

BLOGS

Procedural Timelines vs. Equitable Remedies: Analyzing the Supreme Court's Clarification on the Scope of Section 264 Revisional Jurisdiction

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1. Introduction

The friction between procedural finality and substantive justice exists within the realm of public law and tax jurisprudence and this article hereby analyses the scope of Section 264 Revisional Jurisdiction by the SC.

Despite revenue legislation laying down strict timelines to ensure certainty in budget with effective administration, taxpayers know that they can always rely on principles of fairness i.e., *the State cannot hold tax on collection without legitimate statutory means as provided in [Article 265 of the Constitution of India](#)*.

The Division Bench of the Supreme Court in the matter of [Orissa Rural Housing Development Corporation Ltd. v. The Assistant Commissioner of Income Tax & Ors. \(2026 LiveLaw \(SC\) 1046\)](#) consisting of Justice Prashant Kumar Mishra and Justice Shree Chandrashekhar has examined the above issue.

The realisation by the Apex Court was that once the **taxpayer fails to make a claim for deduction under a proper revised return as stipulated under [Section 139\(5\) of the Income Tax Act, 1961](#)**, they shall not be allowed to raise the fresh claim before Revisional Authority under [Section 264 of the Act](#).

This particular ruling has reiterated the long-standing doctrine of strict interpretation in tax law that supervisory and revisional remedies cannot be allowed to evade mandatory procedural bars.

2. The Factual Matrix and Procedural Trajectory

The appellant, Orissa Rural Housing Development Corporation Ltd., submitted their regular income tax return for the financial year 2006-07, reporting a net loss of ₹1.94 crore.

As a result of the assessment process, the corporation recognized that it had *overlooked some eligible deductions from its tax return*. Thus, **the appellant submitted a request to the Assessing Officer (AO) to consider those deductions in order to amend his tax position during the evaluation of the original return.**

The Assessing Officer, however, completed the assessment without considering the mid-assessment request from the appellant.

The assessing officer's action concluded with the levying of a large liability amount of ₹7.58 crore. In addition, the AO charged interest of ₹2.50 crore under the Section **234B of the Act on the alleged default of the advance tax payment provision thereby making the total amount of unpaid liabilities close to ₹10.08 crore.**

Faced with this situation, the appellant had different legal options but decided to go through the Commissioner of Income Tax (CIT) in the filed revision petition. In the petition, *the corporation raised a brand-new claim seeking to obtain the deductions neglected in the original tax return in order to avoid an undue taxation amount.*

The Commissioner dismissed the revision petition. **The CIT held that a fresh substantive claim cannot be introduced at the revisional stage if the assessee failed to file a revised return within the mandatory statutory window provided by law.**

The appellant subsequently faced dismissals in its appeal before the CIT (Appeals) and its writ petition before the Orissa High Court before escalating the matter to the Supreme Court.

*The apex court examined whether a Section 264 revision allows fresh claims absent a timely revised return under **Section 139(5)**, and whether foundational facts must already exist in the assessment record.*

3. Comparative Statutory Analysis: Section 139(5) vs. Section 264

To make a fair evaluation of the legal issues presented in this case, it is important to examine the structural link between the legal provisions that deal with the amendment of returns and those that pertain to administrative revisional powers.

The Income Tax Act of 1961 provides for two separate approaches to the matter of tax compliance and administrative redress in the form of:

Section 139(5) (Revised Return): This is a statutory option available to an assessee who realizes that he has inadvertently omitted some information, made mistakes, or made incorrect representations while filing the original return.

This option allows the taxpayer to rectify his tax position voluntarily, subject to the fact that the revised return is submitted during the specific period determined by law.

Section 264 (Revisional Jurisdiction): This refers to the extraordinary power to supervise and determine matters conferred upon the Principal Commissioner or Commissioner of Income Tax that allows him to summon the records of any proceeding under the said Act and make an order that does not have adverse consequences for the taxpayer.

The core legal question before the Supreme Court was whether the broad scope of **Section 264 could be expanded to allow claims that had become time-barred under Section 139(5)**. The Court addressed this by confirming that the discretionary nature of *revisional power cannot be used to subvert or extend the explicit procedural limitations built into the compliance framework of the Act*.

4. Arguments Advanced by the Parties

The Assessee's Submissions (Pleas for Broad Interpretation)

The appellant contended that Section 264 confers broad supervisory powers aimed at ensuring correct assessments, citing precedents such as *Dwarka Nath v. Income Tax Officer, Sirpur Paper Mills Ltd. v. Commissioner of Wealth Tax*, and *Wipro Finance Ltd. v. Commissioner of Income Tax*.

They argued the Revisional Authority has a duty to grant legitimate reliefs despite technical or procedural omissions during assessment.

The Revenue's Submissions (Pleas for Procedural Strictness)

Conversely, the Revenue maintained that Section 264 cannot override clear statutory limitations, relying on *Deputy Commissioner of Income Tax v. Om Siddhakala Associates* to argue that missing the **revised return window under Section 139(5) cannot be circumvented via**

revision.

5. Ratio Decidendi and Judicial Reasoning

Dismissing the appeal, the Supreme Court upheld the Orissa High Court's view based on two primary principles:

A. The Requirement of Foundational Facts

Revisional review depends on an established record; introducing new claims without prior foundational facts before the Assessing Officer would render assessment proceedings endlessly repetitive. **The Court cautioned that allowing such fresh assertions without an underlying record undermines procedural certainty.**

B. Mandatory Application of Section 139(5)

Affirming the reasoning in ***Om Siddhakala Associates***, the Court ruled that *missed deductions cannot be revived via revision when a timely revised return was not filed. Section 264 corrects existing record evaluations rather than introducing fresh, time-barred claims.*