

Commissioner of Income Tax, Mumbai v. Amitabh Bachchan

Civil Appeal No. 5009 of 2016 / Civil Appeal No. 5010 of 2016

[2016] 3 SCR 516 | 2016-05-11

Whether section 263 revision could rest on issues beyond a preliminary show-cause notice where a full hearing was afforded, and whether withdrawal of a claimed expense justified abandoning an enquiry into whether expenditure was incurred and how it was funded.

263 | 69C

Two-judge bench | Ranjan Gogoi, J. | Prafulla C. Pant, J.

Assessment years: 2001-02

Revision upheld; reassessment merits remain open

This AY 2001-02 decision restores section 263 revision because a hearing was afforded and further enquiry was required. It does not finally sustain an expense disallowance, section 69C addition or the fresh assessment; paragraph 24 preserves a merits challenge. Check the relevant statutory version and later treatment. No current-law or Income-tax Act, 2025 certification is supplied.

01 FACTS OF THE CASE

For AY 2001-02, the original assessment was completed on 30 March 2004. The Commissioner issued a section 263 notice on 7 November 2005 identifying eleven issues and, on 20 March 2006, cancelled the assessment and directed a fresh one because necessary enquiries had not been made. Some grounds in the revisional order were outside the notice; three were common to both. The Tribunal reversed the revision on 28 August 2007, and the Bombay High Court dismissed Revenue's section 260A appeal on 7 August 2008 (paragraphs 2-7).

The material common issue was an additional-expense claim at 30% of gross professional receipts in a re-revised return dated 31 March 2003. The assessee initially explained it as security expenditure, then withdrew the claim because it could not be substantiated. After issuing a section 69C notice, the Assessing Officer accepted the withdrawal and did not investigate further. The Commissioner considered that inadequate for a cash-basis assessee whose verified return and earlier explanation *prima facie* suggested actual expenditure (paragraphs 17-20).

Meanwhile, a fresh assessment had been made on 29 December 2006 under the revisional direction. The Commissioner (Appeals) set it aside on 18 October 2007 because the underlying revision had been reversed. The second Revenue appeal concerned the consequential Tribunal and High Court orders, rather than an adjudication of that fresh assessment on its merits (paragraph 24).

Source: [reported judgment / paragraphs 2-7 / PDF pages 6, 7, 8 / judicial text](#); [reported judgment / paragraphs 17-20 / PDF pages 14, 15, 16 / judicial text](#); [reported judgment / paragraphs 24 / PDF pages 17 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Both statutory conditions, an erroneous order and prejudice to Revenue, must coexist for section 263 jurisdiction. A specific show-cause notice listing every proposed ground is not the jurisdictional condition; the mandatory safeguard is a real opportunity to contest relevant facts before the final revisional decision. The Commissioner is therefore not confined to the preliminary notice, but cannot dispense with a full hearing on the matters ultimately relied upon (paragraphs 9-11).

The Court distinguished that rule from the Tribunal's assumption that additional grounds necessarily invalidated revision. It examined the assessment and revision records and found that the assessee's representative had appeared throughout and had a full opportunity to contest the material. The revision identified overlooked records and enquiries with potential revenue loss. On these facts, there was no breach of the hearing requirement (paragraphs 12-14).

Of the three common issues, the Court did not reopen the Tribunal's treatment of the two bank-account/deposit matters. It concentrated on the withdrawn expense claim. The Court reaffirmed that a permissible view of the Assessing Officer cannot be revised merely because the Commissioner prefers another permissible view. Here, however, withdrawal did not resolve whether expenditure had actually been incurred or establish its source. The section 69C enquiry could not simply be dropped on withdrawal, and the Commissioner was justified in requiring further investigation (paragraphs 15-21).

Source: [reported judgment / paragraphs 8-11; includes statutory text and quoted Electro House reasoning / PDF pages 8, 9, 10, 11 / judicial text](#); [reported judgment / paragraphs 12-14; quoted Tribunal reasoning distinguished / PDF pages 11, 12, 13 / judicial text](#); [reported judgment / paragraphs 15-21 / PDF pages 13, 14, 15, 16 / judicial text](#)

03 JUDICIAL DECISION

The Revenue succeeded in both appeals. In the first, the Court restored the Commissioner's section 263 order and set aside the Tribunal order dated 28 August 2007 and High Court order dated 7 August 2008. In the consequential appeal it set aside the Tribunal order described in the operative sentence as dated 11 January 2010 and the High Court order dated 29 February 2012. It expressly preserved the assessee's right to challenge the fresh assessment dated 29 December 2006 on its merits, which had not been tested. Paragraph 25 disposes of both appeals in those terms; no costs direction is stated (paragraphs 22-25).

