

J.R. Malhotra & Anr. v. Additional Sessions Judge, Jullundur & Ors.

Civil Appeal No.999 of 1975

[1976] 2 SCR 993 | 1975-12-11

Whether Revenue could continue retaining seized money against a possible future income-tax demand after the search was held invalid, the criminal case had been filed as untraced, and the AAC orders showed no valid assessment or income-tax demand.

132 (search and seizure) | 132(5) (invalid order and attempted adjustment in the procedural history) | 146 (application against the assessment order) | 226(4) (Revenue's asserted independent basis, not an affirmed power on these facts)

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

Assessment years: 1972-73

No subsisting retention authority; later disputed-ownership distinction

Malhotra concerns a search already held invalid, a criminal case filed as untraced, and AAC orders showing no valid assessment or income-tax demand. It rejects retention merely for a possible future demand; it does not uphold Revenue's section 226(4) submission or decide future tax liability. The source's 1974 remand dates conflict and are not silently corrected. Kusum Lata Singhal (16 July 1990) expressly distinguishes Malhotra where ownership was disputed; it leaves the husband's proceedings' validity undecided. Original PDF unchanged. Comprehensive later treatment, current law and 2025 mapping are not verified.

01 FACTS OF THE CASE

On 6 August 1971 police intercepted a car in which Romesh Chander was travelling and found Rs.1,61,411 in a bag in his hands. A criminal case was registered under the penal and foreign-exchange provisions identified in the report. The Commissioner of Income Tax then authorised a search under section 132, pursuant to which tax officers seized the money and books and documents. Business premises of Romesh Chander and his partners were also searched (physical page 2/SCR 994 C-D).

Romesh Chander challenged the search authorisation. On 25 May 1972 the Punjab and Haryana High Court held the search invalid and directed return of the money and books. On 22 November 1972 the appellate High Court modified the return route: Revenue was to deliver the money, books and documents to the Station House Officer, Kartarpur, to proceed according to law. The criminal case was later recorded as filed as untraced by an order dated 25 January 1973 (physical pages 2-3/SCR 994 E-F and 995 A-B).

On 12 March 1973 Romesh Chander applied to the Judicial Magistrate to secure compliance with the return order, saying the police had filed no challan for a long time. Revenue applied under section 523 of the Code of Criminal Procedure on 25 March 1973 to retain the money against its asserted tax demand and the papers for assessment proceedings. Revenue alleged a regular assessment dated 26 June 1972, a demand of Rs.7,90,293, failure to pay after 35 days' notice, and adjustment of the seized Rs.1,61,411 on 5 October 1972. Those are the Department's pleaded assertions, not the Supreme Court's final finding of a subsisting demand (physical pages 2-3/SCR 994 F-995 B).

The Magistrate ordered delivery to the Station House Officer on 24 April 1973, and the Additional Sessions Judge affirmed on 5 May 1973. A later High Court remand required examination of the legality of the adjustment. The report gives inconsistent dates for that remand, 26 June 1974 at SCR 995 D-E and 20 March 1974 at SCR 996 F. It dates the Magistrate's ensuing retention order 3 June 1974; this sequence is preserved rather than repaired by inference (physical pages 3-4).

Separately, Romesh Chander challenged the assessment and the rejection of his section 146 application. The report records a stay of recovery of the Rs.7,90,293 demand for AY 1972-73 by an order dated 18 September 1973, communicated on 27 September. The Magistrate nevertheless allowed retention in partial satisfaction of the asserted demand while holding that the 5 October 1972 adjustment was invalid because the section 132(5) order was invalid. On 4 January 1975 the Additional Sessions Judge allowed Romesh Chander's revision, dismissed Revenue's revision and directed return of the money and books to him. The High Court dismissed Revenue's writ petition in limine on 6 May 1975, leading to this special-leave appeal. By the Supreme Court's decision, AAC orders dated 17 October 1975 showed that no assessment order or income-tax demand remained (physical pages 3-5/SCR 995 E-997 B).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court approved the High Court's rejection of Revenue's writ petition. Its account of the proceedings distinguished the invalidity of the search and adjustment from the attempted justification for continued retention. The Magistrate had rejected the adjustment under the relevant statutory provision yet permitted retention against an asserted outstanding demand. Before the Additional Sessions Judge, Revenue had invoked section 226(4) as an independent basis as well as section 132. The report records that contention; it does not uphold an independent section 226(4) power to retain on the facts (physical page 4/SCR 996 E-H).

