

All India Reporter Ltd., Nagpur v. Ramachandra Dhondo Datar

Civil Appeal No. 327 of 1959 — Single Supreme Court civil appeal disposed of by the target judgment.

[1961] 2 SCR 773 | 1960-11-29

The employer could not deduct supposed income-tax from this composite judgment-debt in execution, and the recovery notice failed because no tax had been assessed against the recipient.

1922 Act: 18(2) | 1922 Act: 18(7) | 1922 Act: 46(5)

3 Judges | J. L. Kapur | M. Hidayatullah | J. C. Shah

01 FACTS OF THE CASE

Datar sued his former employer after termination and obtained a decree covering compensation, notice salary, interest and costs. He sought execution after allowing a cross-decree in the company's favour. The Income-tax Officer asked that tax be deducted from the decretal amount and paid to the Treasury; the company also asserted a deduction duty. The executing judge permitted the deduction. The High Court reversed that direction and ordered execution as sought by Datar. The company appealed, relying on the salary-withholding provision and the officer's recovery request.

Source: [SCR 774-775; facts and procedural record](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated withholding and recovery as distinct routes. Section 18(2) imposed a duty when an amount was due and payable as salary; section 46(5) required assessed tax remaining unpaid before salary could be intercepted for arrears. No tax had been assessed against Datar, so the latter route was unavailable. As between these parties, the composite claim had become a judgment-debt, and the decree made no provision for tax payment. A substantial part was compensation, and the net execution claim also reflected interest, costs and a cross-decree. The Court found no statutory authority allowing the debtor to satisfy an unassessed third-party tax claim by reducing that judgment-debt. It distinguished the English interest decision and an Indian case involving recovery of tax already assessed.

Source: [SCR 775-779; judicial reasoning; opinion boundaries preserved](#)

03 JUDICIAL DECISION

The company was neither entitled nor bound to make the claimed section 18 deduction from this decree, and the officer's section 46(5) request could not support it. The decree had to be executed according to its terms, subject to adjustments permitted by civil procedure. The Court expressly declined to decide whether the money, when received by Datar, would itself be taxable.

Source: [SCR 776-778; holding and expressed limits](#)

04 OUTCOME / IN WHOSE FAVOUR

Company's appeal dismissed. The High Court's direction for execution without the disputed tax deduction stood. No order for costs because the respondent did not appear; the Court had assistance from an amicus.

Source: [SCR 779-779; operative disposition and costs](#)

05 AKHB REVIEW POINT

Keep taxability, withholding and collection powers separate. The absence of an assessed demand defeated the historical recovery request, while the character and terms of this composite decree drove the withholding result. The decision does not make decretal receipts tax-free. Before applying it to a modern award or settlement, inspect the operative withholding text, each payment component and any express tax direction in the decree.

Source: [SCR 775-777; editorial analysis based on the indicated reasoning](#)

ORIGINATING PROCEEDINGS

1.

Case numbers: Misc. First Appeal No. 15 of 1954

Relationship: Bombay High Court at Nagpur execution appeal; order 28 June 1956

SOURCE & VERIFICATION

[Original reported Supreme Court judgment](#)

7-page retained public-mirror SCR report. The complete report was read as text and page images. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. All 7 physical pages/SCR773-779, caption/headnote then Shah J judgment p 2-7; complete conclusion expressly leaves recipient taxability undecided; no neighboring case.

[Open cited source rendition](#)

STATUTORY SCOPE

Indian Income-tax Act, 1922; 18(2), 18(7), 46(5)

The Finance Act 2011 text separately addresses withholding from income chargeable as salary in 192(1), arrears deductions from salary in 226(2), and a notice to persons owing or holding money in 226(3)(i). The old composite-decree result does not itself resolve those later powers or substantive taxability.

No corresponding 2025 provision was verified for the withholding and recovery provisions; no renumbering or present-law equivalence is asserted.

The operative historical law is identified separately. Only the stated later statutory versions and passages were checked; comprehensive subsequent history and applicability to a particular later tax year remain unverified.

LATER TREATMENT

Source checked 2026-10-08. No specific later judicial treatment is adopted except where expressly stated.

No later primary ruling on withholding from an equivalent composite decree has yet been checked. The recipient's substantive liability was expressly outside this appeal and remains outside this note's holding.

Earlier authorities discussed within the target judgment are not treated as later-use evidence.

IDENTIFIED SOURCE LINKS

[Income-tax Act,1961: Sections 192\(1\),226\(1\)-\(2\),\(3\)\(i\)](#)

DOR-hosted Taxmann compilation, as amended by Finance Act 2011 Only identified statutory limbs on these pages, plus version page 42. Not a current consolidated text, Gazette-original authentication, whole-Act or image review. Only the named 2011 provisions are compared. Text pages read: 784-785, 852-853.

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