

Sudarshan Silks and Sarees v. Commissioner of Income Tax, Karnataka

Civil Appeal No. 5204 of 2002 / Civil Appeal No. 5205 of 2002 / Civil Appeal No. 5206 of 2002 / Civil Appeal No. 5207 of 2002 / Civil Appeal No. 5208 of 2002 / Civil Appeal No. 5209 of 2002

[2008] 6 SCR 456 | 2008-04-11

Whether the High Court, under the framed section 256 reference, could overturn the Tribunal's penalty-cancelling factual findings as perverse when that challenge had neither been raised nor referred.

256(1) | 271(1)(c) | 132(4) | Explanation 5 to section 271(1)(c) (background, not immunity granted)

2-judge bench | Ashok Bhan, J. | Dalveer Bhandari, J.

Assessment years: 1984-85, 1985-86, 1986-87, 1987-88

Reference-jurisdiction relief; surrender is not blanket immunity

The High Court could not overturn factual findings as perverse without that challenge being raised and referred. The penalty cancellation was restored on these facts; lengthy purchase-of-peace and inducement passages are attributed lower-authority findings, and Explanation 5 immunity was not granted. The checked later MAK Data passage rejects surrender alone as a penalty defence. Six appeals were allowed with unquantified costs; current penalty law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

An October 1987 search produced incriminating material and a partner's statement concerning suppressed sales. Revised returns for the stated earlier years disclosed additional estimated income and were accepted. The AO imposed maximum concealment penalties, rejecting the assertion that the disclosures had been induced by an assurance of no penalty (paragraphs 2-4).

CIT(A) and the Tribunal cancelled the penalties on their appreciation of the evidence and circumstances, including inferred inducement, the estimates and the absence of year-specific documentary support for the earlier periods. They did not grant statutory Explanation 5 immunity. Revenue obtained a general section 256(1) reference asking whether cancellation was legally correct, but no question challenging the factual findings as perverse was raised or referred. The High Court nevertheless reversed on perversity grounds (paragraphs 5-11).

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

02 DISCUSSION BY THE HON'BLE COURT

The assessee's challenge was directed to the limits of reference jurisdiction. The Tribunal was the final fact-finding authority; unless its findings were properly challenged by a referred perversity question, the High Court had to answer the question of law on those findings rather than reconstruct them. The Court followed the cited reference-jurisdiction decisions and found that the High Court exceeded the scope of the reference before it (paragraphs 12–16).

The lengthy observations about purchasing peace, disclosure and inferred inducement are quoted findings of CIT(A) and the Tribunal. The Supreme Court's reasoning preserves their factual foundation because the relevant challenge was not before the High Court; it should not be rewritten as a new general statutory immunity whenever an assessee surrenders income. The quoted mens rea statement from T. Ashok Pai is likewise embedded precedent, not an independent current penalty standard decided in this appeal.

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

03 JUDICIAL DECISION

The High Court orders were set aside and the CIT(A)/Tribunal orders restored. On the facts and circumstances accepted within this reference, penalty under section 271(1)(c) was not exigible. The listed appeals were allowed with costs; no amount of costs or new remand was specified (paragraph 17).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assesseees

Six listed appeals allowed with costs; High Court orders set aside and penalty cancellation restored

Final relief in these reference proceedings, founded on the unchallenged factual findings

No blanket exemption for voluntary surrender, purchase of peace or an alleged departmental assurance; no current mens rea rule or substitution of section 256 procedure for all later appeal regimes.

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

05 AKHB REVIEW POINT

Frame the legal challenge at the correct procedural stage. An allegation that a factual finding is perverse must be properly brought within the statutory reference; a general question about the eventual penalty result does not necessarily reopen all facts. Distinguish the finding left undisturbed from a universally adopted proposition of penalty law.

A bounded comparison with MAK Data (2013), judicial paragraphs 6–11, reinforces why the quoted purchase-of-peace language must not become an immunity slogan. That decision applies Explanation 1, requires a substantiated explanation and rejects reliance on surrender alone on its own facts. It does not expressly discuss or overrule Sudarshan in the checked passage. The cases' facts, statutory explanations and procedural settings must remain separate.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, six appeals and four years

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; jurisdiction; 1–2

Source role: reported metadata and judicial text

2.

Topic: Search, returns and penalty

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 3–5

Source role: judicial text

3.

Topic: Quoted factual findings and reference framing

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8; 9

Paragraphs: 5–10

Source role: judicial text with attributed lower authority quotations

4.

Topic: Limits of reference jurisdiction

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: 12–16

Source role: judicial text

5.

Topic: Restoration and costs**Source url:** [Open cited source](#)**Pdf pages:** 12**Paragraphs:** 17**Source role:** judicial text

6.

Topic: Bounded later comparison on surrender and Explanation 1**Source url:** [Open cited source](#)**Pdf pages:** 7; 8; 9**Paragraphs:** 6–11**Source role:** judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ashok Bhan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 12 PDF pages; SHA-256

7dfd871bd3409abb8815ab8403c7a1ff3119c264595effbf8b50bdf2ffb932b9. Original bytes preserved.

Complete judicial paragraphs 1–17, physical pages 3–12/SCR 458–467. Earlier headnote excluded; long CIT(A)/Tribunal quotations distinguished from Supreme Court reasoning. No adjacent judgment.

[Open cited source rendition](#)

The cover prints appeals 5204–5207/2002; the connected list adds 5208–5209/2002. The common factual paragraph states four assessment years without a six-appeal allocation.; The inspected judicial page reads the High Court date as 6 October 2001; cached OCR read 5 October. This is an OCR correction, not a claimed discrepancy between the actual printed recitals.; CIT(A) expressly says the section 132(4)/Explanation 5 immunity provisions were not applicable. Their discussion of impression/inducement does not establish a verified statutory immunity or an enforceable promise.; The Supreme Court restored the cancellation on the facts within the reference. No penalty amount, promise document or cost quantum is reconstructed.; The mens rea sentence is inside an earlier-case quotation; comprehensive later penalty-law treatment is not verified.

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: 12](#)

SHA-256: 7dfd871bd3409abb8815ab8403c7a1ff3119c264595effbf8b50bdf2ffb932b9

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

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