

Bhupendra Ratilal Thakkar and Anr. v. Commissioner of Income Tax, Gujarat & Ors.

Writ Petition No.96 of 1972

[1976] 2 SCR 891 | 1975-12-05

After counsel accepted that Pooran Mal resolved the principal constitutional objections, whether historical rules 112-B and 112-C governing release of seized assets were invalid under article 14.

132, particularly (1) and historical (5) | 132-A, particularly historical (1)(i) (application of retained assets; not the later requisition provision bearing that number)

4-judge bench | A.N. Ray, C.J. | M.H. Beg, J. | R.S. Sarkaria, J. | P.N. Shinghal, J.

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

Historical retained-assets provision and narrow independent ruling

The independent ruling concerns the Article 14 challenge to historical asset-release rules 112-B and 112-C. The principal search-power objections were controlled by Pooran Mal and counsel's concession; the Court did not independently determine the disputed stock-in-trade facts or give a separate rule 112-D holding. Historical section 132-A was the retained-assets provision, later renumbered 132-B, not the later requisition provision with the same number. The caption's "Ratila" differs from "Ratilal" in the judicial opening. Original PDF unchanged. Comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

Bhupendra Ratilal Thakkar was managing partner of M/s Rajnikant Nareshchandra Shroff, a shroffs-and-bankers partnership with its stated main office at Mehmedabad and branches at Surat and Bombay. The firm said it had applied for registration on 7 April 1971 and had until 30 June 1972 to file its return. It asserted that its cash, hundis and bills were stock-in-trade, that Rs.12,00,000 cash on 10 January 1972 was entered in its Bombay books, and that seizure of that money, books and documents was unjustified (physical pages 1–2/SCR 891 F–892 D).

The petition under article 32 challenged sections 132 and 132-A of the 1961 Act and rules 112, 112-A, 112-B, 112-C and 112-D of the 1962 Rules. It alleged violations of articles 14, 19(1)(f) and (g), and 31(1), including arbitrary and unguided statutory powers, and sought restoration of the seized property. The Department admitted search and seizure but disputed the petitioners' account: it asserted material supporting the Commissioner's belief that useful books would not be produced, challenged the books and stated cash balance, denied the claimed Mehmedabad search, and denied that all seized cash was stock-in-trade or that no money remained. These were opposing averments, not facts resolved in the petitioners' favour (physical page 2/SCR 892 B–G).

The petition itself referred to the pending Pooran Mal litigation, later decided on 14 December 1973. At this hearing counsel conceded that the objections to sections 132 and 132-A and rules 112 and 112-A had been considered there. His remaining argument concerned rules 112-B and 112-C, said not to have been examined in that decision (physical pages 2–3/SCR 892 H–893 C).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated Pooran Mal's constitutional ruling and counsel's concession as disposing of the principal objections. It did not reproduce a fresh general inquiry into the validity of every search power or decide afresh the factual stock-in-trade allegations. The section 132-A reference belongs to the historical retained-assets regime involved in the 1972 search; the later provision using that number for requisition must not be substituted (physical page 3/SCR 893 A-B).

There was nevertheless a separate judicial examination of the remaining two rules. Rule 112-B required the Officer forthwith to deliver to the person from whose custody they were seized the assets or part required to be released under historical section 132(5). Rule 112-C concerned release of the remaining assets after discharge of the liabilities referred to in historical section 132-A(1)(i). The Court characterised both as beneficial release rules and found no satisfactory basis for an article 14 challenge. On that reasoning, alongside Pooran Mal, it found no merit in the petition (physical page 3/SCR 893 C-E).

The reasoning is specific to these release provisions. The headnote's abbreviated suggestion that beneficial rules cannot be challenged should not be enlarged into categorical immunity from judicial review. Rule 112-D appears in the original list of challenged rules but receives no independent discussion or separate legal test. Counsel's phrase about examination when permissible is not an express reservation of the rules 112-B/112-C challenge: the Court actually examined and rejected it (physical page 2/SCR 892 B-D; physical page 3/SCR 893 B-E).

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

03 JUDICIAL DECISION

The writ petition was dismissed with no order as to costs. No restoration, refund, damages or remand was ordered. The dismissal should not be restated as an express merits finding that the petitioners' stock-in-trade or accounting allegations were false (physical page 3/SCR 893 D-E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue/respondents

Article 32 writ petition dismissed; no order as to costs

Principal constitutional grounds controlled by Pooran Mal and counsel's concession; independent Article 14 rejection of historical release rules 112-B and 112-C

No independent re-adjudication of the factual seizure allegations or rule 112-D; no universal immunity for beneficial rules.

