

Association of Old Settlers of Sikkim, President Shri Ram Chandra Mundra and Others v. Union of India, Ministry of Finance and Another

Miscellaneous Application Diary No. 5112 of 2023 in Writ Petition (Civil) No. 59 of 2013 and connected proceedings (full list below)

[2023] 10 SCR 368; 2023 INSC 106 | 2023-02-08

Whether phrases in paragraphs 10(a) and 77 of B.V. Nagarathna J.'s 13 January 2023 separate opinion should be corrected, and how the judgment's historical-status discussion and relation to Article 371-F should be understood.

10(26AAA)

Two-judge bench | M.R. Shah, J. | B.V. Nagarathna, J.

Assessment years: See the source-scope notes; no year inferred.

Correction forms part of the January judgment

This order deletes the two identified January passages and confines the status discussion to the tax exemption. Its deletion of the 2022 restriction does not itself insert the date 1 April 1990; that deemed effective date comes from the separately verified Finance Act 2023 substitution.

01 FACTS OF THE CASE

After the two separate opinions of 13 January 2023, petitioner No. 4, the Union of India and the State of Sikkim sought corrections to paragraphs 10(a) and 77 of Nagarathna J.'s opinion. The Court recorded that an amendment application, I.A. No. 3A of 2013, had been allowed on 2 August 2013, giving leave to amend the petition in twenty-five respects, but those substantial amendments had not been brought to the Court's notice at the hearing. Consequently, the separate opinion's account of the pleadings had used the unamended petition (SCR physical page 2; official pages 1-2).

The first requested correction concerned a historical sentence in paragraph 10(a). The second concerned paragraph 77's limitation of the Article 142 exemption relief to the financial year starting 1 April 2022 onward. The Union and State also requested observations that the Court had expressed no view on Article 371-F. This was a correction proceeding in the already-decided constitutional tax case; it was not a new taxpayer assessment appeal or a new adjudication of a community's status.

Source: [scr judgment public mirror / paragraphs Opening unnumbered order paragraphs / PDF pages 2 / judgment](#); [official signed correction order / paragraphs Opening order and amended-pleading explanation / PDF pages 1, 2 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Hon'ble Court recorded counsel's failure to draw attention to the amended pleadings and considered it just and proper, in the interests of justice, to correct the identified passages. The explanation of how the pleading error arose does not preserve the deleted sentence or transform the original characterisation into a judicial finding.

Numbered correction 1 deletes the whole identified sentence in Nagarathna J.'s paragraph 10(a), which had contrasted groups in its account of the earlier Sikkim Income Tax Manual. The correction is a deletion of that sentence, not merely the substitution of a single word. It must not be quoted from the unchanged January PDF as an operative factual or legal conclusion.

Numbered correction 2 records the submission that, because the Explanation had been held discriminatory against persons such as the petitioners, the benefit should run from insertion of that Explanation. The Court deletes the phrase limiting relief to the financial year beginning 1 April 2022 and directs a full stop after the preceding word provision. The operative textual result is removal of the 2022 cut-off. The order does not itself state 1 April 1990 as replacement wording; that exact deemed effective date is independently verified in the subsequent Finance Act, 2023 substitution.

On Article 371-F, the Court said no clarification of the proposed kind was needed because the validity or interpretation of that Article was never before it. It nevertheless expressly clarified that the definition of Sikkimese and references to the repealed Sikkim Subjects Regulations, 1961 and Sikkim Subject Rules, 1961 were relevant only for the Explanation to section 10(26AAA). Thus the original opinions' registration and domicile discussion remains tax-specific. It is not a general citizenship, ethnic-status, land-rights or constitutional-protection determination (SCR physical page 3; official pages 3-4).

The order directs that it be read as part of the 13 January 2023 judgment. It corrects Nagarathna J.'s separate opinion and bounds the original judgment's scope; it does not undo the shared tax-equality result, reimpose the invalid marriage proviso or create a wholly independent merits holding.

Source: [scr judgment public mirror / paragraphs Numbered corrections 1-2; unnumbered Article 371-F and tax-only clarification; final joint-reading direction / PDF pages 3, 4 / judgment; scr judgment public mirror / paragraphs Nagarathna J. 10\(a\) and 77 / PDF pages 37, 77, 78 / earlier judgment as printed; official historical statute / paragraphs Finance Act, 2023, section 5\(l\) / PDF pages 18, 19 / historical statute](#)

03 JUDICIAL DECISION

The Court made two express textual corrections to Nagarathna J.'s January opinion: (1) deletion of the identified entire sentence in paragraph 10(a); and (2) deletion from paragraph 77 of the 1 April 2022 financial-year limitation, with a full stop after provision. It also stated that Article 371-F validity/interpretation was not before the Court and confined the Sikkimese definition and the repealed 1961 Regulation/Rules references to the tax Explanation.

The miscellaneous applications, Review Petition (Civil) Diary Nos. 5450, 5075 and 5065 of 2023, and all pending applications including intervention and clarification applications were disposed of. The order expressly forms part of the judgment dated 13 January 2023. It contains no fresh costs or taxpayer-specific refund direction.

