

New Delhi Television Ltd. v. Deputy Commissioner of Income Tax

Civil Appeal No. 1008 of 2020

[2020] 7 SCR 649 | 2020-04-03

Whether the reopening notice for assessment year 2008-09 was supported by reason to believe, could survive beyond four years despite the original disclosures, or could be sustained by a foreign-asset second-proviso basis first raised when rejecting objections.

147 | 148 | 149(1)(c)

Two-judge bench | L. Nageswara Rao, J. | Deepak Gupta, J.

Assessment years: 2008-09

01 FACTS OF THE CASE

NDTV, an Indian television company, had a UK subsidiary, NDTV Network Plc. (NNPLC). Its return for assessment year 2008-09 declared a loss. NNPLC had issued US\$100 million step-up coupon bonds in July 2007 for five years, arranged through intermediaries, with NDTV agreeing to furnish a corporate guarantee. The bonds were redeemed early in November 2009 for US\$74.2 million. In the original scrutiny assessment completed on 3 August 2012, the Assessing Officer did not reject the transaction as sham but attributed a guarantee fee to NDTV and added Rs.18.72 crore (paragraphs 1-4).

Revenue issued a reopening notice on 31 March 2015 and supplied reasons on 4 August 2015. It relied on material emerging from the subsequent assessment year 2009-10 and the Dispute Resolution Panel proceedings concerning the group, together with allegations in minority-shareholder complaints. The recorded allegation was that Rs.405.09 crore introduced into NNPLC through the bonds was NDTV's own undisclosed money. These were Revenue's allegations, not findings by the Supreme Court that round-tripping or tax evasion had occurred (paragraphs 5-7 and 18-20).

NDTV challenged the reason to believe, denied any failure to disclose, and raised the historical four-year restriction. In rejecting objections on 23 November 2015, the Assessing Officer invoked the second proviso to section 147 and a 16-year foreign-asset period. The Delhi High Court dismissed the writ petition on 10 August 2017, leading to this appeal (paragraphs 7-11).

Source: [reported judgment / paragraphs 1-11 / PDF pages 6, 7, 8, 9 / judgment](#); [reported judgment / paragraphs 18-20 / PDF pages 13, 14 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court separated three questions. First, a detailed original scrutiny did not itself prevent reopening. Fresh tangible information from later assessment proceedings could support a prima facie reason to believe; it was different from a mere change of opinion on the same material. Applying Claggett Brachi, Phool Chand Bajrang Lal and Ess Kay Engineering, the Court found the later-assessment material sufficient for that threshold. It expressly declined to decide the genuineness of the transaction or the ultimate tax merits (paragraphs 12-23).

Second, reason to believe did not by itself satisfy the additional historical restriction on reopening beyond four years after a scrutiny assessment. For the six-year route argued in the case, Revenue needed to establish the relevant failure to disclose fully and truly. NDTV had disclosed the bond issue, subscribers, agreement to guarantee and discounted redemption before assessment. The same officer had the subscriber addresses and amounts in related subsidiary assessments. The company also held an exemption from the Companies Act disclosure requirements on which Revenue relied, and further information had not been requested before assessment (paragraphs 24-31).

Following Calcutta Discount, the Court distinguished disclosure of material primary facts from a duty to tell the officer what factual or legal inferences to draw. It held the primary facts had been disclosed. Later material supporting reason to believe did not establish the asserted original non-disclosure. It also noted Revenue's inconsistent position: its High Court counter-affidavit had treated non-disclosure as unnecessary because it relied on the second proviso. The shareholder complaints were not used to establish undisclosed wrongdoing because they had not been produced before the courts or fairly put to NDTV (paragraphs 25 and 32-35).

Third, the then second proviso and section 149(1)(c) concerned escaped income in relation to a foreign asset, including a financial interest in an entity. The Court did not decide whether NNPLC, the bonds or the asserted income met those conditions. It accepted that an incorrect statutory label need not always invalidate a notice, but the taxpayer must receive fair notice of the case it must answer. Neither the notice nor the supplied reasons put NDTV on notice that the foreign-asset route and 16-year period were being invoked. Introducing that basis only on rejecting objections denied an adequate opportunity to respond; it could not rescue this notice (paragraphs 36-43).

