

Commissioner of Income Tax, Shimla v. M/s. Greenworld Corporation, Parwanoo

Civil Appeal No. 3312 of 2009 / Civil Appeal Nos. 3313–3316 of 2009

[2009] 8 SCR 175 | 2009-05-06

Whether the Commissioner could sustain revision and consequential reopening directions, including for other years, when the original AY 2000-01 assessment itself recorded that it had been completed at a superior's direction; and how the Court should dispose of the competing jurisdictional defects.

80-IA | 80-IB | 119 | 127 | 143(3) | 147 | 148 | 149 | 150(1) | 150(2) | 153(3)(ii) (historical) | 253 | 260A | 263

Two-judge bench | S.B. Sinha, J. | Dr. Mukundakam Sharma, J.

Assessment years: 2000-01

Mixed procedural result and exceptional Article 142 reopening

The impugned revision and consequential notices failed, but the original assessment was also held a nullity and fresh assessment was directed under Article 142. No final deduction, fraud or misconduct finding was made. The headnote's "or" must not replace the judicial requirement of error AND prejudice. The report lists five appeal numbers while the opening calls them two appeals, and the operative reopening direction does not itemize every year. Historical limitation provisions and statutory exceptions must be checked; later treatment and current law remain unverified.

01 FACTS OF THE CASE

For AY 2000-01, the partnership operating units at Parwanoo returned nil taxable income after a tax-holiday deduction. The record described manufacture of exercise books and writing pads, a software unit, unusually high declared profits and a survey. After scrutiny, the AO accepted the return on 19 December 2002. The assessment note recorded that the then CIT had reviewed the material, directed that no further information was needed and that the case be assessed accordingly; a draft order was sent for approval (paragraphs 3–5).

The successor CIT issued a section 263 notice for AY 2000-01 only and, on 12 July 2004, disputed manufacturing eligibility and the reported profits. His order estimated business income at 5% of turnover, treated the excess as undisclosed-source income, denied the claimed deduction and directed action for earlier and later years. Those are the CIT's conclusions, not final Supreme Court findings. The record identifies consequential section 148 notices for AYs 1996-97 to 1999-2000 and 2001-02 to 2002-03; a later notice for AY 2000-01 is also recorded. Although the CIT's directions mentioned AY 2003-04, issuance of a notice for that year is not separately recorded (paragraphs 6–8 and 24).

The Tribunal cancelled the revision and restored the assessment. The High Court allowed the departmental appeal and dismissed the assessee's writ petition. Meanwhile, jurisdiction had been transferred from Shimla to Delhi. On review, the High Court expunged observations that appeared to indict the former CIT personally without hearing him, but rejected the assessee's review petitions. The connected Supreme Court matters concerned these orders, the consequential notices and the departmental appeal's maintainability (paragraphs 8–18).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 263 required both an erroneous order and prejudice to the Revenue caused by that error. The Court expressly treated these as cumulative conditions. Relying on *Malabar Industrial and Max India*, it explained that a different permissible view or loss of revenue alone does not suffice; an unsustainable legal view or non-application of mind may stand differently. Its reproduction of the CIT's accusations and the Tribunal's countervailing assessment of the evidence did not resolve the underlying deduction claim (paragraphs 23–29).

The section 148 notices were issued only pursuant to the CIT's section 263 directions, which the Court held beyond his jurisdiction. Section 150 was not an unrestricted reopening power. In the statutory text quoted by the Court, subsection (1) supplies a qualified exception to section 149 and subsection (2) prevents that exception from reviving an assessment already time-barred when the order under appeal, reference or revision was made. The Court required the relevant proceedings and assessment year to fall within the competent authority's consideration (paragraph 30).

In that same paragraph, the Court relied on extracts from *Murlidhar Bhagwan Das*, *N.K.T. Sivalingam Chettiar* and *Rajinder Nath*. A finding must be necessary to deciding the particular case, and a direction must be one the authority is empowered to give and necessary to the disposal. Incidental observations do not automatically remove limitation. The *Rajinder Nath* extract explains that historical section 153(3)(ii) relaxed limitation; it did not enlarge jurisdiction, and it recognizes that a finding about another person or year can sometimes be necessarily involved. The High Court extract earlier in paragraph 28 also referred to statutory Explanations 2–3. Accordingly, the judgment should not be reduced either to a power to reopen any year indefinitely or to an unqualified ban on every cross-year consequence (paragraphs 28 and 30).