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

05 AKHB REVIEW POINT

Separate a following disposition from a newly decided point. The independent contribution here is the Court's examination of the duty to release assets under rules 112-B and 112-C and rejection of the particular article 14 attack. Do not use the case to erase statutory release obligations or to establish that the Court verified the Department's disputed search facts.

Bounded statutory-version check: the Income Tax Department's 1992 section 132B edition records that the retained-assets provision was inserted as section 132A in 1965 and renumbered section 132B from 1 October 1975. Its subsection (3) concerns the return of remaining assets. This confirms why the judgment's historical section 132-A reference cannot be read as a ruling about the later requisition provision. It is not a complete amendment-chain or current search-law review.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Caption variant, date, bench and docket

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 891 heading and E

Source role: reported metadata

2.

Topic: Judicial name, business and petitioners' asserted facts

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 891 F-892 D

Source role: judicial text

3.

Topic: Department's disputed account

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: SCR 892 E-G

Source role: judicial text

4.

Topic: Pooran Mal and counsel's narrowed challenge

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 892 H-893 C

Source role: judicial text

5.

Topic: Independent release-rule reasoning and dismissal

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: SCR 893 C–E

Source role: judicial text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

P.N. Shinghal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961 and Income-tax Rules, 1962: historical search, retained-assets and release provisions

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Income-tax Rules, 1962: rules 112 and 112-A (validity concession following Pooran Mal), historical rules 112-B and 112-C (independently examined release provisions), 112-D (pleaded, no separate reasoned holding); Constitution of India: articles 14, 19(1)(f), 19(1)(g), 31(1) and 32

SPECIFIED PRIMARY-SOURCE CHECKS AND THEIR LIMITS

1.

Kind: historical statutory numbering check

Status: bounded verified

Source url: [Open cited source](#)

Finding: Note 49 records the retained-assets provision's insertion as section 132A from 12 March 1965 and renumbering as section 132B from 1 October 1975. Subsection (3) provides for returning remaining assets after discharge of the specified liabilities.

Limit: Dated HTML comparison confirming numbering only; no full legislative history or present search-law determination.

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: official statutory html

Url: [Open cited source](#)

Title: Income Tax Department section 132B, year-labelled 1992

Version label: 1992

Accessed on: 2026-10-05

Read bounds: Section identity and year at lines 198–220; retained-assets text at lines 227–235, particularly subsection (3) at line 233; renumbering note 49 at line 236 and rule 112C references at lines 238/249.

Finding: Note 49 records the retained-assets provision's insertion as section 132A from 12 March 1965 and renumbering as section 132B from 1 October 1975. Subsection (3) provides for returning remaining assets after discharge of the specified liabilities.

Limit: Dated HTML comparison confirming numbering only; no full legislative history or present search-law determination.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 3 PDF pages; SHA-256

2c9a95f762af00a0d5c77027a21f63f75a6df6a4377d99274b68af3c53846df7. Original bytes preserved.

Judicial body begins physical page 1/SCR 891 F (Shinghal, J.) and ends physical page 3/SCR 893 E with dismissal and no order as to costs. Upper page 1 is headnote and original-jurisdiction metadata. No adjacent judgment.

Open cited source rendition

The caption prints "Bhupendra Ratila Thakkar"; the judicial opening identifies "Bhupendra Ratilal Thakkar". The note uses the judicial-body spelling and discloses the variant.; The four-judge bench includes P.N. Shinghal; the author line is printed "Shinghal J.", while the catalogue spelling is "Shingal".; Petitioners' stock-in-trade, booked-cash and branch-search allegations were disputed, not adopted as findings.; Historical section 132-A concerns retained assets. The official 1992 compilation notes its renumbering to 132-B effective 1 October 1975.; The Court independently reasons on rules 112-B/112-C; the section 132/132-A and rules 112/112-A challenges were controlled by Pooran Mal and concession. Rule 112-D is not independently resolved.

No assessment year is identified. The stated registration application, search and return deadline are not converted into an inferred AY.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law carryover certification. Verify the applicable statutory version separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. A bounded official historical-HTML version check confirms the former retained-assets numbering. No independently verified later judicial treatment or present-law validity of the historical rules is claimed.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 3

SHA-256: 2c9a95f762af00a0d5c77027a21f63f75a6df6a4377d99274b68af3c53846df7

Income Tax Department section 132B, year-labelled 1992

AI DISCLOSURE

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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