

Mansarovar Commercial Pvt. Ltd. v. Commissioner of Income Tax, Delhi

Civil Appeal No. 5769 of 2022 / Civil Appeal Nos. 5773, 5772, 5771 and 5770 of 2022
[2023] 8 S.C.R. 452 | 2023-04-10

Whether five companies registered in Sikkim could resist assessments by the Delhi authorities for AYs 1987-88 to 1989-90 by relying on the then non-extension of the 1961 Act to Sikkim, and whether the notices, assessment of previously unassessed income and interest were valid.

6(3)(ii) | 2(35) | 131 | 147 | 148 | 234A | 260A

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

Assessment years: 1987-88, 1988-89, 1989-90

01 FACTS OF THE CASE

Mansarovar Commercial and four connected companies, all incorporated under the Registration of Companies (Sikkim) Act, 1961, claimed that commission from cardamom and other agricultural-product business was earned wholly in Sikkim and assessable only under the Sikkim State Income-tax Manual, 1948. The 1961 Act was extended to Sikkim for the previous year relevant to AY 1990-91. A search on 15 March 1990 at the Delhi office of Rattan Gupta & Co. uncovered the companies' books, bank documents, signed blank cheques and other records. Delhi officers issued section 148 notices for AYs 1987-88, 1988-89 and 1989-90; the companies also filed Sikkim returns. The Assessing Officer found actual control and management in Delhi and rejected the claimed Sikkim commission business. Assessments made on 9 October 1998 included commission, unsecured-loan and related-interest items, and disallowance of the income-tax provision. CIT(A) upheld the assessments. The ITAT allowed the companies' appeals, but the Delhi High Court reversed it and restored the assessments. The companies appealed to the Supreme Court.

Source: [reported alternate rendition / paragraphs 1-2.15 / PDF pages 6, 7, 8, 9, 10, 11, 12, 13 / judgment](#); [official signed judgment / paragraphs 1-2.15 / PDF pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court applied the historical control-and-management inquiry under section 6(3), looking for actual directing power rather than a registered-office address or merely formal authority. Earlier company-residence decisions required control and management to be wholly in India under that limb; quoted rules for firms and Hindu undivided families used a different statutory presumption and must not be transposed into the company test. The evidence went well beyond custody of audit records: the findings included Rattan Gupta's role in choosing nominal directors, signed blank cheques and seals at his Delhi office, Delhi-based bank signatories, and the absence of credible proof of Sikkim management or business. The Court upheld the conclusion that Gupta actually controlled the companies, the validity of service upon him as principal officer, and the Delhi Assessing Officer's jurisdiction. The alleged commission payers had not answered section 131 summons and the companies had not substantiated the commission income in Sikkim; the ITAT had wrongly shifted that evidentiary burden back to the Revenue. Following *Sun Engineering Works*, section 147 could assess escaped income even where no original assessment had been made. On interest, the Court applied *Anjum M.H. Ghaswala*, *Karanvir Singh Gossal* and *Bhagat Construction*: section 234A interest is statutory, and workings in ITNS 150 forming part of the assessment order sufficed despite the objection that the assessment's narrative contained no specific direction. The section 260A objection also failed because both sides had fully argued this settled, incidental or collateral interest issue.

Source: [reported alternate rendition / paragraphs 6-6.4 / PDF pages 25, 26, 27, 28, 29, 30, 31, 32 / judgment](#); [reported alternate rendition / paragraphs 7-9 / PDF pages 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 / judgment](#); [reported alternate rendition / paragraphs 10-13 / PDF pages 41, 42, 43, 44 / judgment](#); [official signed judgment / paragraphs 8-13 / PDF pages 60, 61, 62, 63, 64, 65, 66 / judgment](#)

03 JUDICIAL DECISION

The Court upheld the Delhi High Court on the actual control and management in Delhi, service and jurisdiction, applicability of the 1961 Act, failure to establish the asserted Sikkim commission income, assessment of escaped income and levy of interest. All five assessee's appeals were dismissed, with no order as to costs.