The AO's recorded note was decisive on independence. Administrative supervision and binding statutory CBDT circulars do not permit a superior to dictate the outcome of an individual quasi-judicial assessment. The Court treated this assessment as made under superior dictates and therefore a nullity. It expressly declined to decide the officers' bona fides; possible good faith would not cure the defect. The Revenue's allegation of taxpayer fraud, and earlier observations about officer misconduct, must not be presented as findings finally made by the Supreme Court (paragraphs 18(ii), 31–32 and 35).

On the Shimla-to-Delhi transfer objection, the Court emphasized that the right of appeal had arisen when the Tribunal ruled and that no prejudice had been shown. It applied reasoning akin to section 21 CPC to the territorial objection on the peculiar facts. CIT Delhi, although not properly added in the High Court as directed, was before the Supreme Court through the assessee's SLP. These fact-specific conclusions do not cure absence of subject-matter jurisdiction generally (paragraphs 33–36).

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

03 JUDICIAL DECISION

The impugned section 263 order and consequential section 148 notices were held not maintainable, but the assessee's original assessment was not restored as a valid final assessment: the Court held it a nullity because it had been made on superior dictates. To avoid leaving one illegality standing when correcting another, the Court invoked Article 142 and directed that the assessment be reopened by the Commissioner of Income-tax, Delhi-VII, with the assessment proceedings to be gone through again by the appropriate assessing authority. All connected appeals were disposed of with those directions and no costs (paragraphs 35–38).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed procedural result; the assessee succeeded against the impugned revision/consequential notices but obtained no final tax-merits relief; Revenue retained fresh assessment through the Court's Article 142 direction

Connected appeals disposed of with an Article 142 direction to CIT Delhi-VII to reopen the assessment; fresh assessment by the appropriate assessing authority; no costs

Final judicial resolution of the identified procedural/jurisdictional defects; deduction eligibility, disputed profits, alleged fraud and ultimate tax liability left for fresh assessment

Exceptional constitutional relief on this record, not a statutory power conferred on revenue authorities to disregard sections 149, 150, 153 or 263. No remand to the Tribunal is ordered. The final direction does not itemize every contextual assessment year or allocate different outcomes to each appeal number.

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

05 AKHB REVIEW POINT

Keep three questions separate: whether revision meets section 263's cumulative prerequisites; whether a particular finding or direction is within the deciding authority's jurisdiction and actually necessary; and whether the historical limitation provisions, including section 150(2) and any applicable statutory deeming rule, permit the consequential action. A valid challenge to one step does not automatically validate an earlier assessment infected by dictated adjudication.

Review the assessment record for independent reasoning, while distinguishing lawful statutory instructions from informal direction on the merits. Greenworld is particularly important because the Court rejected the impugned revision and notices yet refused to preserve the dictated assessment. The fresh-assessment result rested on Article 142, not on a general expansion of the Commissioner's section 263 or reopening powers.

For publication or citation, describe this as a mixed procedural judgment directing fresh assessment. Do not label it a final taxpayer victory on sections 80-IA/80-IB, a finding of sham manufacturing or fraud, or a disciplinary adjudication against the officer. Historical section 153(3)(ii), relevant statutory versions and later treatment need separate verification before use in a live matter; no automatic Income-tax Act, 2025 mapping is supplied.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date, bench, listed appeal numbers and opening appeal-count discrepancy

Source url: [Open cited source](#)

Pdf pages: 1; 7; 8

Paragraphs: Cover; jurisdiction lines; 1–2

Source role: reported metadata and judicial text

2.

Topic: Headnote disjunction versus cumulative judicial section 263 test

Source url: [Open cited source](#)

Pdf pages: 1; 27; 34

Paragraphs: Opening headnote; 23; 29

Source role: editorial headnote compared with judicial text

3.

Topic: Business background, assessment and exact AO record of superior instructions

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: 3–5; embedded assessment order and note

Source role: judicial background and quoted AO order

4.

