

Tapan Kumar Dutta v. Commissioner of Income Tax, West Bengal

Civil Appeal No. 2014 of 2007

[2018] 4 SCR 338 | 2018-04-24

Whether the fresh section 158BD notice to an unsearched partner was valid after an earlier section 158BC notice, where the same Assessing Officer assessed both the searched firm and the partner.

158BD | 158BC | 144A

Two-judge bench | R. K. Agrawal, J. | Abhay Manohar Sapre, J.

Assessment years: 1989-90 to 1999-2000 (block period as stated)

Historical section 158BD jurisdiction and fresh notice

This judgment concerns the historical block period stated as 1989-90 to 1999-2000 and the specific first and second notices examined by the Court. It does not dispense with recorded satisfaction, certify a general limitation restart, or provide present-day search-assessment procedure. No automatic Income-tax Act, 2025 mapping is made.

01 FACTS OF THE CASE

A search of Nityakali Rice Mill, a partnership in which the assessee was a partner, took place on 6 November 1998. Documents, books and Rs. 34 lakh were seized. On 9 September 1999 the same Assessing Officer issued separate section 158BC notices to the firm and the assessee for the stated block period 1989-90 to 1999-2000. The assessee's return of 8 November 1999 disclosed Rs. 14 lakh of undisclosed income. After the assessee sought a section 144A direction, the Additional Commissioner issued directions on 14 August 2000. A draft assessment was later returned because no search warrants had been issued in the individual names concerned (paragraph 2(a)-(c)).

The firm's block assessment of 20 November 2000 accepted nil income and directed initiation of section 158BD proceedings against the assessee. A fresh notice under section 158BC read with section 158BD followed. The assessee relied on his earlier return and objected that a fresh notice could not extend the assessment time. The Assessing Officer assessed Rs. 3,48,56,430 on 29 November 2002; the Commissioner (Appeals) reduced the aggregate to Rs. 66,55,911. The Tribunal dismissed the assessee's appeal and partly allowed the Revenue's appeal, and the High Court dismissed the assessee's further appeal. The Supreme Court framed the question as the validity of the second notice, rather than redetermination of each addition (paragraphs 2(d)-(g), 4).

Source: [reported judgment](#) / [paragraphs 1-4](#) / [PDF pages 3, 4, 5](#) / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 158BD permits proceedings against a person other than the searched person when the Assessing Officer is satisfied from the seized material that undisclosed income belongs to that other person. The same officer's jurisdiction over both persons does not prevent use of the provision; it does not dispense with the required satisfaction (paragraph 8). Paragraph 9 identifies three elements: undisclosed income exists; it does not belong to the searched person; and it belongs to another person. An assessee's disclosure alone cannot supply that conclusion without examination or verification of the seized books, documents or assets.

The Court distinguished the section 158BC notice to the searched firm from the notice to the unsearched partner. In paragraph 10 it held that the first notice to the partner did not meet section 158BD's requirements; the Assessing Officer could therefore issue the fresh notice of 20 November 2000 after recording satisfaction. The officer proceeded on his own satisfaction that the case fell within section 158BD, rather than merely following the Joint Commissioner's direction. Although section 158BD did not employ section 148's wording about recording reasons, the satisfaction had to reveal a considered, dispassionate thought process and contain the reasons for initiating proceedings (paragraph 11).

The Court also held that the section 144A direction of 14 August 2000, insofar as it directed aggregate undisclosed income of Rs. 17 lakh including benami businesses rather than the Rs. 14 lakh returned, was contrary to law and unsustainable (paragraph 12). The note preserves that express conclusion and does not treat the prior direction as fixing a binding quantum.

Source: [reported judgment / paragraphs 8-12 / PDF pages 6, 7, 8, 9 / judicial text](#)

03 JUDICIAL DECISION

The Court upheld the High Court's judgment of 17 November 2005 and dismissed the assessee's appeal without an order as to costs. The fresh section 158BD notice and the Assessing Officer's jurisdiction survived the challenge. The judgment did not itself specify a new final assessed amount (paragraphs 10-13).

Source: [reported judgment / paragraphs 10-13 / PDF pages 8, 9 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the assessee's jurisdictional challenge

Assessee's appeal dismissed; High Court judgment left undisturbed; no order as to costs

Final determination of the validity of the fresh notice; no remand or fresh quantification ordered by the Supreme Court

The Court adjudicated the fresh-notice issue in the stated historical block-assessment setting. Neither common jurisdiction nor the earlier disclosure removed the satisfaction requirement. The figures from earlier stages are procedural history, not a newly fixed Supreme Court assessment.