Source: [reported alternate rendition / paragraphs 9-15 / PDF pages 41, 42, 43, 44 / judgment](#); [official signed judgment / paragraphs 14-15 / PDF pages 66, 67 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue

Assessee's appeals dismissed; Delhi High Court judgment restoring the assessments upheld; no order as to costs

Common residence, jurisdiction, service, escaped-assessment and interest issues decided against the assessee

This is a historical section 6(3) control-and-management decision, not an application of the later place-of-effective-management test. It does not hold that a chartered accountant becomes every client's principal officer by retaining books, determine a general exemption for genuine Sikkim-source income or resolve double taxation on proved Sikkim income. No separate penalty liability, year-wise interest computation or universal exception to framing substantial questions under section 260A is decided.

Source: [reported alternate rendition / paragraphs 15 / PDF pages 44 / judgment](#); [official signed judgment / paragraphs 15 / PDF pages 67 / judgment](#)

05 AKHB REVIEW POINT

For a legacy residence dispute, identify the governing version and the correct statutory limb before examining who actually made and implemented the controlling decisions. Preserve directors' instructions, board records, bank mandates, local personnel and expenditure evidence, and proof of the claimed income source. A registered office and local tax payment do not by themselves establish the facts rejected here; conversely, this unusually strong control record should not be reduced to an audit-file-custody rule. Check notice authority and service against the proved role of the recipient, and examine the assessment together with its ITNS 150 computation. The judgment's common discussion of section 234A is not a substitute for checking commencement, the applicable year, rate, period and actual computation. No current-law opinion or automatic mapping to the Income-tax Act, 2025 is supplied.

Source: [reported alternate rendition / paragraphs 7-13 / PDF pages 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 / judgment](#); [reported alternate rendition / paragraphs 4.1, 4.5 / PDF pages 19, 20, 22 / party submissions on historical and later statutory versions](#)

HISTORICAL STATUTORY BASIS

Company residence: Section 6(3)(ii), before the later POEM substitution: control and management of the company's affairs situated wholly in India during the relevant year. Paragraph 4.5's discussion of post-1 April 2017 POEM is the Revenue's submission, not the test decided for these assessment years.

Sikkim extension: Paragraph 2.2 records Finance Act 1989 section 26 postponing application in Sikkim to the previous year relevant to the assessment year commencing 1 April 1990.

Interest limit: The judgment describes section 234A interest as mandatory and upholds ITNS 150 workings but does not set out year-wise amounts, rates or accrual periods.

AUTHORITIES IDENTIFIED IN THE JUDGMENT

1.

Case: V.V.R.N.M. Subbayya Chettiar v. CIT, Madras

Citation: AIR 1951 SC 101

Role: Control and management principles quoted in paragraph 7.1(i); statutory context distinguished from the company limb

2.

Case: Erin Estate v. CIT

Citation: 1959 SCR 573

Role: De facto control and management discussed through a quotation concerning firms, paragraph 7.1(ii)

3.

Case: Narottam and Pareira Ltd. v. CIT

Citation: 1953 23 ITR 454

Role: Company control situated wholly in taxable territories; company/firm distinction quoted, paragraph 7.1(iii); source uses variant spellings

4.

Case: CIT v. Bank of China

Citation: 1985 SCC OnLine Cal 24

Role: Historical section 6(3) company test quoted, paragraph 7.1(iv)

5.

Case: CIT v. Nandlal Gandadal

Citation: 1960 40 ITR 1 (SC)

Role: Actual control rather than mere legal power, paragraph 7.1(v)

6.

Case: CIT v. Sun Engineering Works P. Ltd.

Citation: (1992) 4 SCC 363

Role: Applied in paragraph 11: escaped assessment includes non-assessment and under-assessment

7.

Case: CIT, Mumbai v. Anjum M.H. Ghaswala

Citation: (2002) 1 SCC 633

Role: Applied to statutory interest in paragraphs 12-14

8.

