

Income-tax Officer, Alleppey v. M.C. Ponnose and Others

Civil Appeal No. 942 of 1966 / Civil Appeal No. 943 of 1966

[1970] 1 SCR 678 | 1969-07-28

Could the State Government's 14 August 1963 notification, issued under the substituted section 2(44)(ii), retrospectively invest the Taluk Tahsildar with Tax Recovery Officer powers from 1 April 1962 and validate attachments made before the notification?

2(44), especially substituted clause (ii)

Three judges | J.C. Shah, Acting Chief Justice | V. Ramaswami, J. | A.N. Grover, J.

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

Historical officer authority and limits of retrospective designation

The ruling concerns attachments made before the 14 August 1963 notification under the then section 2(44). Parliament's retrospective definition did not retrospectively designate the Tahsildar. Both Revenue appeals failed, but the underlying tax and general creditor priority were not decided. The Finance Act section number differs between the headnote and judicial text; the separate Gazette original and full rules were not authenticated. Later officer definitions changed, and a later clarificatory-notification distinction is supported only by the official web text. Original judgment PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

The two Revenue appeals concerned the same Kerala notification. In the facts narrated for Civil Appeal 942/1966, Kunchacko of Alleppey had allowed income-tax arrears to accumulate. The Income-tax Officer sought recovery through the Tahsildar, who attached shares standing in Kunchacko's name. Ponnose claimed a money decree against Kunchacko and had also attached those shares in execution. He petitioned under Article 226 against the Revenue's attempt to sell the attached shares for the tax arrears. The Single Judge held the retrospective authorisation invalid and quashed the Tahsildar's attachments; the Division Bench affirmed. The source supplies no separate factual narrative for Civil Appeal 943/1966 (physical pages 2-3/SCR 679 F-680 B).

The 1961 Act commenced on 1 April 1962. Its original section 2(44) covered a Collector; an Additional Collector or another officer authorised to exercise Collector powers under State land-revenue law; and a gazetted Central or State officer authorised by Central Government notification. Finance Act, 1963 section 4 retrospectively substituted a definition which placed Collectors and Additional Collectors together and allowed the State Government, by general or special Gazette notification, to authorise an officer empowered under State land-revenue or other public-demand law to recover arrears. The separate Central Government route for gazetted officers remained in clause (iii) (physical pages 3-4/SCR 680 C-681 A).

The impugned notification was dated 14 August 1963 and published on 20 August 1963. It invoked section 2(44)(ii), read with rule 7(2) of the Income-tax (Certificate Proceedings) Rules, 1962, and purported to operate from 1 April 1962. The challenged attachments occurred after 1 April 1962 but before 14 August 1963. On the attachment dates the Tahsildar had not yet acquired the relevant Tax Recovery Officer authority. The Court's question was whether the later notification could supply it retrospectively, not whether the underlying tax was correctly assessed (physical page 4/SCR 681 A-D).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court recognised Parliament's ability to enact retrospective legislation, subject to the law governing that power. Courts nevertheless do not infer retrospective interference with rights without express wording or necessary implication. A delegate's ability to make retrospective rules or regulations depends on authority conferred expressly or by necessary implication in the enabling provision; general delegated power alone is insufficient. The statutory source and its wording therefore control (physical pages 4-5/SCR 681 E-682 A).

The officer-designation notification was more an executive act than a rule, regulation or bye-law. This made the absence of a power to operate retrospectively especially important. The Court drew support from *Strawboard Manufacturing*: an executive extension issued after the prescribed adjudication period had expired could not cure a jurisdictional defect without statutory authority. Here, too, the later notification could not empower the Tahsildar for an earlier date merely by declaring that result (physical page 5/SCR 682 B-E).

Finance Act, 1963 section 4's retrospective substitution did not change that answer. Its legal fiction made the new definition part of the Act from the Act's inception; it did not also deem every later State authorisation to have existed earlier or confer a retrospective notification power. The fiction could not be extended beyond its legitimate purpose. There was no such express provision in section 2(44), and the Finance Act wording did not create the proposed power by necessary implication (physical pages 5-6/SCR 682 F-683 A).

