

Commissioner of Income Tax, Haryana, Himachal Pradesh & Delhi & Others v. Tarsem Kumar & Another

Civil Appeal No. 1666 (NT) of 1974

[1986] 3 SCR 294 | 1986-07-17

Whether a May 1972 section 132 warrant could seize cash already held by Customs under legal authority and due to be returned following a court order, when the location of the cash was known.

132(1) | 132(3)

2-judge bench | R.S. