this judgment.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Lokeshwar Singh Panta, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Sections 271(1)(a), 271(1)(c) and 273(2)(a): separate penalty notices recited as background, not adjudicated; Constitution of India, Article 136: Revenue's submission concerning interference, not a separately stated new jurisdictional test

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

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full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

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Paragraph 12 describes a chart of payments made to purchasers by traders through the firm. The underlying chart is not reproduced. This note does not silently reverse those parties or reconstruct missing transaction entries.; Paragraph 12 uses the expression that the assessment was opened after about 10–11 years; the judgment does not identify a section 147/148 jurisdiction or limitation issue. Do not turn that wording into a reassessment holding.; Separate penalty notices in paragraph 5 are not penalty orders disposed of by this appeal.; The fresh assessment of 29 March 1996, restored appellate order of 9 June 1997, Tribunal order of 15 January 2004 and High Court order of 1 November 2004 must not be confused with the original 1987 assessment and 1988 first appeal.; No distinct Supreme Court companion appeal, separate opinion, quantified refund or remand is stated.; Broad third-party summaries extending the case to every creditor or section 68 dispute are not relied on. Targeted searches did not produce a verified complete later-treatment chain; no absence-of-adverse-treatment claim is made.

AY 1984–85 is the sole assessment in the appeal. AY 1983–84 is an earlier accepted commission-agent assessment used as factual support, not a separately disposed appeal.

One Supreme Court appeal. The two earlier cross-appeals before the Tribunal, later Revenue Tribunal appeal and High Court appeal are distinct procedural stages, not additional Supreme Court appeals.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025, complete amendment history or present-law certification.

LATER TREATMENT

Source checked 2026-10-05. No comprehensive subsequent judicial or statutory audit. Search excerpts and unverified third-party expansions are not treated as authoritative later treatment; no current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

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