Source: [reported judgment / paragraphs 10-13 / PDF pages 8, 9 / judicial text](#)

05 AKHB REVIEW POINT

Separate the search warrant, the person searched, the person assessed, the seized evidence, and the Assessing Officer's reasoned satisfaction. A common Assessing Officer is not a jurisdictional bar, but neither is it a substitute for the evidential and mental exercise required by section 158BD. The assessee's own disclosure likewise cannot replace examination of the seized material.

This is not a general licence to restart assessment periods by issuing successive notices. The first notice to this unsearched person was found non-compliant, and the second was upheld on the recorded satisfaction described by the Court. The Supreme Court framed and decided that issue; it did not provide a general limitation calculation or determine a new final quantum. Apply the decision only after checking the actual historical statutory version, notice sequence and record of satisfaction.

Source: [reported judgment / paragraphs 4, 8-13 / PDF pages 5, 6, 7, 8, 9 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Fresh section 158BD notice after an invalid section 158BC notice to the unsearched partner

Result: Valid after the Assessing Officer recorded the required satisfaction; the same officer could assess the firm and partner

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: 8-11

Source role: judicial text

2.

Issue: Direction of 14 August 2000 under section 144A fixing Rs. 17 lakh

Result: Held contrary to law and unsustainable; no adoption of that amount as a binding assessment ceiling

In whose favour: Revenue in the context of rejecting the assessee's challenge

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: 12

Source role: judicial text

3.

Issue: Final quantum of undisclosed income

Result: No fresh quantum determined by the Supreme Court; earlier assessment and appellate figures are recounted as history

In whose favour: Not separately determined

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 4; 5; 9

Paragraphs: 2(e)-(f), 4, 13

Source role: judicial text

HISTORICAL BLOCK PERIOD

As stated: 1989-90 to 1999-2000

Source paragraphs: 2(b), 2(d)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

132; 132A; 148

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R. K. Agrawal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

07c580c0d37c1bf4308dec5f08701cc420dc74f41a2727a8cede07b48b99a7d4. Original bytes preserved.

Judicial paragraphs 1-13 occupy physical PDF pages 3-9 (SCR 340-346), beginning after appearances on page 3. Physical pages 1-2 contain the cover, editorial headnote and jurisdiction. No adjacent judgment is included.

[Open cited source rendition](#)

Paragraph 2 gives the block period in assessment-year form as 1989-90 to 1999-2000; the note does not infer precise opening or closing calendar dates or separate yearly additions.

Sections 158BD and 158BC govern the fresh-notice/jurisdiction issue. Paragraph 12 also rejects the identified section 144A direction. Section 148 is used as a comparison for recording reasons, not independently interpreted.

The preserved SCR rendition is the source reviewed; no separately retrieved signed original or original-PDF hash is claimed.; Paragraph 9 contains awkward wording referring to satisfaction when the 9 September 1999 notice was issued. Paragraph 10 expressly holds that notice non-compliant and upholds the 20 November 2000 notice after satisfaction. The note follows the explicit conclusion while disclosing the textual tension.; Paragraph 12 calls the section 144A authority the Additional Commissioner of Income Tax (Appeals); paragraph 2(c) identifies the Additional Commissioner of Income Tax, Asansol. The note uses Additional Commissioner without silently resolving that source inconsistency.; The firm's name appears in variants including Nityakali Rice Mill and Nitya Kali Rice Mill.; The final figure after the Tribunal's partial allowance of the Revenue appeal is not specified in the judgment. The original assessment, Commissioner (Appeals) figure and section 144A direction must not be substituted for a newly ordered Supreme Court quantum.

STATUTORY SCOPE

The note addresses the historical statutory and factual setting decided by the Court. No automatic mapping to the Income-tax Act, 2025 or certification of current procedure is made.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial-treatment or present-law audit has been performed. References to authorities in this judgment are not independent treatment checks of those authorities.

IDENTIFIED SOURCE LINKS

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

SHA-256: 07c580c0d37c1bf4308dec5f08701cc420dc74f41a2727a8cede07b48b99a7d4

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.