B.S. Vadera was distinguished. The Constitution's Article 309 proviso, read with the main provision, gave the President or Governor a temporary service-rule power comparable in subject matter to the legislature's power, explaining retrospective rules in that setting. Its particular constitutional language and structure supplied no analogy for this section 2(44) notification. The Court consequently agreed that the Tahsildar's attachments were unsustainable (physical page 6/SCR 683 A-E).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

Both Civil Appeals 942 and 943 of 1966 were dismissed with costs and one hearing fee. The High Court's invalidation of the retrospective authorisation and quashing of the impugned attachments stood. No remand was ordered. The judgment does not cancel the underlying income-tax assessment, determine the amount of arrears, resolve a general priority contest between tax and judgment creditors, or forbid a fresh recovery step taken by a duly authorised officer according to law (physical page 6/SCR 683 E-F, read with physical pages 2-4/SCR 679-681).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Ponnoose and the respondent side in both appeals; Revenue appeals fail

Both appeals dismissed with costs; one hearing fee

Binding construction of the historical 1961 officer-authorisation provision and retrospective notification limit

No tax quantum, assessment validity, universal Crown-priority ruling, or post-notification fresh recovery adjudication.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Check the legal power on the date of the impugned act. A retrospectively amended definition, an officer's pre-existing State recovery powers, and the later instrument designating that officer are separate steps. This decision prevents the last step from being assumed or backdated without an enabling power; it does not hold that every retrospective fiscal provision is invalid.

Hukam Chand v. Union of India (22 August 1972) expressly quotes Ponnoose and applies the express-or-necessary-implication test to a retrospective amendment of rehabilitation rules. Parliamentary laying did not cure a rule outside the statutory delegation (physical pages 5-8/SCR 900-903, especially 901 C-902 F). State of Bihar v. Ramesh Prasad Verma (31 January 2017) gives a narrow counterpoint: after counsel cited Ponnoose, the Court treated the later mineral-area notification as clarificatory of an already operative royalty notification and held the cited line inapplicable on those facts. This does not authorise retrospective creation of recovery-officer jurisdiction (official rendered web text, paragraphs 13-18 and 21-22, rendered page positions 9-18; no PDF-image verification).

The historical definition is not an unchanged contemporary officer list. The government-hosted 2011 compilation records a substituted section 2(44), effective from 1 April 1988, authorising an Income-tax Officer by written order of the Chief Commissioner or Commissioner; it also records the 2006 addition concerning prescribed Assessing Officer powers (physical pages 69-70/printed 1.28-1.29, footnotes 26-27). That limited history does not establish the full later amendment or savings chain. Comprehensive later treatment, present-law applicability and any 2025 mapping remain not verified.

Source: See the proposition-specific paragraph and PDF-page references below.

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 942 of 1966

Outcome: Dismissed with costs; impugned attachment remains quashed

2.

Case number: Civil Appeal No. 943 of 1966

Outcome: Dismissed with costs on the common notification issue; no independent factual narrative supplied

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, author, two appeals and narrated facts

Source url: [Open cited source](#)

Pdf pages: 1; 2; 3

Paragraphs: SCR 678 heading; 679 B-680 B

2.

Topic: Original and substituted definition; Finance Act fiction

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 680 C-681 A

3.

Topic: Notification, Gazette publication, attachment timing and issue

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 681 A-D

4.

Topic: Delegated and executive power limits

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 681 E-682 E

5.

Topic: Legal fiction and Article 309 distinction; final relief

Source url: [Open cited source](#)

Pdf pages: 5; 6

Paragraphs: SCR 682 F-683 F

6.

Topic: Later application and parliamentary-laying limit

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: SCR 900-903

Source role: later judicial treatment

7.

Topic: Clarificatory-notification distinction

Source url: [Open cited source](#)

Pdf pages:

Paragraphs: Paragraphs 13-18 and 21-22; page numbers are positions in the official rendered web text, not independently verified PDF images

Source role: later judicial treatment

Rendered web text page positions: 9; 10; 11; 12; 13; 14; 16; 17; 18

8.

Topic: Historical replacement of the officer definition

Source url: [Open cited source](#)

Pdf pages: 69; 70

Paragraphs: Printed 1.28-1.29, section 2(44), footnotes 26-27

Source role: historical statutory change

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

An actual construction of the 1961 Act's officer-authorisation definition. The Court distinguishes Parliament's retrospective substitution of the definition from a State executive notification purporting retrospectively to supply authority. Rule 7(2) is identified as a cited notification power but not separately reproduced or comprehensively construed.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.N. Grover, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, section 2(44), in its original and Finance Act, 1963 substituted versions

SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

Asset id: 1973_1_896_903

Title: HUKAM CHAND ETC. versus UNION OF INDIA & OTHERS

Decision date: 1972-08-22

Classification: Expressly quoted and applied

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Pinpoint: SCR 900-903; direct Ponnoose at 901 C-902 C

Holding limit: No retrospective rule-making without express or implied delegation; parliamentary laying does not cure excess of delegated power. Different rehabilitation statute.

Bounded check: verified only within explicit read bounds

2.

Asset id: sci-jonew-44513-web-text

Title: State of Bihar and Others v. Ramesh Prasad Verma (Dead) through LRs

Decision date: 2017-01-31

Classification: Distinguished cited line in clarificatory-notification context

Source url: [Open cited source](#)

Pdf pages:

Pinpoint: Paragraphs 13-18 and 21-22; page references are rendered web-text positions only

Holding limit: Later mineral-area clarification operated with the earlier royalty notification. No general validation of new retrospective executive jurisdiction. Official web text only; no raw PDF integrity certification.