Separate subsequent legislation: the enacted Finance Act, 2023, section 5(l), substitutes section 10(26AAA) with deemed effect from 1 April 1990, adds definition limbs (iv) and (v) and omits the marriage proviso. That legislative development supplies its own terms; it is not an unstated third textual correction made by this order.

Source: [scr judgment public mirror / paragraphs Corrections 1-2, scope clarification, disposal and joint-reading direction / PDF pages 3, 4 / judgment](#); [official signed correction order / paragraphs Corrections and signed scope/disposal directions / PDF pages 3, 4 / judgment](#); [official historical statute / paragraphs Finance Act, 2023, section 5\(l\) / PDF pages 18, 19 / historical statute](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Applicants to the extent of the two corrections; affected exemption claimants benefit from removal of the 2022 restriction; original equality result retained

Two passages corrected; tax-specific scope clarified; miscellaneous applications, identified review petitions and pending applications disposed of; order incorporated into January judgment

Correction/modification of the earlier decision, not a fresh comprehensive merits rehearing or tax assessment adjudication

No adjudication of Article 371-F validity or interpretation and no general status determination. Deletion of the 2022 limitation is verified; the later enacted 1990 effective date and eligibility expansion are separately sourced.

Source: [scr judgment public mirror / paragraphs Corrections and disposition / PDF pages 3, 4 / judgment](#)

05 AKHB REVIEW POINT

Always supply this order alongside the January judgment. The preserved 79-page SCR and 118-page official January PDFs continue to print the deleted passages. A reader checking only those files could wrongly repeat a deleted community description or restrict exemption to the financial year commencing 1 April 2022. Keep the PDFs untouched and make the correction prominent in the separate research note.

For temporal analysis, distinguish three sources: the original Article 142 language, this order's deletion of its 2022 limitation, and Finance Act, 2023, section 5(l)'s express deemed substitution from 1 April 1990. Do not claim that the February Court expressly inserted the date 1 April 1990. Nor should the order be described as an automatic refund or reopening mandate for every earlier year.

Use the clarification to prevent scope creep: the tax definition and historical Regulation/Rules references do not decide general citizenship, community identity or Article 371-F rights. The later amendment's domicile and specified-family-link criteria must be applied in their actual enacted terms. Check subsequent treatment and the applicable procedural route before relying on the corrected decision for an individual claim. This two-order cross-check and historical statute verification are not a comprehensive citator or a present-law certificate.

Source: [scr judgment public mirror / paragraphs Corrections 1-2 and final clarifications / PDF pages 3, 4 / editorial synthesis](#); [scr judgment public mirror / paragraphs Nagarathna J. 10\(a\), 77-79 / PDF pages 37, 77, 78, 79 / earlier judgment as printed](#); [official historical statute / paragraphs Finance Act, 2023, section 5\(l\) / PDF pages 18, 19 / historical statute](#)

APPEAL AND PROCEEDING NUMBERS

Miscellaneous Application Diary No. 5112 of 2023 in Writ Petition (Civil) No. 59 of 2013 / Miscellaneous Application Diary No. 5236 of 2023 in Writ Petition (Civil) No. 59 of 2013 / Miscellaneous Application Diary No. 5645 of 2023 in Writ Petition (Civil) No. 59 of 2013 / Review Petition (Civil) Diary No. 5450 of 2023 / Review Petition (Civil) Diary No. 5075 of 2023 / Review Petition (Civil) Diary No. 5065 of 2023

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 10(26AAA), Explanation

Role: correction of prior constitutional exemption judgment

Basis: Removes the 2022 temporal limitation in Nagarathna J. paragraph 77 and confines status/regulation discussion to the tax Explanation.

2.

Act: Finance Act, 2023

Section: 5(l)

Role: independently verified subsequent historical amendment

Basis: Exact 1 April 1990 retrospective date, added limbs and omitted proviso verified separately from the correction order.

Source url: [Open cited source](#)

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Order of M.R. Shah and B.V. Nagarathna JJ.; corrections to B.V. Nagarathna J.'s separate opinion

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

VERIFIED RELATIONSHIP WITH THE IDENTIFIED CORRECTION

1.

Relationship: modified and to be read together

Earlier case id: sc-2023-01-13-association-old-settlers-sikkim

Later case id: sc-2023-02-08-association-old-settlers-sikkim-modification

Earlier asset id: 2023_10_289_367

Later asset id: 2023_10_368_371

Later decision date: 2023-02-08

Source url: [Open cited source](#)

Verified effect: Deletes one sentence in Nagarathna J. paragraph 10(a) and the 1 April 2022 financial-year limitation in paragraph 77; confirms Article 371-F validity/interpretation was not in issue and limits the Sikkimese/1961 Regulation and Rules references to the tax Explanation. The correction expressly forms part of the January judgment. It does not reverse the exemption-equality result or the invalidation of the marriage proviso.

Scope: This identified two-decision relationship was checked in full; no comprehensive search for later authorities is represented.

