

Sahara India (Firm), Lucknow v. Commissioner of Income Tax, Central-I & Anr.

Civil Appeal No. 2783 of 2008 / Civil Appeal No. 2784 of 2008

[2008] 6 SCR 427 | 2008-04-11

Whether a reasonable pre-decisional hearing was implicit in the historical section 142(2A), and what relief should follow for the challenged March 2006 special-audit directions.

142(2A) | 142(2B) | 142(2C) | 142(2D) | 142(3) | 153(3), Explanation 1(iii) | 44AB | 136

Three-judge bench | B.N. Agrawal, J. | P.P. Naolekar, J. | D.K. Jain, J.

Assessment years: 2003-04

Hearing required, but these audit orders were not quashed

For the historical provision, a reasonable prior hearing was required and these March 2006 directions were found vitiated. The Court nevertheless applied its clarification prospectively, declined quashing and barred these appellants' invalid-audit objection to the assessment's extended limitation. Challenges to the correctness of audit-derived material remained open. The express hearing proviso dates from 1 June 2007. Current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

For AY 2003-04, the appellants were directed on 14 March 2006 to obtain special audits by the named chartered accountant. No show-cause notice preceded those directions. On 9 March they had instead been asked to provide explanations by 20 March concerning an earlier order-sheet query; the audit directions intervened before that deadline. The Court found that the Assessing Officer had not even had an occasion to inspect the accounts when directing the audits (paragraphs 26–27).

A two-judge Bench, by an order of 14 December 2006, doubted the general hearing requirement stated in *Rajesh Kumar* and referred the matters to a larger Bench. The Court had declined to stay the assessment proceedings. The three-judge Bench heard both appeals together; by decision time, the ordinary time for a fresh assessment, disregarding the audit-related extension, had expired (paragraphs 1–4 and 28–29).

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

02 DISCUSSION BY THE HON'BLE COURT

Under the version examined, account complexity and the interests of Revenue were cumulative conditions. The Assessing Officer had to attempt honestly to understand the accounts, seek explanations where necessary and form an objectively supported opinion. Special audit could not merely transfer the officer's own scrutiny responsibility. The approving Commissioner or Chief Commissioner had to examine the supporting material and apply an independent mind rather than provide ritual approval (paragraph 6).

The Court reiterated Rajesh Kumar's requirement of natural justice, while distinguishing the referring Bench's doubts and Revenue's submissions from its own holding. A special audit imposes substantial explanatory and investigative burdens and can carry stigma. Shifting fees and incidental costs to the Central Government for directions from 1 June 2007 did not remove those other civil consequences. The administrative or quasi-judicial label was therefore immaterial to the hearing requirement; the Court did not decide the full scope of section 136 (paragraphs 20–22).

A reasonable pre-decisional opportunity was implicit in section 142(2A), even before the express hearing proviso. The discussion, including the passage from Rajesh Kumar, did not require an elaborate trial-like hearing: concise notice of the relevant issues and a genuine opportunity to respond could suffice. Section 142(3) offered a hearing on material generated by the audit, not a full review of the original direction, and was no substitute for the required prior opportunity. General natural-justice discussion remained subject to statutory language, scheme and consequences; it was not an unlimited universal procedure (paragraphs 4, 11–16 and 23–25).

The absence of a hearing vitiated the challenged directions. Relief was nevertheless expressly limited because the law had been unsettled, the referring Bench had questioned the earlier ruling and assessment proceedings had not been stayed. The Court made its clarification prospective and protected these appellants' assessments from the specified limitation objection (paragraphs 27–29).

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

03 JUDICIAL DECISION

Both appeals were allowed only to the stated extent, with each side bearing its own costs. The Court declined to quash the 14 March 2006 audit orders. The appellants could not argue before the appellate authority that the extended period in Explanation 1(iii) to section 153(3), as cited in the judgment, was unavailable because the section 142(2A) order was invalid. They remained free, if advised, to dispute the correctness of audit-derived material before that authority. The Court did not determine the final taxable income or automatically invalidate the assessments (paragraphs 29–30).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: appellants on the hearing principle and procedural defect; Revenue protected from quashing and the specified limitation challenge

Both appeals partly allowed; audit orders not quashed; each party to bear its own costs

Final on the larger-Bench legal question and expressly limited relief; assessment merits and correctness of audit-derived material left for the appellate process

The prospective clarification must be read with the express 1 June 2007 statutory hearing proviso and the peculiar protection given to these appellants' assessments. A finding of procedural invalidity here did not produce quashing, a time-barred assessment ruling or an unrestricted right to reopen older completed proceedings.