The decisive position was that the AAC orders dated 17 October 1975 showed no assessment order and no income-tax demand. There was also no continuing criminal case against Romesh Chander. The earlier High Court order requiring Revenue to hand the property to the Station House Officer had not been appealed further. Once the criminal case had been filed as untraced, that procedural route supplied no continuing authority for the authorities to keep the money. The Court likewise rejected adjustment because there was no valid assessment and no demand (physical page 5/SCR 997 A-C).

Revenue could not indirectly retain the money simply because a demand might arise later. Continued retention required authority of law and an operative legal order, both of which were absent in this case. The ruling therefore depends on the combined absence of a lawful retention basis, a subsisting criminal case and a valid assessment or tax demand. It is not an abstract declaration that every invalid search automatically entitles any claimant to return, regardless of competing ownership claims or other lawful proceedings (physical page 5/SCR 997 C-D).

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

03 JUDICIAL DECISION

The Supreme Court dismissed Revenue's appeal with costs. The Additional Sessions Judge's direction to return Rs.1,61,411 and the books to Romesh Chander remained undisturbed after the High Court's dismissal of Revenue's challenge. The Supreme Court did not levy or quantify a fresh assessment, decide a hypothetical future demand, award interest, or impose a new return deadline (physical pages 4-5/SCR 996 D-E and 997 D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respondent Romesh Chander; against Revenue's continued retention claim

Revenue appeal dismissed with costs; return direction left undisturbed

Final reasoned decision on legal authority for retention in the established circumstances, not a decision determining future tax liability

Search already held invalid; criminal case filed as untraced; AAC orders showed no valid assessment or tax demand; no other legal retention order was established. The case does not resolve a competing ownership claim.

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

05 AKHB REVIEW POINT

Identify the legal basis for holding the property at the time continued retention is defended. An earlier seizure, an asserted adjustment and the prospect of a later demand are different things. Here the operative assessment/demand had disappeared and the criminal route had ceased; an expectation of future tax could not substitute for legal authority. Do not recast the Revenue's section 226(4) submission as a holding validating retention under that provision.

A later primary check materially limits broad use of the return proposition. In *Smt. Kusum Lata Singhal v. Commissioner of Income Tax, Rajasthan, Jaipur & Ors.*, decided 16 July 1990, the Supreme Court expressly distinguished *Malhotra* as arising in a different context (physical page 5/SCR 397 A-B). Although the wife's search had been held invalid, her husband had claimed the jewellery as his own and as undisclosed income. The Court declined to order return to the wife in that disputed-ownership setting and expressly left the validity of the husband's section 132(5) proceedings undecided; his ownership assertion did not disappear merely because illegality was alleged. The special-leave application was dismissed without costs and any interim orders vacated (physical pages 3-5/SCR 395 D-397 G). This is a verified distinction, not an overruling or a comprehensive later-treatment/current-law certificate.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Caption, actual decision date, four-judge bench and docket

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: SCR 993 heading and H

Source role: reported metadata

2.

Topic: Author, police interception, amount, section 132 search and prior High Court return route

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: SCR 994 A-F

Source role: judicial text

3.

Topic: Competing applications; Revenue demand and adjustment allegations; criminal case filed as untraced

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 994 F-H and 995 A-C

Source role: judicial text

4.

Topic: High Court remand account and section 146/assessment appeals

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: SCR 995 D-H

Source role: judicial text

5.

Topic: AY 1972-73 recovery stay; Magistrate order and invalid section 132(5) adjustment

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 996 A-C

Source role: judicial text

6.

Topic: Additional Sessions Judge return order; different printed remand date; section 226(4) as Revenue contention

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 996 D-H and 997 A

Source role: judicial text

7.

Topic: AAC orders of 17 October 1975; no valid assessment or income-tax demand; no continuing criminal case

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 997 A-C

Source role: judicial text

8.

Topic: No legal basis to retain for an anticipated demand; appeal dismissed with costs

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 997 C-D

Source role: judicial text

9.

Topic: Later case identity, bench and SLP docket

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 393 heading and 394 E-G

Source role: later reported metadata

10.

