

C.K. Gangadharan & Anr. v. Commissioner of Income Tax, Cochin

Civil Appeal Nos. 5210–5216 of 2002

[2008] 11 SCR 52 | 2008-07-21

Whether Revenue is precluded from contesting an issue or invoking contrary decisions because it did not appeal another case, particularly where courts have expressed divergent views.

Three-judge bench | Dr. Arijit Pasayat, J. | P. Sathasivam, J. | Aftab Alam, J.

Assessment years: See the source-scope notes; no year inferred.

Reference answer only; non-appeal is neither an absolute bar nor unrestricted permission

This judgment answers a procedural reference and returns the seven appeals to the concerned Bench; it does not decide their tax merits. Revenue may depart from an earlier non-appeal for just cause, public interest or clarification of divergent authority, subject to the stated qualifications. The later J.K. Charitable Trust comparison is limited; comprehensive later treatment and current law remain unverified.

01 FACTS OF THE CASE

Seven assessee appeals arose from the Kerala High Court's decision dated 2 November 2001. A reference order dated 13 March 2008 sent a procedural question to a larger Bench: whether Revenue could be precluded from defending itself by relying on contrary decisions. The referring order preserved the qualification that selective challenge without just cause is impermissible; the larger Bench recorded conflicting High Court views. The underlying tax facts and assessment years are not set out in this reference answer (report jurisdiction; paragraphs 1–2).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court considered the distinction between res judicata and precedent across tax years through the quoted Bharat Sanchar Nigam discussion. Different assessment years ordinarily involve distinct causes of action, but the precedential force of an earlier determination is not erased merely by describing each year as separate. The quoted passage recognises the usual grounds for distinguishing a decision or addressing a per incuriam decision, and the role of a larger Bench (paragraph 4).

The other authorities discussed explain why non-appeal in another case is not by itself conclusive, especially where public interest is engaged. The Court retained the requirement of just cause and the concern against picking and choosing; differing High Court views, including decisions in Revenue's favour, could provide that cause (paragraphs 5–11).

An assessee alleging mala fide selective litigation must establish mala fides. Small revenue amounts, applicable policy decisions not to appeal low-value disputes, and revenue-neutral results can explain a departure. The reference was answered by holding that earlier non-appeal does not bar a later appeal where there is just cause, public interest, or a need for a higher-court pronouncement on divergent Tribunal or High Court views (paragraphs 12–13).

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

03 JUDICIAL DECISION

The Court answered the reference against an automatic non-appeal bar and directed that the matters be placed before the concerned Bench for disposal. It did not allow or dismiss the underlying seven appeals, determine the tax liability, or decide whether every asserted departure in those appeals was justified (paragraphs 13–14).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the reference proposition only; underlying appeals left for disposal

Reference answered; matters to be placed before the concerned Bench

Final answer to the referred procedural question; underlying appeal merits unresolved in this judgment

Neither an absolute bar following earlier non-appeal nor an unrestricted licence for inconsistent Revenue litigation. Just cause, public interest, divergent authority, precedential discipline and proof of alleged mala fides remain material.

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

05 AKHB REVIEW POINT

Separate three questions: whether the earlier ruling binds as precedent, whether there is a justified basis for the different litigation choice, and what happens to the individual appeal. Document the actual reason for non-appeal and any material legal or factual distinction; do not infer acceptance on merits from silence alone. Equally, do not remove the Court's qualification requiring a justified departure.

The later J.K. Charitable Trust judgment, independently read for this review, repeats the exceptions but dismisses Revenue's appeals where its counsel accepts that the factual situation across the relevant years is the same. That bounded comparison confirms that Gangadharan cannot be reduced either to an absolute consistency bar or to a universal right to relitigate. It is not a comprehensive later-treatment check.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal group and reference scope

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Cover; jurisdiction; 1–2

Source role: reported metadata and judicial text

2.

Topic: Res judicata and precedent distinguished

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: 4; quoted Bharat Sanchar Nigam paragraphs 20 and 22

Source role: judicial text with quoted precedent

3.

Topic: Public interest and other non-appeal authorities

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: 5–9

Source role: judicial text with quoted precedent

4.

Topic: Just cause, policy reasons, reference answer and pending merits

Source url: [Open cited source](#)

Pdf pages: 8; 9

Paragraphs: 10–14

Source role: judicial text

5.

Topic: Bounded later application retaining exceptions but rejecting these appeals

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: J.K. Charitable Trust 14–18

Source role: bounded later judicial comparison

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Procedural income tax reference: The bounded judgment addresses selective Revenue appeals and precedent. It does not construe an identified charging, deduction or exemption section of the 1961 Act.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. Arijit Pasayat, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SCOPE AND LIMITS OF THE RECORDED TREATMENT CHECKS

1.

Case: Commissioner of Income Tax Central Kanpur v. J.K. Charitable Trust Kamal Tower, Kanpur

Decision date: 2008-11-07

Source url: [Open cited source](#)

Pdf pages: 9; 10

Paragraphs: 14–18

Result: Expressly restates Gangadharan's just-cause/public-interest/divergent-authority exceptions and dismisses the appeals on admitted unchanged facts. No overruling inferred.

Scope limit: Only this identified later judgment was independently checked; comprehensive later treatment remains not_verified.

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

38bdabb50c444bcc1807533e2d56e0b3b4554507466625ff6dd33dbd637fd8f0. Original bytes preserved.

Judicial paragraphs 1–14 on physical pages 3–9 (SCR 54–60). Pages 1–2 and page 3 above the author line are reporter/editorial material. Paragraph 1 quotes the referring order; paragraphs 4–7 include quoted earlier decisions. No adjacent judgment.

[Open cited source rendition](#)

No assessment years or underlying taxable transaction are identified in the bounded reference-answer judgment.

The operative paragraph 14 returns the matters to the concerned Bench; the reporter's label "Reference answered" is consistent with, but does not replace, that operative direction. No merits victory or subsequent disposal of the appeals is inferred.; The printed citation to Kaumudini Narayan Dalal in paragraph 10 and the reporter list omits an ITR starting page, while paragraph 1 gives an SCC citation. No missing reporter page is invented.; Many propositions in paragraphs 4–7 are quotations from earlier judgments, including non-tax public-interest litigation. Those underlying decisions were not independently reread for this note.; No monetary threshold is fixed here. The observation about low-value appeal policy is not a current litigation-limit instruction.

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. Any actually checked comparison is separately bounded below; no current-law or Income-tax Act, 2025 certification.

IDENTIFIED SOURCE LINKS

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

SHA-256: 38bdabb50c444bcc1807533e2d56e0b3b4554507466625ff6dd33dbd637fd8f0

[bounded later judicial comparison - PDF pages: 10](#)

SHA-256: fd9efb28a26502e9d19551c0dfcabb8cac6af39b5f4d266454eb3161ad18f945

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