

Basir Ahmed Sisodiya v. The Income Tax Officer

Civil Appeal No. 6110 of 2009

[2020] 4 SCR 581 | 2020-04-24

Whether the Rs.2,26,000 addition for allegedly bogus purchase credits could survive after a final penalty appellate order, founded on examined dealer evidence, accepted the same purchases as genuine.

68 | 271(1)(c)

Two-judge bench | A. M. Khanwilkar, J. | Dinesh Maheshwari, J.

Assessment years: 1998-99

01 FACTS OF THE CASE

For assessment year 1998-99, the Assessing Officer added Rs.2,26,000 under section 68 for credits attributed to unregistered marble dealers, following the assessee's failure to substantiate them despite opportunities. Other additions were also made, including a trading-account adjustment. The CIT(A), Tribunal and Rajasthan High Court did not remove the disputed credit addition. The assessee argued that once books were rejected for estimating profit, the same books could not support a further section 68 addition; Revenue disputed that characterization of the assessment (paragraphs 1-9).

While the Supreme Court quantum appeal was pending, the assessee brought subsequent events on record through I.A.57442/2011. In a separate penalty appeal for the same year, the CIT(A)'s order dated 13 January 2011 had cancelled the section 271(1)(c) penalty. Additional evidence included affidavits from 13 dealers, payment vouchers and identity material. The Assessing Officer examined 12 dealers and sent a remand report; they confirmed credit sales of marble and payment after two to three years (paragraph 10).

The CIT(A) accepted this evidence, found no concealment or inaccurate particulars and cancelled the penalty. The Supreme Court noted the asserted refund of Rs.98,153 penalty plus interest as indicating that Revenue had allowed the penalty appellate order to become final. It also recorded the subsequent termination of criminal proceedings; that was background, not the order under appeal (paragraph 10).

Source: [reported judgment / paragraphs 1-9 / PDF pages 4, 5, 6, 7, 8, 9 / judgment](#); [reported judgment / paragraphs 10: subsequent events and quoted CIT\(A\) findings / PDF pages 9, 10, 11, 12 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court acknowledged why the original addition had been made: at the assessment stage the assessee had not proved the correctness and genuineness of the purchase-credit entries. Its conclusion did not excuse that initial evidentiary failure or hold that a purchase credit can never be examined under section 68 (paragraph 13).

The subsequent record changed the factual position. The Assessing Officer had examined the dealers; their identities were established and their statements supported the claimed credit purchases. The CIT(A) noted that the recorded purchases, sales and closing stock were inconsistent with simply treating the purchases as non-existent, and accepted the material after the remand exercise. These are findings from the later penalty appeal which the Supreme Court expressly considered, not findings adverse to the assessee carried forward from the earlier High Court judgment (paragraphs 10 and 14).

The Court recognised that the evidence and findings arose in penalty proceedings. But those proceedings flowed from the very assessment and addition before it, and the accepted evidence dispelled the factual basis of the Rs.2,26,000 quantum addition. On the now-established record, that addition could not be maintained (paragraphs 14-15).

Although the Court reproduced the historical assessment and accounting provisions and recorded the rival rejected-books arguments, it expressly held that the appeal succeeded on the evidentiary ground alone. It was unnecessary to decide the remaining questions or the authorities cited for a general bar on additional additions after estimating profits (paragraphs 7-9, 12 and 16).

Source: [reported judgment / paragraphs 12: historical statutory quotation / PDF pages 12, 13, 14, 15, 16, 17, 18, 19 / judgment](#); [reported judgment / paragraphs 13-16 / PDF pages 19, 20, 21 / judgment](#); [official signed judgment / paragraphs 14-16 / PDF pages 20, 21, 22, 23 / judgment](#)

03 JUDICIAL DECISION

The appeal was allowed and only the Rs.2,26,000 section 68 addition for credits in the named unregistered dealers' accounts was set aside. The rest of the assessment order dated 30 November 2000, as modified by the CIT(A) on 9 January 2003, was expressly left undisturbed. There was no order as to costs; pending interlocutory applications were disposed of (paragraph 17).

Source: [reported judgment / paragraphs 17 / PDF pages 21 / judgment](#); [official signed judgment / paragraphs 16-17 / PDF pages 23, 24 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the specific Rs.2,26,000 credit addition

Assessee appeal allowed; the identified section 68 addition deleted; remainder of the assessment as specified in paragraph 17 undisturbed; no costs

Fact-specific quantum relief because accepted subsequent evidence removed the basis of the addition

No general ruling that cancellation of penalty automatically nullifies an assessment, that section 68 cannot cover purchase credits, or that all additions are barred after rejection of books. Those wider contentions were left undecided.

