

## Director of Inspection of Income Tax (Investigation), New Delhi and Another v. Pooran Mal & Sons & Another

Civil Appeal No.1118 of 1974

[1975] 2 SCR 104 | 1974-09-20

**Whether, after a timely initial section 132(5) order was quashed by consent for lack of opportunity and the High Court permitted a fresh inquiry, the fresh order was invalid merely because it came beyond the initial 90-day period; and whether the firm could obtain return of bank-attached silver bars without a merits determination of ownership.**

132(1) (seizure context) | 132(3) (bank silver bars attached, not physically seized from respondents) | 132(5) (then 90-day initial summary-order period) | 132(11) (then 30-day application to notified authority) | 132(12) (fresh-order directions) | 132 Explanation 1 (court-stay discussion)

Two-judge bench | P. Jaganmohan Reddy, J. | A. Alagiriswami, J.

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

### **Historical search-order waiver, adverse later limitation and unresolved operative wording**

This 20 September 1974 decision applies the former 90-day section 132(5) scheme after a timely initial order and a court-approved fresh hearing. Mandatory versus directory was not decided; consent does not create jurisdiction, and no ownership merits finding or general power to extend assessment limitation is supplied. The 114 bank bars were attached under section 132(3); the judgment adds that reason despite initially limiting discussion to submissions 1 and 3. The earlier consent writ is No.82 in the body but No.829 in the headnote; its 6 April 1972 date must not be placed after the separate constitutional-search decision reported in 1974. The appeal was allowed and the High Court order set aside, but the scan literally says the High Court will not deal with other contentions; no correction to now or express remand is certified. Grindlays Bank applies the remedial principle within its limits; the five-judge Padmasundara Rao expressly distinguishes it for Land Acquisition Act section 6. Sections 132(5)/(11)/(12) were later omitted as recorded in the 2011 compilation. Original PDF unchanged. Comprehensive later treatment, current law and 2025 mapping are not verified.

## 01 FACTS OF THE CASE

Searches of Pooran Mal's premises in Delhi and Bombay occurred in October 1971. There were 84 silver bars at Laxmi Commercial Bank and 30 at Punjab National Bank, valued in the quoted account at nearly Rs.18 lakh. Although the opening quotation uses seized, the Court immediately clarifies that the bars were attached under section 132(3), not actually seized. The Department regarded them as Pooran Mal's undisclosed individual assets; the respondent firm claimed ownership. A summary order dated 12 January 1972 under section 132(5) retained the assets against prima facie tax dues described as nearly Rs.42 lakh, subject to regular assessment/reassessment (physical pages 3-4/SCR 106 D-107 C).

The present judgment distinguishes the separate Pooran Mal v. Director of Inspection decision reported at [1974] 1 SCC 345, which addressed constitutionality and search legality. Its narrative introduces the consent litigation after discussing that decision, but the consent order itself is dated 6 April 1972. This note does not present the 1972 proceeding as chronologically following the later reported Supreme Court decision (physical page 4/SCR 107 D-E).

In Writ Petition No.82 of 1972, the firm and another partner challenged the initial order and alleged lack of opportunity to establish the firm's ownership. By consent on 6 April 1972, the High Court quashed that order, permitted reconsideration after an opportunity to present the case, kept the property in Department custody without sale, and recorded the Officer's undertaking to finish within two months. A fresh inquiry led to the order of 5 June 1972 attributing the bars to Pooran Mal individually. In Civil Writ Petition No.595 of 1972 the respondents disputed both ownership and jurisdiction after the statutory period. The High Court accepted the time-limit ground, quashed the fresh order and directed return of all 114 bars. The Revenue appealed (physical pages 4-5/SCR 107 E-108 C).

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

## 02 DISCUSSION BY THE HON'BLE COURT

The Revenue advanced five submissions: waiver, a new seizure for computing time, limitation applying only to the initial order, a directory rather than mandatory time limit, and the difference between section 132(1) seizure and section 132(3) attachment. The Court said submissions one and three were sufficient and expressly declined to decide whether the period was mandatory or directory, or the other two questions at that stage. Nevertheless its concluding reasoning separately returns to the attachment/return issue; that additional reason must not be omitted (physical page 5/SCR 108 D-G; pages 10-11/SCR 113 G-114 D).

Even assuming the 90-day period to be mandatory, the initial order satisfied it. Under the statutory scheme, an aggrieved person could apply under section 132(11) within 30 days and the notified authority could direct a fresh order under section 132(12). Requiring that fresh order also to fall within the original 90 days would frustrate those remedies. The same limitation objection could not defeat an order pursuant to the High Court's writ direction in these circumstances (physical pages 5-6/SCR 108 H-109 A).