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

05 AKHB REVIEW POINT

Keep the procedural holding and operative remedy separate. A note saying that the audit was quashed would reverse the practical result. For a special-audit dispute, examine the relevant statutory version, objective complexity material, the officer's attempt to understand the accounts, the approval record and the actual hearing opportunity. A post-audit chance to contest figures is a different protection from a prior chance to oppose the audit itself.

For this judgment, preserve the prospective direction and the specific prohibition against attacking the assessment extension through audit invalidity. Do not convert its reference to unsettled law into a general immunity for all defective audits. The Court preserved challenges to the correctness of audit-derived material; it did not decide those challenges. Later statutory wording and subsequent judicial treatment require separate verification.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeals and larger-Bench referral

Source url: [Open cited source](#)

Pdf pages: 1; 10; 11; 12

Paragraphs: Cover; jurisdiction; 1–4

Source role: reported metadata and judicial text

2.

Topic: Historical statutory text and objective audit prerequisites

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16

Paragraphs: 5–7

Source role: judicial text

3.

Topic: Hearing scope and differentiated natural-justice principle

Source url: [Open cited source](#)

Pdf pages: 12; 18; 19; 20; 21

Paragraphs: 4; 10–16

Source role: judicial text

4.

Topic: Civil consequences and no substitute in post-audit hearing

Source url: [Open cited source](#)

Pdf pages: 24; 25; 26; 27; 28

Paragraphs: 20–25

Source role: judicial text

5.

Topic: March 2006 sequence, defect and printed/OCR date discrepancy

Source url: [Open cited source](#)

Pdf pages: 28

Paragraphs: 26–28

Source role: judicial text

6.

Topic: Prospective clarification, no quashing, limitation restriction and disposal

Source url: [Open cited source](#)

Pdf pages: 28; 29

Paragraphs: 28–30

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

142(2a): Historical special-audit power and implied hearing requirement; the express hearing proviso effective 1 June 2007 is separately noted

142(2b) / 44ab: A prior statutory audit did not eliminate the civil consequences of a special audit

142(2c) / 142(2d): Quoted historical reporting-period and audit-expense provisions; the Government-expense amendment was not treated as removing all civil consequences

142(3): Hearing on audit-derived material was not a full merits review of the original audit direction

153(3), explanation 1(iii): Exact limitation citation used by the Court in protecting these assessments from the specified invalid-audit challenge

136: Scope expressly left unnecessary to decide after acknowledging reservations about part of the earlier reasoning

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

D.K. Jain, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 29 PDF pages; SHA-256

9940fb10e38201a4f773dbb871189de926615bc086b34c15c56648dc10e9dce7. Original bytes preserved.

Judicial paragraphs 1–30 on physical pages 11–29 (SCR 437–455). Pages 1–10 and opening of page 11 are reporter/editorial material. Paragraph 2 quotes the referring two-judge order; paragraphs 8–9 are submissions; embedded precedent extracts are distinguished from the present Court's reasoning. No adjacent judgment.

Open cited source rendition

The first ten source pages are mainly an editorial headnote, not the Court's reasoning. The quoted two-judge referral rejects an absolute hearing proposition; the present three-judge Court ultimately reiterates the hearing requirement.; The finding in paragraph 27 that the audit orders were vitiated must always be paired with paragraphs 29–30, which decline quashing and impose prospective and limitation-related restrictions.; The express hearing proviso and the Government-expense proviso are effective 1 June 2007. These challenged directions were dated 14 March 2006; the two temporal points must not be conflated.; On physical page 28, the source image reads 16 February 2006 for the earlier order-sheet entry, while the extracted text reads 15 February. The image is preferred; no original source text has been altered.; The limitation reference is retained as Explanation 1(iii) to section 153(3), the citation printed in paragraphs 28–29. This note does not silently substitute a different historical statutory cross-reference.; No independent full-text review of Rajesh Kumar or the other embedded precedents is claimed; their passages are attributed as reproduced and addressed in Sahara.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial or statutory audit. Embedded precedents are read as reproduced in the reviewed judgment, not independently certified. Any actual external comparison is separately bounded; no current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 29

SHA-256: 9940fb10e38201a4f773dbb871189de926615bc086b34c15c56648dc10e9dce7

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