

## Commissioner of Income-tax v. Jawahar Lal Rastogi

Civil Appeal No. 16 of 1970

[1971] 1 SCR 581 | 1970-05-07

**Could the High Court's document-release order stand where the Department retained seized books for nineteen months without producing recorded reasons and Commissioner approval required for retention beyond the historical 180-day period, despite the Revenue's objection that this precise ground had not been urged below?**

132(1) (search and seizure context) | 132(2) (retention provision at the September 1964 search date) | 132(8) (1965 retention provision applied to continued detention)

Three judges | J.C. Shah, J. | K.S. Hegde, J. | A.N. Grover, J.

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

### **Historical retention safeguard; release does not decide all search or tax issues**

The Revenue appeal failed because nineteen-month document retention lacked the required recorded reasons and Commissioner approval under the historical section 132(8) scheme. The decision does not approve every High Court search finding or cancel an assessment. The printed report has a wrong subsection in its heading, inconsistent 1965 Act attribution and a corrupted High Court quotation. Later legislation changed the retention clock; 180 days is not stated as a present blanket rule. Original judgment PDF unchanged; comprehensive later treatment, current law and 2025 mapping are not verified.

## 01 FACTS OF THE CASE

Jawahar Lal Rastogi was a Hindu undivided family carrying on money-lending at Lucknow and interested as a partner in businesses manufacturing barbed wire, pharmaceuticals and other products. On 14 September 1964 the Income-tax Officer, A-Ward, required information about income and assets within ten days. Before that time elapsed, the officer submitted a search request on 17 September. The Commissioner recorded reasons and authorised the search on 19 September. Searches followed on 21 and 22 September; numerous books and documents were seized, while ornaments and other goods were inventoried. Although the matter was repeatedly listed before the officer, no substantial step followed (physical page 2/SCR 582 B-E).

In May 1966 the assessee sought a writ declaring the search unlawful and directing release of the documents. The High Court's stated findings included a mismatch between four years of requested information and a nine-year search authorisation; action before expiry of the notice; seizure of more than 300 books and registers and thousands of promissory notes; apparently irrelevant or public documents; near-total seizure; missing identification marks; and nineteen months' detention. These are findings attributed to the High Court, not a fresh Supreme Court finding that every allegation independently invalidated the search (physical pages 2-3/SCR 582 F-583 D).

The High Court relied on its own Seth Brothers judgment and granted relief. The Commissioner appealed by special leave, arguing that the Supreme Court's subsequent Seth Brothers decision had displaced the High Court precedent and required reversal. The appeal thus brought both the limits of that search precedent and the independent retention safeguard into issue (physical page 3/SCR 583 D-F).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The Court set out its own Seth Brothers principles. Because search powers intrude seriously on privacy, freedom and rights, their statutory conditions and purposes require strict compliance. A general authorisation to seize relevant or useful books can satisfy the Act and Rules; the warrant need not identify each document. But the searching officer must exercise judgment, and in a release proceeding must explain a document's likely relevance or usefulness. Seizure of a large quantity alone does not establish that every document is irrelevant or that the officer acted in bad faith. Whether a particular search was indiscriminate and beyond statutory limits depends on the evidence, not a universal rule (physical pages 3-4/SCR 583 F-584 F).

The Court noted both the premature, wider-period authorisation and the prolonged retention, but sustained the result on the latter ground. At the search date, section 132(2) forbade retention beyond 180 days from seizure unless the responsible officer recorded reasons in writing and obtained the Commissioner's approval. The Court described the 1965 re-enactment as subsection (8), replacing the specified officer descriptions with authorised officer. The printed report inconsistently names the 1965 amending enactment; that bibliographic discrepancy does not obscure the quoted condition or the operative reliance on subsection (8) (physical pages 4-5/SCR 584 F-585 B, G-H).

The documents remained with the Department until the May 1966 petition, described in the judgment as nineteen months. No order recording reasons for the extended retention, and no Commissioner approval, was brought to the Court's attention. Retention beyond the statutory period without those conditions was unlawful. This conclusion concerns the absence of the required material in this litigation; it does not create a presumption that every extended retention lacks approval (physical page 5/SCR 585 C-D).

The Solicitor-General objected that failure to record reasons and obtain approval had not been specifically urged before the High Court, so the absence of evidence on that issue should not support release. The Court rejected that objection in this setting: the High Court had expressly found nineteen months' detention, directing attention to the statutory problem. If the Department relied on duly recorded reasons and approval, it should have tendered them. The Court did not announce a general licence to decide every unpleaded factual issue without notice (physical page 5/SCR 585 D-G).

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

### 03 JUDICIAL DECISION

Civil Appeal 16 of 1970 was dismissed with costs. The High Court's order was sustained because the seized documents had been retained without lawful authority beyond 180 days in breach of section 132(8). The operative ground was unlawful continued retention, not a blanket endorsement of every search-invalidity reason attributed to the High Court. No remand, quantified tax determination or ruling invalidating an assessment was made (physical page 5/SCR 585 G-H).

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

### 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee, Jawahar Lal Rastogi

Revenue appeal dismissed with costs; High Court release relief sustained

Reasoned application of the historical section 132 retention safeguard and its evidentiary requirements

No present 180-day rule, universal finding of invalid search, quantified tax relief, or automatic invalidation of an assessment.

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

## 05 AKHB REVIEW POINT

Separate authority to search from authority to keep what was seized. Even a search supported by a general warrant does not dispense with the further reasons and approval required by the applicable retention provision. Record the seizure dates, the statutory version, the retention period, the relevant reasons and the approving order separately. This case's evidentiary conclusion depended on an established nineteen-month detention and the Department's failure to produce the necessary support.

Oriental Rubber Works (15 November 1983) supplies a related later safeguard, without expressly citing Rastogi in the retained text: the then section 132(8), read with subsections (10) and (12), required expeditious communication of both approval and recorded reasons so that the person entitled to the documents could object effectively. Its operative order also preserved specified assessments subject to their appeals; in Civil Appeal 1652/1973 this followed the assessee's concession. Document return therefore should not be presented as automatic cancellation of tax liability (physical pages 6-8/SCR 822 C-824 H).

The historical 180-day clock must not be advertised as a present blanket limit. The government-hosted 2011 compilation records replacement of that phrase with an assessment-order-based period by Finance Act, 2002 from 1 June 2002, and addition of the section 153A reference from 1 June 2003. Approving authorities and the objection machinery also changed (physical pages 671-673/printed 1.630-1.632). This is a bounded historical amendment check, not a full present-law or transition opinion. Comprehensive later treatment, current applicability and 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. 16 of 1970

**Outcome:** Dismissed with costs; documents-release order sustained on unlawful-retention ground

### PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Identity, date, appeal and judicial facts

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 2

**Paragraphs:** SCR 581 heading and appellate recital; 582 A-E

2.

