

Collector of Customs and Others v. M/s. Soorajmull Nagarmull and Another

Civil Appeal Nos. 429 and 430 of 1966

[1970] 1 SCR 123 | 1969-03-28

Section 46(5A) garnishee recovery from customs-refund decree money and certification of decree adjustment

Income-tax Act, 1922: section 46(5A) | Code of Civil Procedure, 1908: Order XXI rule 2

Two-judge bench; judgment delivered by M. Hidayatullah, C.J. | M. Hidayatullah, C.J. | G. K. Mitter, J.

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

Repealed recovery provision

Section 46(5A) of the 1922 Act and the super-tax context are historical. No equivalence with current recovery machinery is asserted.

01 FACTS OF THE CASE

The respondent obtained decrees requiring the Union of India to refund excess customs duty. Because substantial tax remained unpaid, the Income-tax Officer served the Collector of Customs under section 46(5A); the Collector deposited the decree amounts against the respondent's super-tax, then sought certification of satisfaction under Order XXI rule 2 (SCR pp.123-126; PDF pp.1-4).

Source: [Primary judgment: facts and recovery issue](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 46(5A) as a garnishee mechanism reaching money held for the assessee. The Union acted through its departments, super-tax was a kind of income-tax, and Order XXI rule 2 did not require voluntary payment; a legally compelled out-of-court garnishee payment could be certified (SCR pp.126-129; PDF pp.4-7).

Source: [Primary judgment: garnishee reasoning](#)

03 JUDICIAL DECISION

The Court ordered the payment certified as adjustment of the decrees and allowed both appeals with costs in the Supreme Court and High Court.

Source: [Primary judgment: operative order](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue and the Union of India on the validity and certification of the garnishee payment.

Source: [Primary judgment: outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: separate three questions—whether the debtor holds money for the assessee, whether the tax authority can redirect it, and how that payment is reflected in the civil decree. Recheck each step under the current statutory provisions.

Source: [Primary judgment: review-point basis](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Complete seven-page SCR report read in page-preserving text and every page image inspected.

[Open cited source rendition](#)

Exact catalogue SHA-256 and seven-page count verified; all pages were read and visually inspected.

Identity, bench, statutory issue, reasoning and operative result were checked against the complete report.

STATUTORY SCOPE

The decision concerns the repealed 1922 Act and super-tax. Its garnishee reasoning is historical and requires verification against present recovery provisions and later law.

LATER TREATMENT

Source checked 2026-10-12. No comprehensive current-law or later-treatment clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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