Topic: Limited revision year, CIT directions and actual notice years recorded

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14; 15

Paragraphs: 5–8

Source role: judicial background and quoted CIT ITAT orders

5.

Topic: Transfer, departmental appeal and High Court/review procedural history

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17; 18; 19; 20; 21

Paragraphs: 9–16

Source role: judicial background and quoted High Court orders

6.

Topic: Revenue fraud allegation is counsel submission

Source url: [Open cited source](#)

Pdf pages: 23

Paragraphs: 18(ii)

Source role: party submission

7.

Topic: Revision requirements and CIT's attributed allegations

Source url: [Open cited source](#)

Pdf pages: 27; 28; 29; 30

Paragraphs: 23–25

Source role: judicial test and quoted CIT reasoning

8.

Topic: Tribunal reasoning and internal jurisdiction/merits characterization

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 30; 31; 32

Paragraphs: 8; 26–27

Source role: judicial background and quoted ITAT reasoning

9.

Topic: High Court historical limitation position and qualifications

Source url: [Open cited source](#)

Pdf pages: 32; 33

Paragraphs: 28; embedded High Court paragraph 37

Source role: quoted High Court reasoning

10.

Topic: Section 263 cumulative test; Malabar Industrial and Max India extracts

Source url: [Open cited source](#)

Pdf pages: 34; 35; 36

Paragraphs: 29

Source role: judicial reasoning with quoted precedents

11.

Topic: Invalid CIT directions; section 150(1) and (2) and relevant-year limits

Source url: [Open cited source](#)

Pdf pages: 36; 37

Paragraphs: 30, opening and quoted statute

Source role: judicial reasoning and statutory text

12.

Topic: Necessary findings/directions; old section 153(3)(ii) not a grant of jurisdiction

Source url: [Open cited source](#)

Pdf pages: 37; 38; 39; 40; 41; 42; 43

Paragraphs: 30; Murlidhar Bhagwan Das, Sivalingam Chettiar and Rajinder Nath extracts

Source role: judicial reasoning with quoted precedents

13.

Topic: AO independence distinguished from binding statutory circulars

Source url: [Open cited source](#)

Pdf pages: 43; 44; 45; 46; 47

Paragraphs: 31–32

Source role: judicial reasoning with quoted precedents

14.

Topic: Transfer and appellate maintainability; peculiar territorial/prejudice reasoning

Source url: [Open cited source](#)

Pdf pages: 47; 48; 49; 50; 51; 52; 53

Paragraphs: 33–36

Source role: judicial reasoning with quoted precedents

15.

Topic: Nullity, no bona fides finding, Article 142 direction and all-appeals disposition

Source url: [Open cited source](#)

Pdf pages: 53; 54

Paragraphs: 35–38

Source role: operative judicial reasoning and disposition

16.

Topic: Bounded official section 150 wording comparison, labelled 2013

Source url: [Open cited source](#)

Paragraphs: Section 150(1)–(2); year label; footnote 91

Source role: official statutory html bounded comparison

17.

Topic: Historical section 153 context, labelled 2004

Source url: [Open cited source](#)

Paragraphs: Section 153(2A), (3)(ii), Explanations 2–3; footnotes 85–90 and 1

Source role: official statutory html bounded comparison

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

80-ia / 80-ib: Tax-holiday deductions and alleged manufacturing defects supplied the factual dispute; the Supreme Court did not finally adjudicate eligibility, profit computation, fraud or penalty.

119: Statutory CBDT circulars and administrative supervision distinguished from dictating the merits of an individual quasi-judicial assessment.

127 / 260a: Transfer of jurisdiction from Shimla to Delhi and the maintainability/territorial objection to the departmental High Court appeal; resolved on the peculiar procedural facts and absence of shown prejudice.

147–150: Consequential notices and the historical finding/direction exception; section 150(2) expressly constrains section 150(1).

153(3)(ii) (historical): Limitation-relaxation provision discussed through quoted precedent; not an enlargement of adjudicatory jurisdiction. Historical Explanations 2–3 require separate attention.