**Topic:** Attributed High Court findings and Revenue challenge

**Source url:** [Open cited source](#)

**Pdf pages:** 2; 3

**Paragraphs:** SCR 582 F-583 F; corrupted passage at 583 C-D not reconstructed

**3.**

**Topic:** Quoted Seth Brothers safeguards and fact-specific search review

**Source url:** [Open cited source](#)

**Pdf pages:** 3; 4

**Paragraphs:** SCR 583 F-584 F

**4.**

**Topic:** Original retention text and 1965 renumbering

**Source url:** [Open cited source](#)

**Pdf pages:** 4; 5

**Paragraphs:** SCR 584 F-585 B

**5.**

**Topic:** No reasons or approval; answer to unpleaded-ground objection

**Source url:** [Open cited source](#)

**Pdf pages:** 5

**Paragraphs:** SCR 585 C-G

**6.**

**Topic:** Dismissal with costs on retention ground

**Source url:** [Open cited source](#)

**Pdf pages:** 5

**Paragraphs:** SCR 585 G-H

**7.**

**Topic:** Related later communication requirement and assessment reservation

**Source url:** [Open cited source](#)

**Pdf pages:** 6; 7; 8

**Paragraphs:** SCR 822 C-824 H

**Source role:** related later judicial authority

**8.**

**Topic:** Later replacement of retention clock and changed objection machinery

**Source url:** [Open cited source](#)

**Pdf pages:** 671; 672; 673

**Paragraphs:** Printed 1.630-1.632; section 132(8), (10), footnotes 68-70,75-76,79

**Source role:** historical statutory change

### **ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS**

The Court actually applies the 1961 Act to the search and continued retention of documents. The old and new subsection numbers are statutory-version distinctions; the report heading's section 132(5) reference is not the provision supporting the judicial decision.

## JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

J.C. Shah, J.

### ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, section 132: original subsection (2) and the 1965 subsection (8) retention safeguard

### SPECIFIED LATER DECISION AND LIMITS OF THE CHECK

1.

**Asset id:** 1984\_1\_817\_824

**Title:** C.I.T. WEST BENGAL - III & ORS. ETC. versus ORIENTAL RUBBER WORKS ETC .

**Decision date:** 1983-11-15

**Classification:** Related later statutory safeguard; no express Rastogi citation

**Source url:** [Open cited source](#)

**Pdf pages:** 6; 7; 8

**Pinpoint:** SCR 822 C-824 H

**Holding limit:** Communication of reasons and approval required under then section 132(8),(10),(12); preservation of assessments is expressly subject to appeals and, for CA 1652/1973, follows a concession. Not a present-law certificate.

**Bounded check:** verified only within explicit read bounds

### OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax (Amendment) Act, 1965 (identified in the operative conclusion); the earlier passage and headnote alternatively print Finance Act, 1965

### SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256

598ca52acae5684cee3030bdba06fd4e6fb71d199f11e48eb60730435c6ad7bc. 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 original heading unequivocally prints 7 May 1970, agreeing with the catalogue. The report year is 1971. Catalogue identifier 1970INSC132 is not independently printed or authenticated in this rendition.

The source date is 7 May 1970, not the 1971 report year.; The reporter heading prints section 132(5); the judicial decision applies the former section 132(2) and later section 132(8).; The judicial discussion at SCR 585 B says Finance Act, 1965, while SCR 585 G-H identifies Income-tax (Amendment) Act, 1965. No original amending Act was separately authenticated to resolve the inconsistent attribution.; The quoted High Court passage at SCR 583 C-D contains visibly corrupted or displaced printed wording. The note relies on the intact factual list and independently clear Supreme Court reasoning, without reconstructing that quotation.; The overruling reference concerns the Allahabad High Court's Seth Brothers ruling, not the Supreme Court's Seth Brothers decision.; Ornaments and other goods are described as inventoried; the text does not say that all such goods were seized.; The four-year and nine-year references are not enumerated assessment-year ranges; no omitted years or tax figures are supplied.; The original quotation elides the retention proviso; no complete original subsection is claimed from that quotation.; The 180-day period and relevant statutory machinery changed later; the retained 2011 compilation is not current-law certification.

The judicial text describes a demand for statements for four assessment years ending on 31 March 1960, an authorisation covering nine assessment years, and interest in pre-1953 transactions. It does not enumerate the four or nine years; no range is invented. The operative 1961 Act search occurred on 21-22 September 1964.

Special-leave appeal from the Allahabad High Court judgment dated 22 May 1969 in Civil Miscellaneous Writ No. 588 of 1966.

## 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. Oriental Rubber Works is a separately reasoned later retention decision supporting a related communication safeguard, not an express citation-based approval or overruling of Rastogi. The bounded checks did not identify a whole-case overruling; they do not establish an exhaustive negative citator result.

## IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 5](#)

SHA-256: 598ca52acae5684cee3030bdba06fd4e6fb71d199f11e48eb60730435c6ad7bc

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

SHA-256: 554c581b609df9c1d8934ab851a0cd3f97369e3e37e4fc07f62e2a19bac13254

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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