SEPARATELY VERIFIED HISTORICAL LEGISLATIVE CONTEXT

1.

Status: verified bounded historical amendment

Act: Finance Act, 2023

Act number: 8 of 2023

Assent date: 2023-03-31

Provision: 5(l)

Effective date: 1990-04-01

Source url: [Open cited source](#)

Summary: The enacted Act substitutes the whole of section 10(26AAA), deemed effective from 1 April 1990. It retains the Sikkim-source/dividend/interest-on-securities income limits and the first three register-related definition limbs; adds limb (iv) for an unregistered individual established to have been domiciled in Sikkim on or before 26 April 1975, and limb (v) for an individual not so domiciled whose specified relative is established beyond doubt to have been so domiciled; and omits the former marriage-disqualification proviso.

Qualification: Limb (v) names father, husband, paternal grandfather or brother from the same father. Neither new limb expressly repeats an Indian-citizen qualification; do not alter enacted wording by importing language from the judicial directions. This historical verification is not a consolidated present-law audit.

CONSTITUTIONAL PROVISIONS CONSIDERED

14; 142; 371-F

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (official signed correction order)

Identified source rendition: 5 PDF pages; SHA-256 8d7fd569de18ddc2069ba77d90415b70626b91e5f16ea872644ffadcd4153f6c. Original bytes preserved. Physical pages 1-4 contain the reportable order and signatures/date; physical page 5 is blank. Corrections are on page 3 and scope/disposal directions on page 4.

Open cited source rendition

Lead and connected application numbers are Diary/D.No. entries, not inferred registered MA or review numbers.

Unnumbered order with two numbered corrections. References to paragraph 10(a) and paragraph 77 are to Nagarathna J.'s January opinion, not paragraph numbers in this February order.

Full judicial order starts on SCR physical page 2 and ends on page 4. The official PDF is 5 pages with blank final page; signed substantive order ends on page 4. No neighbouring decision.

Correction 1 deletes the entire identified sentence. The deleted characterisation is not repeated as a factual label in this note.

Correction 2 removes the 1 April 2022 restriction and prescribes punctuation; it does not expressly insert 1 April 1990. The latter date comes from independently checked enacted Finance Act, 2023 section 5(l).

Article 371-F validity and interpretation expressly outside the matters decided; tax-only scope preserved.

Disposal of the three review petitions in consequence of the corrections is not characterised as an unqualified dismissal, fresh appeal outcome or reversal of the January result.

Original PDFs preserved without alteration; later_treatment remains not_verified beyond the specifically verified two-decision relationship and 2023 amendment.

Both citations, bench and date visually verified on the SCR cover. Official reportable order is jointly signed and dated on physical page 4.

Original constitutional writ proceedings and their correction order; no particular taxpayer assessment year or quantified tax demand was decided. Statutory effective dates and the subsequently deleted financial-year limitation are not assessment-year findings.

D.No. denotes a diary number in the SCR cover and official order; not registered Miscellaneous Application No. 5112/2023. The corrections address the January judgment disposing of W.P.(C) No. 59 of 2013 with No. 1283 of 2021.

STATUTORY SCOPE

Section 10(26AAA) as reproduced in the January 2023 opinions; February 2023 correction; historical whole-clause substitution by Finance Act, 2023, section 5(l), independently checked in the enacted Gazette.

No automatic mapping to the Income-tax Act, 2025; no certification of present eligibility, procedural remedies, refund entitlement or later judicial treatment.

LATER TREATMENT

Source checked 2026-10-04. Overall subsequent judicial treatment, further review or clarification, implementation and statutory changes have not been comprehensively checked. The specifically identified 8 February 2023 correction and enacted Finance Act, 2023 amendment are verified bounded developments only. This is not a citator or current-law certificate.

IDENTIFIED SOURCE LINKS

[official signed correction order - PDF pages: 5](#)

SHA-256: 8d7fd569de18ddc2069ba77d90415b70626b91e5f16ea872644ffadcd4153f6c

[scr judgment public mirror - PDF pages: 4](#)

SHA-256: f42eec44f37d31e8da5f5d3bfb0ca220ac2b1c333d4fb6811098a8f49f4ef126

[scr judgment public mirror - PDF pages: 79](#)

SHA-256: a8f20aa1928328c5e00dd0fc3c9175bee76244588fa3eb26194e3c7f184af69e

[official signed judgment - Cover/first opinion physical page 1; Shah J. disposition and both judges' signatures physical page 29; separate Nagarathna J. opinion begins page 30 and ends with signature/date on page 118. - PDF pages: 118](#)

SHA-256: dd554f32710e7195da4818023c206769d9b30fbd9dd95d27f16f31ccd2845f77

[official historical statute - Section 5 opening on physical/Gazette page 14; section 5\(l\) on pages 18-19; assent and Act identity on page 1. - PDF pages: 106](#)

SHA-256: 3f3a1860099fdc4223d005dffce51d15cdf2a48331fd0ec6967ddcaa9c1f7bc6

[Related note: Association of Old Settlers of Sikkim and Others v. Union of India and Another](#)

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.

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