Article 226 relief could be shaped to the case. Where the competent authority's order was vitiated by failure to afford an opportunity, the High Court could quash it and direct a fresh determination with a hearing. The Court distinguished a complete lack of jurisdiction, in which the same authority could not simply be directed to act. It approved the relevant, though obiter, observation in *C.I.T. v. Ramesh Chander*. It rejected *Ramjibhai Kalidas's* mandatory reading of rule 112A's then 15-day notice requirement, explaining that a rule could not curtail the statutory power to make the section 132(5) order within 90 days. The concession about section 132(5) in *Ramjibhai* did not decide its mandatory character for this appeal (physical page 6/SCR 109 A-G).

The judgment did not authorise taxation by equity or estoppel. It accepted Article 265's requirement of authority of law and distinguished assessment limitation: a superior tribunal could not simply direct a time-barred assessment. The present question was the summary decision about the property, rather than taxation after an expired assessment period. Its broad procedural observation concerning exclusion of court-stay periods and the Limitation Act is recorded in that setting, not converted here into a universal rule for every fiscal tribunal (physical pages 7-8/SCR 110 A-111 A).

The Court regarded court-approved consent and waiver as especially important. The respondents had procured fresh consideration, participated, and could not then defeat the agreed procedure on the original 90-day objection. The period protected the affected person; in this setting it was waivable and was waived. This was not the parties creating jurisdiction by consent: the court order revived the competent Officer's powers as part of an integrated proceeding. The fresh determination remained an order under section 132(5). The Court used *Wilson v. McIntosh*, *Phillips v. Martin*, *Wright v. John Bagnall & Sons* and the cited passage in *Craies* to illustrate waiver of procedural protections benefiting parties where public interests were not involved (physical pages 8-10/SCR 111 B-113 E).

## 02 DISCUSSION BY THE HON'BLE COURT

The High Court had never adjudicated the correctness of the fresh ownership finding, so it could not direct return of the bars to the firm merely on its limitation ruling. As an additional reason, the Court discussed Lokenath Tolaram's consent and bank-possession setting, then expressly noted that these bars were attached under section 132(3), not seized from the respondents under section 132(1). It rejected the firm's demand for return on the section 132(5) time ground in those circumstances. This does not establish that any attachment may continue indefinitely, nor does it independently determine title to the bars (physical pages 10-11/SCR 113 E-114 D).

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

## 03 JUDICIAL DECISION

The Revenue's appeal was allowed and the High Court's judgment and order were set aside. The concluding scan literally states: "The High Court will not deal with the other contentions raised in the Writ Petition." That wording is preserved as an unresolved source anomaly; it is not silently changed to "now", and no express remand to decide the other grounds is certified from this source. The preceding reasons say the High Court had not examined ownership, and the Supreme Court does not itself resolve that merits question. The final operative paragraph contains no costs direction (physical page 11/SCR 114 D).

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

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the fresh-order jurisdiction and the challenged return direction

Appeal allowed; High Court judgment and order set aside; no costs direction in final operative paragraph

Historical fresh-order/waiver issue decided; ownership merits not adjudicated by Supreme Court

Do not certify an express remand of other grounds: the source literally says High Court will not deal with them. Mandatory/directory classification and new-seizure contention not decided.

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

## 05 AKHB REVIEW POINT

Separate the initial statutory order, the objection/reconsideration mechanism, the court's remedial order and any genuinely expired assessment limitation. Pooran Mal protects the ability to correct a hearing defect after a timely initial order and gives effect to the affected parties' court-approved waiver. It is not authority that every tax limitation can be waived, that consent cures total absence of jurisdiction, or that every section 132(3) attachment is exempt from legal control.

Bounded later treatment is material. Grindlays Bank (15 January 1980) applies the Article 226 moulding-of-relief reasoning, while first holding the assessment timely under the statutory court-stay exclusion and distinguishing a procedural lapse from complete want of jurisdiction (physical pages 5-8/[1980] 2 SCR 769-772, particularly 770 G-771 E). Padmasundara Rao, a five-judge Constitution Bench (13 March 2002), expressly distinguishes Pooran Mal and rejects transferring its consent/waiver and sections 132(5)/(11) reasoning to extension of the Land Acquisition Act section 6 period (physical page 9/[2002] 2 SCR 391 A-E). This is adverse limiting treatment, not an overruling of Pooran Mal. Its identified overrulings concern Narasimhaiah and Nanjudaiah.

The 2011 government-hosted compilation records omission of sections 132(5), (11) and (12) by Finance Act 2002 effective 1 June 2002 (physical pages 670-671 and 673/printed 1.629-1.630 and 1.632). Its later pre-omission 120-day wording and historical search cutoff are not the 90-day text applied here. No present search procedure or 2025 counterpart is certified. The exact operative-language anomaly remains unresolved by either acquired later judgment.