263: Error and prejudice are cumulative prerequisites; an alternative permissible view alone does not justify revision. This judgment does not validate the impugned revision merely because it also finds the original dictated assessment invalid.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

S.B. Sinha, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

CONSTITUTIONAL PROVISIONS CONSIDERED

Article 136; Article 142

SPECIFIED STATUTORY COMPARISONS AND LIMITS OF THE CHECKS

1.

Kind: statutory text comparison

Source url: [Open cited source](#)

Checked bounds: Section 150(1)–(2), page expressly labelled 2013; compared with paragraph 30 of Greenworld, physical pages 36–37

Finding: The displayed text includes both the finding/direction exception and the subsection (2) restriction keyed to when the order under appeal, reference or revision was made. This confirms the textual qualification recorded in Greenworld; it is not a present-law conclusion.

Later treatment status: not verified

2.

Kind: historical statutory context

Source url: [Open cited source](#)

Checked bounds: Page expressly labelled 2004; section 153(2A), (3)(ii), Explanations 2–3 and identified amendment footnotes

Finding: The historical provision separately addresses fresh assessments after cancellation, qualifying findings/directions and deeming rules for income excluded from one year or person. Those deeming rules caution against an absolute statement that every cross-year or cross-person consequence is forbidden. No claim is made that they validated the directions actually issued in Greenworld.

Later treatment status: not verified

DISTINCT APPEAL-GROUP OUTCOMES

1.

Group: All appeals listed in the report

Case numbers: Civil Appeal No. 3312 of 2009; Civil Appeal No. 3313 of 2009; Civil Appeal No. 3314 of 2009; Civil Appeal No. 3315 of 2009; Civil Appeal No. 3316 of 2009

In whose favour: Mixed procedural result; the assessee succeeded against the impugned revision/consequential notices but obtained no final tax-merits relief; Revenue retained fresh assessment through the Court's Article 142 direction

Disposition: All disposed of with the common paragraphs 35–38 direction; no costs. No separate allowed/dismissed labels are supplied for individual appeal numbers.

Merits status: Final judicial resolution of the identified procedural/jurisdictional defects; deduction eligibility, disputed profits, alleged fraud and ultimate tax liability left for fresh assessment

Scope limit: The report does not map each listed appeal number to an individual originating SLP or separately allocate relief; its opening two-appeals description is preserved as a source warning.

Pinpoints

1.

Topic: Common operative disposition

Source url: [Open cited source](#)

Pdf pages: 53; 54

Paragraphs: 35–38

Source role: judicial text

ASSESSMENT-YEAR SCOPE AND LIMITS OF THE OPERATIVE DIRECTION

Revision year: 2000-01

Other years named in cit directions: 1996-97; 1997-98; 1998-99; 1999-2000; 2001-02; 2002-03; 2003-04

Other years for which section 148 notices are recorded in paragraph 6: 1996-97; 1997-98; 1998-99; 1999-2000; 2001-02; 2002-03

Scope limit: A later section 148 notice for AY 2000-01 dated 5 July 2005 is recorded after the Tribunal extract in paragraph 8. The narrative does not record issuance of a section 148 notice for AY 2003-04. Paragraph 37 directs reopening of the assessment without an itemized year-by-year operative schedule; do not convert the contextual year list into an express Supreme Court direction to reopen every year.

ISSUE-SPECIFIC OUTCOMES AND REMEDIES

1.

Issue: Impugned revision and consequential notices

In whose favour: Assessee on this jurisdictional issue

Disposition: Section 263 order and consequential section 148 notices held not maintainable

Merits status: Procedural/jurisdictional determination

Scope limit: Does not preserve the original dictated assessment or decide deduction eligibility

Pinpoints

1.

Topic: Revision/notices rejected

Source url: [Open cited source](#)

Pdf pages: 36; 53

Paragraphs: 30; 35

Source role: judicial text

2.

Issue: Original assessment and fresh adjudication

In whose favour: Neither side obtains a final merits victory

Disposition: Original dictated assessment treated as nullity; Article 142 reopening by CIT Delhi-VII

Merits status: Fresh assessment required

Scope limit: Paragraph 35 refers to the appropriate assessing authority; paragraph 37 names CIT Delhi-VII. No remand to ITAT, quantified addition or deduction allowance

Pinpoints

1.

