

Hardip Singh and another v. The Income Tax Officer, Amritsar and others

Civil Appeal No. 2390 of 1972

[1979] 3 SCR 781 | 1979-04-26

Did commencement of voluntary liquidation before 1 April 1962 prevent the ITO from using the former section 179 when winding-up proceedings remained pending after the 1961 Act commenced?

179 (pre-1975 version)

Three judges | N.L. Untwalia, J. | R.S. Pathak, J. | E.S. Venkataramiah, J.

Assessment years: 1964-65

Pre-1975 section 179 only; other director-liability conditions not decided

This decision construes the old winding-up-after-commencement wording of section 179. The Court expressly excluded the 1975 amendment and decided only the pressed temporal/jurisdictional objection. It is not authority to ignore non-recovery, relevant-year directorship or the statutory defence, or to import the old liquidation wording into later law. Comprehensive later treatment, current-law applicability and 2025 mapping remain not_verified.

01 FACTS OF THE CASE

The appellants were two directors of Sandhu Transport Company (Private) Limited, one being its managing director. A resolution for voluntary liquidation at the creditors' instance was passed on 13 November 1961. Income-tax arrears of Rs. 1,34,319 remained due for some years ending with AY 1964-65; the earlier years are not identified (physical 2/SCR 782 B-C).

The ITO issued a section 179 show-cause notice to appellant 2 on 7 February 1970 and a similar notice to appellant 1 on 11 November 1970, the latter date checked against the image. The directors principally argued that liquidation had begun before the 1961 Act commenced. Their other objections were not pressed before the Supreme Court. The ITO rejected the pleas on 31 December 1970, revision was rejected on 31 January 1972, and the High Court dismissed the ensuing writ petition in limine on 7 March 1972. The Supreme Court appeal was by certificate (physical 1-2/SCR 781 H-782 G).

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

02 DISCUSSION BY THE HON'BLE COURT

Untwalia J reproduced the section 179 version applicable before the 1975 amendment. It attached joint and several liability to a director during the relevant previous year where the specified company tax could not be recovered, subject to the director proving that non-recovery was not attributable to gross neglect, misfeasance or breach of duty concerning the company's affairs. The Court expressly said it was not concerned with the 1975 amendment (physical 2 H-3 C/SCR 782-783).

The only pressed issue was the ITO's authority under that old provision in light of the date liquidation began. The Court distinguished three stages: commencement of winding-up, continuation of the winding-up proceedings or steps, and final winding-up and dissolution. If all three were complete before 1 April 1962, section 179 would not apply. If all occurred afterward it clearly would. It also applied when one or more stages occurred after commencement of the Act even if an earlier stage had preceded it (physical 3/SCR 783 D-G).

Here the ITO's and Commissioner's orders showed that the company had not finally been wound up and dissolved; the proceedings were still pending. The pre-Act resolution therefore did not remove the case from section 179. The Court explained the recovery difficulty when a company enters liquidation or is dissolved and held that the provision was designed to reach such a case. It upheld initiation against the directors and the High Court's dismissal (physical 3-4/SCR 783 F-784 A). The statutory defence was reproduced, but its factual ingredients and the directors' unpressed objections were not independently adjudicated.

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

03 JUDICIAL DECISION

The continuing winding-up after 1 April 1962 attracted the pre-1975 section 179 despite the 13 November 1961 resolution. The proceedings against the directors were properly initiated, and Civil Appeal 2390 of 1972 was dismissed with costs (physical 3-4/SCR 783 D-784 B).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue / respondent Income Tax Officer

Single directors' appeal dismissed with costs

Reasoned decision on the temporal applicability and jurisdictional objection under former section 179; no remand

Only the pressed temporal/jurisdictional objection decided. No new assessment computation, complete list of arrear years or finding on every statutory defence is supplied.

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

05 AKHB REVIEW POINT

The date of the liquidation resolution was not conclusive under the version decided here. Record the state of each winding-up stage at 1 April 1962 and when recovery action was taken; the actual case turned on proceedings remaining unfinished. Preserve the distinction between inability to recover company tax, relevant-year directorship and the statutory defence. This judgment does not dispense with those conditions merely because its temporal objection failed.

Do not use the old winding-up formula as a universal limit on later director-recovery powers. The Court expressly left the 1975 amendment outside its decision. A bounded check of the retained department-hosted 2011 compilation, physical 778/printed 1.737 and footnotes 78-81, confirms a substituted operative formula effective 1 October 1975, no longer framed solely around winding-up after commencement, and a separate subsection (2) concerning conversion into a public company. This historical consolidation is not a complete present-law audit. Comprehensive subsequent treatment, current-law applicability and 1961-to-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. 2390 of 1972

Outcome: Dismissed with costs

Costs: Appeal dismissed with costs; amount not specified

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: Heading, certificate route, High Court order and judicial facts

Source role: identity and judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 782 H-783 C, relevant pre-amendment provision

Source role: judicial text

3.

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: SCR 783 D-H, three-stage construction and facts

Source role: judicial text

4.

Source url: [Open cited source](#)

Pdf pages: 4

Paragraphs: SCR 784 A-B, result and costs

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Actual temporal applicability and ITO authority under former section 179 to directors where voluntary liquidation began before 1 April 1962 but winding-up remained pending afterward.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

N.L. Untwalia, J.; single opinion of the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Companies Act, 1956: overriding clause in reproduced section 179; no independently decided Companies Act issue; Taxation Laws (Amendment) Act, 1975: expressly outside the judicial decision; bounded later compilation check of substitution only

SOURCE & VERIFICATION

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

Identified source rendition: 4 PDF pages; SHA-256

7babefb442904274a9657f44425b9010b17a52a2b8b1a0a1a55b43dc681f490b. 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; all listed proceedings accounted for: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

Printed SCR identity, bench and proceedings checked against material images. Frozen catalogue INSC identifiers are not independently authenticated. Judicial paragraphs are unnumbered; page/band pins used.

Headnote on physical 1 is editorial; judicial reasoning begins physical 2 B.; Only AY 1964-65, the terminal year, is printed; do not fill the unnamed earlier years from an assumption.; The November notice date is 11 November 1970 as shown on physical 2 image; defective OCR is not adopted.; The amendment discussed as outside the appeal is the 1975 amendment, not a judicial endorsement of all later versions.; The general joint-and-several-liability wording is subject to statutory conditions and the expressly reproduced director defence; other objections were not pressed.

The report says some years ending with AY 1964-65. Only that terminal year is stated; the earlier years are not supplied and are not invented.

Certificate appeal from Punjab and Haryana High Court order dated 7 March 1972 in Civil Writ 773 of 1972. Certificate described as granted because of the then valuation rule. No extra appeal or remand.

STATUTORY SCOPE

No automatic Income-tax Act, 2025 crosswalk or present-day application. Complete amendment history, commencement, savings and later judicial treatment have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Only the expressly described bounded primary/statutory checks are verified. Comprehensive later treatment, current-law applicability and 1961-to-2025 mapping remain not_verified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 4](#)

SHA-256: 7babefb442904274a9657f44425b9010b17a52a2b8b1a0a1a55b43dc681f490b

[historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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