Source: [reported judgment / paragraphs 12-23 / PDF pages 10, 11, 12, 13, 14, 15, 16 / judgment; reported judgment / paragraphs 24-31 / PDF pages 16, 17, 18, 19 / judgment; reported judgment / paragraphs 32-35 / PDF pages 19, 20, 21, 22 / judgment; reported judgment / paragraphs 36-43 / PDF pages 22, 23, 24, 25 / judgment](#)

03 JUDICIAL DECISION

The appeal was allowed and the reopening notice was quashed. Although the Assessing Officer had sufficient reason to believe, Revenue had not shown the requisite non-disclosure to sustain this notice issued beyond four years. The Court expressed no view on the factual availability of the historical second-proviso route. Revenue could issue a fresh notice relying on that route only if otherwise permissible in law, and both parties retained all contentions about its validity. This was conditional liberty, not a direction to reassess or a ruling validating any fresh notice. Pending applications were disposed of (paragraph 44).

Source: [reported judgment / paragraphs 44 / PDF pages 25 / judgment](#); [official signed judgment / paragraphs 44 / PDF pages 32 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on validity of the impugned notice; Revenue succeeded only on the reason-to-believe threshold

Assessee appeal allowed; impugned reopening notice quashed; conditional liberty for a legally permissible fresh second-proviso notice; pending applications disposed of

Reopening-jurisdiction and procedural ruling, not determination of the underlying tax liability or genuineness of the bonds

No remand directing reassessment, no finding that a foreign asset existed, and no unconditional extension of limitation. Both parties may contest any fresh notice.

Source: [official signed judgment / paragraphs 44 / PDF pages 32 / judgment](#)

05 AKHB REVIEW POINT

For an analogous historical reopening, keep the inquiries separate: identify the fresh material, check the version-specific time restriction and disclosure condition, and compare the actual notice and recorded reasons with the ground later advanced. A plausible reason to believe does not automatically establish an original failure to disclose. Assemble the primary-fact disclosures and the assessment record rather than relying only on the fact that scrutiny occurred.

The judgment's four-, six- and sixteen-year discussion belongs to the statutory regime and notice before the Court. It is not a present-day limitation calculator. Nor is the conditional permission for a fresh notice a merits finding on foreign assets or a guarantee that a new notice will be valid. Later treatment, intervening amendments and any Income-tax Act, 2025 application require fresh verification.

Source: [reported judgment / paragraphs 14; 22-23; 25-35; 38-44 / PDF pages 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

139; 142(1); 143; 92E; 133C

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 147; 148

Role: principal reopening provisions

Basis: Reason to believe, full and true disclosure, the historical first and second provisos and fairness of the communicated reasons.

2.

Act: Income-tax Act, 1961

Section: 149(1)(c)

Role: historical limitation contention

Basis: Revenue invoked the then 16-year foreign-asset route; its factual applicability was expressly left undecided.

3.

Act: Income-tax Act, 1961

Section: 142(1); 143

Role: original assessment procedure

Basis: Original scrutiny and assessment completed on 3 August 2012.

4.

Act: Income-tax Act, 1961

Section: 139; 92E; 133C

Role: quoted statutory context

Basis: Appear in the section 147 text reproduced by the Court; no independent issue under these provisions was adjudicated.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Deepak Gupta, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 32 PDF pages; SHA-256 c8dea8c342950c36eb91952e0fbeb6fbde7bd77baa48bc1de2bb8eba333a7c07. Original bytes preserved. Judgment paragraphs 1-44 on physical pages 1-32; cover and author on page 1, disposition and signatures/date on page 32.

Cover, author, paragraph 22-23 reasoning, material-disclosure findings, second-proviso reasoning, final disposition and signatures/date checked against the fully read reported judicial text. A complete independent rereading of all 32 official pages is not claimed.

Open cited source rendition

The source cover restores New Delhi to the incomplete catalogue title.

The merits of the alleged sham transactions and foreign-asset condition are expressly undecided.

The historical limitation periods must not be presented as current law.

The qualified redemption-income wording in paragraph 28 is not treated as a substantive year-of-taxability ruling.

No subsequent-treatment verification.

Reported citation verified on the source cover. No neutral citation is inferred from catalogue metadata.

The notice under challenge related to assessment year 2008-09. Assessment year 2009-10 appears as the subsequent assessment from which Revenue obtained material; its substantive addition was not decided here.

STATUTORY SCOPE

Historical sections 147-149 as examined for the notice dated 31 March 2015 concerning assessment year 2008-09; no audit of the post-2020 reopening regimes.

No automatic Income-tax Act, 2025 mapping or current-law or later-treatment certification.

LATER TREATMENT

Source checked 2026-10-04. Subsequent judicial treatment and statutory or treaty amendments have not been comprehensively verified.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 32](#)

SHA-256: c8dea8c342950c36eb91952e0fbeb6fbde7bd77baa48bc1de2bb8eba333a7c07

[reported judgment - PDF pages: 25](#)

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