Case: Karanvir Singh Gossal v. CIT

Citation: (2012) 13 SCC 802

Role: Applied in paragraphs 12 and 14

9.

Case: CIT, Delhi v. Bhagat Construction Company Private Limited

Citation: (2016) 15 SCC 738

Role: Relied on for ITNS 150 as part of assessment order, paragraph 12.1

10.

Case: Ranchi Club Ltd.

Citation note: The submissions cite CIT v. Ranchi Club Limited (2001) 247 ITR 209; paragraph 12 specifically addresses the Patna High Court decision relied on by the ITAT.

Role: Its contrary interest view held not good law in paragraph 12; do not describe this as overruling every proposition in the litigation

11.

Case: Mahaveer Kumar Jain v. CIT, Jaipur

Citation: (2018) 6 SCC 527

Role: Relied on by assessees in paragraph 3.6; no independent ruling on proved double taxation is supplied here

12.

Case: Shiv Raj Gupta v. CIT, Delhi

Citation: AIR 2020 SC 3556

Role: Discussed in Revenue submission at paragraph 4.13; paragraph 13 resolves this case's section 260A interest objection on its particular grounds

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

127; 132(5); 142(1); 143(2); 143(3); 234B; 234C; 271(1)(a); 271(1)(c); 271B; 273; 274

CONNECTED PROCEEDINGS

Count: 5

Treatment: One common reasoned judgment; all five appeals dismissed; no separate opinion

Assessees: Mansarovar Commercial Private Limited; Sovereign Commercial Private Limited; Swastik Commercial Private Limited; Trishul Commercial Private Limited; Pasupati Nath Commercial Private Limited

Mapping limit: The judgment lists the connected appeal numbers and the five companies but does not explicitly pair each non-lead company with a particular appeal number; no such pairing is inferred.

SOURCE & VERIFICATION

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

Identified source rendition: 67 PDF pages; SHA-256

f0f5c546ade47c835018a3fb1fbfda4ff77f429c67b3de71326096bb048313ac. Original bytes preserved.

[Open cited source rendition](#)

The reported editorial jurisdiction line on PDF p. 6 prints ITA No. 162 of 2022, but judicial paragraph 1 and the official original identify ITA 162/2002 and connected 2002 appeals. Judicial text governs; the original source is not edited.

The reported case-law table prints Subbayya Chettiar as [1950] SCR 1961, while the quotation in paragraph 7.1(ii) gives (1950) SCR 961. The note uses the AIR citation appearing in the judgment instead of endorsing the inconsistent SCR table entry.

Paragraph 14's compressed negative phrasing is read with paragraphs 9-13 and the dismissal in paragraph 15: the assessee failed, and the assessments under the 1961 Act remained upheld.

The Court's discussion of mandatory section 234A interest is retained without inventing year-by-year applicability or computations for the three assessment years.

The original and reported text contain internally inconsistent recitals about production of alleged managers (paragraph 6.2 versus 6.3(c)) and a March 1998 date in the reproduced AO findings. These disputed recitals are not silently repaired or used as stand-alone facts in the note.

References to the 1922 Act are precedent discussion in a 1961 Act case; no separate 1922 Act holding or post-2017 POEM holding is attributed to this appeal.

SCR citation verified on reported PDF p. 1. The official signed original confirms the lead and connected appeal numbers, author, bench signatures and date; it does not print this reported citation. Corpus metadata also supplies 2023 INSC 330, not independently certified here as a neutral citation.

The three years are expressly identified in paragraphs 1 and 2.5. The common judgment gives no case-by-case computation or allocation of statutory interest to each year.

STATUTORY SCOPE

Historical 1961 Act provisions as considered in the judgment for AYs 1987-88 to 1989-90; no independent current-law consolidation certified

No Income-tax Act, 2025 crosswalk, subsequent amendment audit or comprehensive citator review has been performed.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 67](#)

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[reported alternate rendition - PDF p. 1 / SCR p. 452 - PDF pages: 44](#)

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