Topic: Fresh assessment remedy

Source url: [Open cited source](#)

Pdf pages: 53; 54

Paragraphs: 35–38

Source role: judicial text

3.

Issue: Shimla departmental appeal after jurisdiction transfer

In whose favour: Revenue on the specific maintainability objection

Disposition: Territorial/standing objection did not defeat the appeal on these facts; no prejudice shown

Merits status: Fact-specific procedural ruling

Scope limit: Not a rule that subject-matter jurisdiction may be cured by lack of prejudice, nor a general transfer-jurisdiction certificate

Pinpoints

1.

Topic: Specific appeal-maintainability reasoning

Source url: [Open cited source](#)

Pdf pages: 47; 48; 49; 50; 51; 52; 53

Paragraphs: 33–36

Source role: judicial text

COMMON OPINION AND APPEAL-NUMBER CAUTIONS

Opinion count: 1

Common opinion: S.B. Sinha, J., for the Court, paragraphs 1–38

Separate opinions:

Appeal number caution: The report lists Civil Appeal 3312 of 2009 with Civil Appeals 3313–3316 of 2009, while paragraph 2 calls the matters two appeals. The case number range is preserved; no unverified mapping from individual Supreme Court appeal numbers to underlying SLPs is invented.

SOURCE & VERIFICATION

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

Identified source rendition: 54 PDF pages; SHA-256

7a79b1d1970d8589a12bae1f4dd25ae5c2ea7cbf70edf3350e5f44c5dcc5e96d. Original bytes preserved.

One common opinion by S.B. Sinha, J., paragraphs 1–38, physical PDF pages 8–54 (SCR 182–228). Physical pages 1–7 and page 8 above the author line are editorial headnote, case references and jurisdiction/counsel material. No adjacent judgment or separate concurrence/dissent.

[Open cited source rendition](#)

The opening headnote on physical page 1 uses disjunctive wording (error or prejudice). The judicial text at paragraphs 23 and 29 expressly requires both. The note follows the judicial reasoning, not that headnote wording.; The jurisdiction lines list Civil Appeal 3312 of 2009 with Civil Appeals 3313–3316 of 2009, but paragraph 2 says two appeals. All are covered by one common disposition; individual SLP-to-appeal mappings are not reconstructed.; Paragraph 8 describes the Tribunal decision as jurisdictional and not entering the merits; paragraph 26 recounts its merits-related factual reasoning. Those descriptions are retained as procedural context rather than converted into a final Supreme Court determination of deduction eligibility.; The quoted High Court review passage at physical page 21 refers to the AO order as passed under section 263. This is a source-level recital in an embedded quotation, not a Supreme Court holding that the AO exercises section 263 powers.; The report uses 80-IA and 80-IB across the narrative and quoted orders. The AO extract specifies 80-IB for AY 2000-01, while the Tribunal extract uses 80-IA; the note does not silently harmonize them or determine the applicable eligibility clause.; Paragraph 3 reports AY 2000-01 net profit of Rs.74,69,314 and turnover Rs.1,51,69,515, while the quoted AO order states deduction on profit Rs.74,79,995 and contains separate unit sales figures. These distinct source recitals are not silently reconciled and are unnecessary to the procedural holding.; The fraud allegation appears in Revenue counsel's submissions; manufacturing, power, worker, bookkeeping and undisclosed-income conclusions are attributed to the CIT. The Supreme Court did not finally adopt them. It also declined to decide the officers' bona fides.; Do not treat the Article 142 direction as restoration of the impugned section 148 notices, as a Tribunal remand, or as a universal removal of limitation. Paragraph 37 names CIT Delhi-VII and does not enumerate all assessment years.; The historical section 153(3)(ii) discussion includes quotations from earlier cases under both the 1922 Act and the 1961 Act. Those are not independent full-case reviews or present statutory text.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial-treatment, legislative-history or current-law audit. Earlier precedents were read only as quoted within this judgment; they were not independently re-reviewed in full. The two actual statutory-text comparisons are separately delimited below. No Income-tax Act, 2025 mapping certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 54](#)

SHA-256: 7a79b1d1970d8589a12bae1f4dd25ae5c2ea7cbf70edf3350e5f44c5dcc5e96d

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