Bounded check: web text only with explicit integrity limit

Rendered web text page positions: 9; 10; 11; 12; 13; 14; 16; 17; 18

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Finance Act, 1963, section 4 (judicial text; the reporter headnote also prints section 1); Income-tax (Certificate Proceedings) Rules, 1962, rule 7(2), as identified in the notification; Kerala Government notification dated 14 August 1963, published in Kerala Gazette dated 20 August 1963, purporting to take effect from 1 April 1962; Constitution, Articles 226 and 309 (309 distinguished)

BOUNDED NON-PDF SOURCES AND READING LIMITS

1.

Kind: official supreme court judgment web text only

Asset id: sci-jonew-44513-web-text

Title: State of Bihar and Others v. Ramesh Prasad Verma (Dead) through LRs

Decision date: 2017-01-31

Url: [Open cited source](#)

Sha256: Not stated in the reviewed record

File bytes: Not stated in the reviewed record

Pdf pages: Not stated in the reviewed record

Pdf pages basis: No retained PDF page count is asserted. The official rendered web text reports 18 page positions, recorded separately; raw PDF bytes and page images were not verified.

Physical text pages read:

Physical image pages read:

Full judgment text read: True

All document images read: False

Bounded read complete: True

Read bounds: Previously opened official web PDF text, lines 0-386, rendered page positions 1-18. Caption/author on page 1; counsel cites Ponnoose at paragraph 13, pages 9-10; Court distinguishes cited line for this clarificatory notification at paragraphs 15-18, pages 11-14; paragraph 21 reasoning at pages 16-18; outcome, judges and date at page 18. No page-image or raw-byte review.

Reliance limit: Only the narrow clarificatory-notification distinction and disposition, not a general rule validating retrospective delegation or a present-law opinion.

Provenance: Official Supreme Court judgment rendered as web text, reported as 18 pages. No raw PDF file, raw-file hash, byte count or page images were verified.

Integrity check: WEB TEXT ONLY; RAW PDF HASH/BYTES NOT VERIFIED

Raw pdf retained: False

Reported web rendition page count: 18

Rendered web text page positions read: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 6 PDF pages; SHA-256
c58e654f1cd75a680f04d171e6d5e01b824df8a881c349ce0032c3e3b4f7b369. Original bytes preserved.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; later treatment comprehensive: not_verified; current law status: not_verified; statutory mapping 2025: not_verified

The report year is 1970; the judgment date printed in the source is 28 July 1969. Catalogue identifier 1969INSC155 is not independently printed or authenticated in this rendition.

The 1970 report contains a 28 July 1969 decision; metadata's single CA 942 entry omits the second appeal covered by the judgment.; The headnote prints Finance Act section 1, while the judicial reasoning consistently identifies section 4; the body controls this note. The headnote's subordinate-legislation sentence also omits words found in the complete judicial reasoning.; Notification date 14 August and Gazette publication date 20 August 1963 are distinct. All challenged attachments predate 14 August; the Court does not determine a contested attachment in the interval from 14 to 20 August.; Tahsildar, Tehsildar, Taluk and Taluka spellings vary in the source. The officer and the common notification remain identifiable.; Only CA 942 facts are narrated. No separate respondent title, tax amount, assessment year or attachment date is invented for CA 943.; Rule 7(2) and the notification are described in the judgment; no separate Gazette original or complete historical rules instrument has been authenticated.; Later statutory definition and limited judicial distinctions must be kept separate from the historical notification holding. One later source is official web text only, without raw-PDF integrity verification.

The source does not identify the assessment years or quantify the arrears. Dates of the Act, notification and attachment, rather than an inferred assessment year, control the jurisdiction issue.

Both special-leave appeals arise from Kerala High Court Writ Appeals Nos.139 and 140 of 1964, decided 18 June 1965. The reported judgment narrates facts of CA 942 only and resolves both on the common notification question; no separate unprinted respondent title or CA 943 facts are supplied.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk. Complete amendments, commencement, savings and case-specific present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. not_verified. The retained Hukam Chand original expressly follows the delegation principle. The official web text of Ramesh Prasad Verma distinguishes the cited authorities for a clarificatory mineral notification; its raw PDF hash/bytes and images were not verified. These bounded checks establish neither wholesale overruling nor a complete current citator.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 6](#)

SHA-256: c58e654f1cd75a680f04d171e6d5e01b824df8a881c349ce0032c3e3b4f7b369

[later reported judgment bounded - PDF pages: 8](#)

SHA-256: e98a4fc89951dc0748ce0ab79811651f8e34b210c5117256888c539aae6524b8

[State of Bihar and Others v. Ramesh Prasad Verma \(Dead\) through LRs](#)

[official government hosted statutory compilation bounded - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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