Source: [official signed judgment / paragraphs 17 / PDF pages 23, 24 / judgment](#)

05 AKHB REVIEW POINT

When subsequent proceedings accept evidence about the same transaction, place the actual evidence, remand examination, findings and finality before the court hearing the quantum dispute. The persuasive link here was the tested dealer evidence destroying the premise of fictitious creditors, rather than the bare fact that a penalty had been cancelled.

Do not cite this case as settling the general relationship between profit estimation, rejection of books and section 68. Paragraph 16 reserves those questions, and paragraph 17 confines relief to the specified credit addition. Preserve that limited scope when comparing another assessment. Later treatment, statutory changes and any Income-tax Act, 2025 application remain unverified.

Source: [reported judgment / paragraphs 10; 14-17 / PDF pages 9, 10, 11, 12, 19, 20, 21 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

143(2); 143(3); 144; 145(2); 145(3); 260A

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 68

Role: addition under challenge

Basis: Rs.2,26,000 of credits said to represent purchases from unregistered marble dealers were added to income; that specific addition was set aside.

2.

Act: Income-tax Act, 1961

Section: 271(1)(c)

Role: subsequent penalty proceedings and accepted evidence

Basis: The later CIT(A) order accepted dealer evidence and cancelled concealment penalty for the same year; its factual findings removed the basis of the quantum addition.

3.

Act: Income-tax Act, 1961

Section: 143(2); 143(3)

Role: assessment procedure and Revenue position

Basis: The assessment followed a scrutiny notice; Revenue disputed the assessee's contention that the books had been wholly rejected.

4.

Act: Income-tax Act, 1961

Section: 144; 145(2); 145(3)

Role: contested best-judgment/rejected-books argument

Basis: The assessee challenged further use of rejected books. The Court reproduced historical provisions but expressly did not decide these wider contentions.

5.

Act: Income-tax Act, 1961

Section: 260A

Role: High Court appeal procedure

Basis: The Rajasthan High Court had rejected the assessee's quantum appeal.

6.

Act: Income-tax Rules, 1962

Section: 46A

Role: additional-evidence procedure quoted from CIT(A)

Basis: Affidavits and supporting material were sent to the Assessing Officer for examination and a remand report in the penalty appeal.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. M. Khanwilkar, 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: 24 PDF pages; SHA-256

13476a458371ace7819b1f73f637e4a1e41a12b909137154af0e431b99a7b3cd. Original bytes preserved. Judgment paragraphs 1-17 on physical pages 1-24; final disposition on pages 23-24 and signatures/date on page 24.

Identity, key factual and reasoning passages, disposition and signatures/date cross-checked against the fully read reported judicial text; a complete independent rereading of every original PDF page is not claimed.

Open cited source rendition

The verified original and reported title use Sisodiya; the official discovery result uses Sisodia. The judgment title controls.

The original addition refers to 15 persons; the later evidence comprises 13 affidavits and examination of 12 dealers. These are separate procedural stages and are not flattened into a single count.

Paragraph 4 dates the Tribunal order 4 November 2004, while paragraph 10 refers to 27 April 2006, which paragraph 5 identifies as High Court admission. The note avoids resolving this internal chronology discrepancy.

The quoted assessment extract says 272(1)(c), but the judgment identifies the actual penalty proceedings as section 271(1)(c). The quoted anomaly is not treated as a separately decided provision.

The source's criminal-charge notation is irregular; no corrected criminal-section citation is inferred and no criminal-law holding is attributed to this appeal.

The lengthy historical statutory quotation is not an adjudication of every cross-referenced provision.

No subsequent-treatment or current-law verification.

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

The quantum appeal and subsequent penalty evidence concerned the same assessment year, 1998-99. Dates in 2006 and 2011 relate to proceedings, not additional assessment years.

STATUTORY SCOPE

Sections 68, 143, 144, 145 and 271(1)(c) in the setting of assessment year 1998-99. The broader questions under sections 144-145 and 68 were expressly left undecided; no present-law penalty or assessment-regime certification.

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 amendments have not been comprehensively verified.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 24](#)

SHA-256: 13476a458371ace7819b1f73f637e4a1e41a12b909137154af0e431b99a7b3cd

[reported judgment - PDF pages: 21](#)

SHA-256: b02cedc7935aeaf350a8560a79a6d0b0208073ef8de4b08b044ab11df2f873e

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