Source: [reported judgment / paragraphs 22-25 / PDF pages 16, 17 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on validity of revision and the consequential orders; reassessment merits reserved to the assessee

Both Revenue appeals allowed and disposed of; section 263 revision restored; consequential Tribunal and High Court orders set aside

Final on section 263 validity and the need for enquiry; not a final determination of the fresh assessment, expense deductibility or a section 69C addition

The earlier direction for a fresh assessment was restored, and that assessment had already been made. The Supreme Court did not fix tax liability or make a fresh general remand. Paragraph 24 expressly leaves a merits challenge available; paragraph 16 does not reopen the first two common issues.

Source: [reported judgment / paragraphs 16, 21-25 / PDF pages 14, 16, 17 / judicial text](#)

05 AKHB REVIEW POINT

Separate three questions: the twin statutory conditions for revision, a meaningful hearing on the actual grounds relied upon, and the merits of the resulting assessment. This decision does not remove natural justice or convert revision into an appeal against every permissible assessment view. Where a withdrawn claim itself supplies a factual indication of expenditure, document what enquiry remained necessary and why withdrawal did not answer it. A restored revision is not proof that an ultimate addition is correct: paragraph 24 expressly preserves the merits challenge. Apply the statutory version relevant to the proceedings and separately check subsequent treatment.

Source: [reported judgment / paragraphs 10-11, 14, 21, 24 / PDF pages 9, 11, 13, 16, 17 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Grounds beyond the preliminary section 263 notice

Result: Permissible when relevant facts are considered and the assessee has a full opportunity to controvert them before the final decision; that opportunity was afforded here

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11

Paragraphs: 10-11

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: 13-14

Source role: judicial text

2.

Issue: Withdrawal of the additional-expense claim

Result: Did not remove the need to investigate actual expenditure and its source; the Commissioner properly required further enquiry

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: 17-21

Source role: judicial text

3.

Issue: Consequential fresh assessment

Result: The procedural foundation for the consequential adverse orders fell away; the assessee remained free to challenge reassessment merits

In whose favour: Revenue on the consequential appeal; merits rights preserved for the assessee

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 17

Paragraphs: 23-25

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

260A; 147; 154

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Ranjan Gogoi, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 17 PDF pages; SHA-256

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Judicial paragraphs 1-25 on physical pages 6-17 (SCR 521-532), fully read. Pages 1-5 contain editorial headnote, references, jurisdiction and appearances. No adjacent judgment.

Open cited source rendition

AY 2001-2002 is expressly identified in paragraphs 2, 6 and 24; both appeal groups concern that assessment and the consequential fresh assessment.

Section 263 supplies the revisional jurisdiction and hearing issue. Section 69C explains the enquiry that was improperly abandoned, not a finally sustained unexplained-expenditure addition. Sections 147 and 154 are comparative powers; section 260A concerns the High Court appeals. The embedded Electro House quotation concerns sections 33B and 34 of the Income-tax Act, 1922.

The preserved public-mirror eSCR rendition is the reviewed source. No separately retrieved signed original or newly live-validated public URL is claimed.; Paragraph 24 on physical page 17 prints the consequential Tribunal dismissal as 11 January 2000 in the narrative but 11 January 2010 in its operative setting-aside sentence. Both readings were visually confirmed. The operative date is identified as such; no silent reconciliation is made.; The two bank-account/deposit issues were not subjected to a serious relook (paragraph 16). The restored revision must not be represented as the Supreme Court affirming each individual proposed addition.; The quoted Electro House reasoning and the Tribunal passage are embedded authorities/lower-court reasoning, not independent original-source checks or unqualified propositions displacing the express twin conditions and hearing safeguard.

Two connected Revenue appeals. The first judicial group is SLP(C) No. 11621/2009, arising from Bombay High Court ITA No. 293/2008, order dated 7 August 2008. The second is SLP(C) No. 861/2013 against the High Court order dated 29 February 2012. The reported jurisdiction block identifies Civil Appeal Nos. 5009 and 5010/2016; paragraphs 1 and 23 grant leave in the two respective groups.

STATUTORY SCOPE

Historical Income-tax Act, 1961 provisions and proceedings only. No automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. No later-treatment search or present-law audit was performed for this note. Authorities quoted or discussed within this judgment are distinguished from independently checked later treatment.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 17](#)

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