

Commissioner of Income Tax & Ors. v. Chhabil Dass Agarwal

Civil Appeal No. 6704 of 2013

No separate citation stated in the source | 2013-08-08

Whether the High Court properly decided the reassessment dispute in a writ petition despite an effective statutory appeal and no established exceptional basis for bypassing it.

147 | 148 | 144 | 142(1) | 271(1)(c) | 10(26AAA)

Two-judge bench | H.L. Dattu, J. | M.Y. Eqbal, J.

Assessment years: 1995-96, 1996-97

Alternative-remedy restraint with exceptions; tax merits open

The Court set aside writ intervention because an effective statutory appeal existed on these facts. Article 226 jurisdiction and exceptional grounds remain; there is no absolute bar. All underlying tax contentions were left open, with case-specific four-week appeal liberty and limitation protection. Sikkim exemption merits, later disposal and current law are not certified.

01 FACTS OF THE CASE

The respondent, described by the Court as a non-Sikkimese resident of Sikkim, faced reopening and ex parte assessments for AYs 1995-96 and 1996-97. Earlier writ proceedings over taxability were withdrawn with interim arrangements and later liberty to approach an appropriate forum. Following the statutory and administrative developments recounted in the order, the tax authority confirmed demands on 11 December 2009. Instead of appealing to the Commissioner (Appeals), the taxpayer again sought a writ; the Sikkim High Court quashed the assessment order. Revenue appealed (paragraphs 4–9).

The Supreme Court expressly confined its question to whether the writ intervention was justified despite an equally efficacious alternative remedy. It did not take up the underlying Sikkim exemption, tax quantum or penalty merits for final decision (paragraphs 14 and 25).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court characterised the alternative-remedy rule as judicial self-restraint, policy and discretion, not removal of Article 226 jurisdiction. A High Court may intervene exceptionally despite a statutory appeal. The authorities discussed preserve exceptions including serious departures from the enactment or fundamental judicial procedure, reliance on repealed provisions and total violation of natural justice (paragraphs 15–19).

At the same time, an effective statutory assessment and appeal mechanism should not ordinarily be bypassed. The alternative remedy must be real and capable of substantial relief, rather than a formality. Here the taxpayer had not shown the appeal to be ineffective, and the High Court gave no cogent reason for exercising extraordinary jurisdiction in these circumstances. It therefore should not have entertained this petition about the notices, reassessment and consequential demands (paragraphs 20–21).

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

03 JUDICIAL DECISION

Revenue's appeal was allowed and the High Court judgment set aside. The taxpayer was given four weeks from the Supreme Court order to file an appropriate petition/appeal. If filed within that period, the appellate authority had to decide it on merits without a limitation objection and without being influenced by the quashed High Court observations. All contentions remained open. No substantive tax amount or penalty was finally adjudicated (paragraphs 22–25).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the writ-route objection; both parties' tax merits reserved

Revenue appeal allowed; High Court judgment set aside; time-limited liberty to pursue statutory remedy with limitation protection

Final on the propriety of writ intervention in this record; underlying reassessment, exemption and penalty merits left open

Not an absolute jurisdictional bar to Article 226, and not a substantive ruling that this taxpayer owed the narrated demands. The four-week liberty and protection were case-specific historical directions; subsequent filing or disposal is unverified.

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

05 AKHB REVIEW POINT

Identify the actual statutory remedy and explain why it is effective or why an established exception warrants writ relief. Merely asserting that an assessment is wrong does not answer that procedural question; equally, the judgment must not be abbreviated into an absolute bar against writs in tax matters. Preserve the distinction between jurisdiction and the discretion to entertain the petition.

For this taxpayer, the Court protected a timely statutory challenge and left all contentions open. Its recital of the Sikkim dispute and section 10(26AAA) does not decide substantive exemption entitlement or later constitutional developments. Nor should the special four-week direction be treated as a standing extension for other appellants.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Case identity and operative date/signatures

Source url: [Open cited source](#)

Pdf pages: 1; 11

Paragraphs: Cover; signed ending

Source role: judicial text

2.

Topic: Two-year procedural history

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3; 4

Paragraphs: 4–9

Source role: judicial text

3.

Topic: Question and discretionary rule

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: 14–16

Source role: judicial text

4.

Topic: Authorities, exceptions and effective remedy

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: 17–21

Source role: judicial text

5.

Topic: Appeal allowed, protected remedy and all merits open

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: 22–25

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

147 / 148: Challenged reopening/reassessment history; substantive validity left open

144 / 142(1) / 271(1)(c): Earlier assessment and penalty background, not final merits holdings

10(26aaa): Sikkim exemption legislative background only; no entitlement or constitutional merits ruling

OTHER LEGAL CONTEXT

Constitution of India, Article 226: discretionary restraint where an effective statutory remedy exists, with exceptions preserved.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ORIGINATING PROCEEDING

SLP(C) No. 23898 of 2011

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(official signed order\)](#)

Identified source rendition: 11 PDF pages; SHA-256

7b6a1382ea7b6f4e552bbb9f642352ed33b7a61c66e4bc991003b4deab4ce2b2. Original bytes preserved.

One signed order, paragraphs 1–25 across all physical pages 1–11, fully read. No adjacent order or opinion.

[Open cited source rendition](#)

No neutral or reported citation is printed on the verified signed source.

These are the disputed reassessment years. AY 1997-98 is mentioned as the first filed-return background.

No individual author is named in the signed order; not inferred from judge order.

Paragraph 5 describes AY 1996-97 as relevant to AY 1995-96, an inconsistent year formulation. The separately and repeatedly identified two reassessment years are retained without inventing a corrected accounting-year chronology.; The order repeatedly describes reassessment as under section 148. The note preserves that procedural wording without recasting it as a full technical exposition of the assessment-power provisions.; No individual author or reportability label is printed on the inspected signed order; neither is inferred.; The old demands, penalty initiation and Sikkim status are procedural history and attributed source descriptions, not fresh Supreme Court findings of tax evasion or final present liability.

STATUTORY SCOPE

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

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment or current procedural/statutory review. Later Sikkim exemption litigation is not analysed or resolved by this historical remedy order.

IDENTIFIED SOURCE LINKS

[official signed order - PDF pages: 11](#)

SHA-256: 7b6a1382ea7b6f4e552bbb9f642352ed33b7a61c66e4bc991003b4deab4ce2b2

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