Topic: Invalid search against wife and husband's competing ownership claim

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 395 D-G and 396 A-H

Source role: later judicial text bounded

11.

Topic: Direct distinction of Malhotra and expressly reserved validity of husband proceedings

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 397 A-B and D-F

Source role: later judicial text bounded

12.

Topic: Reasoned SLP dismissal, no costs and interim orders vacated

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 397 F-G

Source role: later judicial text bounded

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

The actual seizure, attempted tax adjustment, assessment challenge and retention claim arose under the 1961 scheme. The Court's independent ruling concerns the need for legal authority to retain money after the criminal case ceased and no valid assessment or tax demand remained. It does not decide a freestanding construction of section 226(4), revalidate the section 132 search, or adjudicate a surviving tax liability.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A.N. Ray, C.J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Code of Criminal Procedure: section 523 (Revenue application of 25 March 1973; the report does not state the Code year); Indian Penal Code: sections 411, 413 and 414 (original criminal allegations); Foreign Exchange Act, 1947, as named in the report: sections 4, 5, 6 and 8 (original criminal allegations)

SPECIFIED PRIMARY-SOURCE CHECKS AND THEIR LIMITS

1.

Kind: direct later judicial treatment

Status: bounded verified

Treatment: distinguished

Source url: [Open cited source](#)

Finding: Kusum Lata Singhal expressly declines to apply Malhotra in the different context of competing ownership claims to jewellery after an invalid search against the wife. The validity of proceedings against the husband was expressly left undecided.

Limit: Full five-page source read, but batch reliance is confined to this direct distinction and necessary context; no comprehensive later-treatment or current-law conclusion.

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256 4156b3b36e64380057d3cfb815f46973333c34b28cee037044db94536d5c659f. Original bytes preserved. Judicial body begins physical page 2/SCR 994 A (Ray, C.J.) and ends physical page 5/SCR 997 D with dismissal with costs. Physical page 1 is reporter material and appellate metadata. 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

Decision date is 11 December 1975 although the report is [1976] 2 SCR. Four judges and Civil Appeal No.999 of 1975 are printed on physical page 1.; The original seized amount is Rs.1,61,411; Rs.7,90,293 was the earlier asserted demand for AY 1972-73. The later AAC orders showed no assessment order or income-tax demand.; The High Court remand is dated 26 June 1974 at SCR 995 D-E but 20 March 1974 at SCR 996 F; the Magistrate order is dated 3 June 1974 at SCR 996 B. The printed sequence is not silently corrected.; Physical page 2 describes the 22 November 1972 High Court appeal as partly allowed to require return through the Station House Officer; page 5 calls the Single Judge order affirmed but immediately repeats the Station House Officer route. The note preserves the specific route and the later 4 January 1975 return-to-respondent order.; The scanned judgment names Romesh Chander; the extracted text renders the name as Ramesh Chander in some passages. The page images control, and no separate person is inferred. Section 226(4) is recorded as a Revenue submission, not an independent Supreme Court holding.; Kusum Lata Singhal directly distinguishes Malhotra in a disputed-ownership setting and leaves validity of the husband's proceedings undecided. It does not overrule Malhotra.; The later report prints section 134 once in its search narrative at SCR 395 B but repeatedly identifies the disputed authorisation as section 132(1), with proceedings under section 132(5)/(7). That source inconsistency is retained; no section 134 proposition is drawn from it.

AY 1972-73 is expressly attached to the Rs.7,90,293 recovery demand at physical page 4/SCR 996 A. No additional assessment years are supplied for the other pending assessment references.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or certification of present law. Actual historical statutory versions and the limits of the retention dispute govern this note.

LATER TREATMENT

Source checked 2026-10-05. not_verified comprehensively. Bounded direct treatment verified: Kusum Lata Singhal (16 July 1990), physical page 5/SCR 397 A-B, distinguishes Malhotra because of the disputed-ownership context developed at SCR 395-397. This is not an overruling, exhaustive citation history or present-law certification.

IDENTIFIED SOURCE LINKS

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

SHA-256: 4156b3b36e64380057d3cfb815f46973333c34b28cee037044db94536d5c659f

[later judgment bounded treatment - PDF pages: 5](#)

SHA-256: 4d1a5cd3a9e80dfbf32b33d9bd02cccec1ff3cecb1916e5286a6743124577add

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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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