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

## PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Caption, date and bench

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

**Pdf pages:** 1

**Paragraphs:** SCR 104 heading

**Source role:** reported metadata

2.

**Topic:** Docket, authorship, quoted prior search facts and attachment clarification

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

**Pdf pages:** 3; 4

**Paragraphs:** SCR 106 B-107 D

**Source role:** reported metadata and judicial text

3.

**Topic:** Dated consent order and fresh determination

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

**Pdf pages:** 4; 5

**Paragraphs:** SCR 107 D-108 C

**Source role:** judicial text

4.

**Topic:** Five submissions; mandatory/directory not decided

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

**Pdf pages:** 5

**Paragraphs:** SCR 108 D-G

**Source role:** judicial text

5.

**Topic:** Timely initial order and later statutory/court-directed order

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

**Pdf pages:** 5; 6

**Paragraphs:** SCR 108 H-109 A

**Source role:** judicial text

6.

**Topic:** Article 226 relief, jurisdiction distinction and rule 112A

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

**Pdf pages:** 6

**Paragraphs:** SCR 109 A-G

**Source role:** judicial text

7.

**Topic:** Assessment limitation and no equitable taxation

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

**Pdf pages:** 7; 8

**Paragraphs:** SCR 110 A-111 A

**Source role:** judicial text

8.

**Topic:** Waiver, revived jurisdiction and fresh section 132(5) order

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

**Pdf pages:** 8; 9; 10

**Paragraphs:** SCR 111 B-113 F

**Source role:** judicial text

9.

**Topic:** Additional attachment reason, return limitation and literal disposition

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

**Pdf pages:** 10; 11

**Paragraphs:** SCR 113 G-114 D

**Source role:** judicial text

**10.**

**Topic:** Later application of Article 226 principle with timeliness and jurisdiction limits

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

**Pdf pages:** 5; 6; 7; 8

**Paragraphs:** SCR 769 B-772 E

**Source role:** later primary treatment

**11.**

**Topic:** Constitution Bench express distinction: no cross-statute limitation extension

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

**Pdf pages:** 9

**Paragraphs:** SCR 391 A-E

**Source role:** later primary adverse limiting treatment

**12.**

**Topic:** Historical omissions and later pre-omission text only

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

**Pdf pages:** 670; 671; 673

**Paragraphs:** Printed 1.629-1.630 footnote 64 and 1.632 footnotes 77-79

**Source role:** bounded official statutory compilation

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

The 1971-72 events used a former 90-day section 132(5) regime with sections 132(11)/(12). The mandatory-versus-directory question was expressly not decided. Neither a final assessment limitation rule nor the separate Pooran Mal constitutional/search-evidence judgment is this decision's holding. The later pre-omission 120-day text in the 2011 compilation is not the contemporaneous text here.

## **JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

A. Alagiriswami, J.

## **ACT IDENTIFIED IN THE REVIEWED SOURCE**

Income-tax Act, 1961, historical search-retention and objection scheme under section 132

## **SPECIFIED LATER DECISION AND LIMITS OF THE CHECK**

**1.**

**Asset id:** 1980\_2\_765\_772

**Title:** Grindlays Bank Limited v. The Income Tax Officer, H Ward Companies, District-IV, Calcutta and Ors.

**Decision date:** 1980-01-15

**Citation:** [1980] 2 SCR 765

**Bench:** N.L. Untwalia and R.S. Pathak, JJ.

**Judgment author:** R.S. Pathak, J.

**Case numbers:** Civil Appeal No.2009 of 1978

**Classification:** followed/applied on Article 226 remedial power

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

**Pdf pages:** 6; 7

**Pinpoint:** SCR 770 G-771 E

**Holding limit:** The later case first holds the assessment timely under section 153 court-stay exclusion and distinguishes procedural lapse from complete absence of jurisdiction; it does not validate every waiver of statutory limitation.

**Own disposition:** Appeal dismissed with costs, physical page 8/SCR 772 E.

2.

**Asset id:** 2002\_2\_383\_395

**Title:** Padmasundara Rao (Dead) and Ors. v. State of T.N. and Ors.

**Decision date:** 2002-03-13

**Citation:** [2002] 2 SCR 383

**Bench:** Five-judge Constitution Bench: S.P. Bharucha, C.J., R.C. Lahoti, N. Santosh Hegde, Ruma Pal and Arijit Pasayat, JJ.

**Judgment author:** Arijit Pasayat, J.

**Case numbers:** Civil Appeal No.2226 of 1997; Civil Appeal No.2058 of 2002 (leave granted in connected SLP(C) No.12806 of 2000)

**Classification:** expressly distinguished; adverse limiting treatment of attempted cross-statute extension

**Overruled:** False

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

**Pdf pages:** 9

**Pinpoint:** SCR 391 A-E

**Holding limit:** Rejects application of Pooran Mal's consent/waiver and sections 132(5)/(11) setting to Land Acquisition Act section 6. Identified overrulings concern Narasimhaiah and Nanjudaiah, not Pooran Mal.

**Own disposition:** Appeals disposed of and subsequent section 6 declarations quashed; awards already made and compensation paid protected against reopening, physical pages 12-13/SCR 394 H-395 B.

## OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Rules, 1962, rule 112A (then 15-day show-cause provision discussed); Constitution, Articles 226 and 265; Limitation Act, 1963 (general procedural observation; no present universal-application certification); Customs Act, 1962, section 124(a) (only in quoted Lokenath Tolaram analogy)

## SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256 957f268de86a8975e77e3fa8b856684d89db3b10e69ce22cd797977e35ac4ca6. Original bytes preserved. Reporter headnote occupies pages 1-2/SCR 104-105 and upper page 3/SCR 106 A. Appellate metadata at page 3/SCR 106 B-C; judicial body starts page 3/SCR 106 C-D, Alagiriswami, J., and ends page 11/SCR 114 D with appeal allowed and the literal will not deal direction, followed by reporter disposition. The opening search narrative is expressly quoted from the separate constitutional-search judgment. No neighbouring judgment.

#### 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

Judgment delivered in 1974; 1975 is the SCR report year. The catalogue neutral-citation field 1974INSC183 is not independently printed or verified in this SCR source.

The judgment date is 20 September 1974; 1975 is the SCR report year.; A. Alagiriswami, J. is the author; the separate Pooran Mal constitutional/search-legality case is not merged with this later fresh-order decision.; The source narrates the 6 April 1972 consent litigation after discussing the separate Supreme Court decision reported in 1974. The note preserves dates and does not assert that the 1972 proceeding occurred after that decision.; The headnote prints Writ Petition No.829 of 1972; the judicial body repeatedly prints No.82. The appeal itself concerns subsequent Civil Writ Petition No.595 of 1972.; The source first says only submissions 1 and 3 need consideration, then adds the section 132(3) attachment/return ground in the final reasoning; both passages are preserved.; Whether the 90-day period was mandatory or directory was expressly left undecided. The new-seizure theory is not adopted.; The original account is quoted from another case and calls the bars seized; the present Court immediately clarifies section 132(3) attachment. No final ownership or tax assessment is made here.; Physical page 6/SCR 109 G prints section 162(5) once within the Ramjibhai discussion; surrounding text and issue unmistakably concern section 132(5). It is not added as an adjudicated section.; The last paragraph at physical page 11/SCR 114 D literally says the High Court will not deal with other contentions. No silent change to now, no certified express remand and no invented costs order.; The 2011 compilation's later 120-day former provision must not replace this judgment's 90-day rule. Sections 132(5)/(11)/(12) were subsequently omitted as recorded in the bounded compilation.; Padmasundara Rao expressly limits the attempted use of this ratio in a different statutory setting. Its machine preview omits and not and reverses the land-acquisition limitation rule; only the full verified source is used.

No single assessment year is adjudicated. The quoted search history mentions tax dues from 1969 onwards and summary prima facie liability subject to regular assessment/reassessment; it is not a final AY-specific tax decision.

Special-leave appeal from Delhi High Court judgment of 30 November 1973 in Civil Writ Petition No.595 of 1972. Earlier consent writ is No.82 of 1972 in the judicial body; headnote prints No.829.

#### **STATUTORY SCOPE**

No automatic mapping to the Income-tax Act, 2025 or certification of present law. Historical provision versions remain explicit. The available 2025 Act file was not relied on or read for a case-specific crosswalk in this batch.

**LATER TREATMENT**

Source checked 2026-10-05. not\_verified comprehensively. Two later primary judgments have been read in full with all page images. Grindlays Bank applies the Article 226 remedial principle in a timely/procedural-defect setting. Padmasundara Rao expressly distinguishes and rejects cross-statute application to Land Acquisition Act section 6; this material adverse limitation is preserved without mislabelling it overruling. Neither later judgment quotes or resolves the original will not deal disposition. Bounded statutory omission entries are separately registered. No comprehensive citator, complete amendment chain or current-law certification.

**IDENTIFIED SOURCE LINKS**

[reported judgment - PDF pages: 11](#)

SHA-256: 957f268de86a8975e77e3fa8b856684d89db3b10e69ce22cd797977e35ac4ca6

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

SHA-256: d5bbef3b53e497671e9bc56cab020a5f2e1afbee19fb8733200a3ce89b0ba015

[reported judgment - PDF pages: 13](#)

SHA-256: 9bf61a774a5c7f11e9a76ca7600e793a7246e85e2b25a25f2e3a868051e861ef

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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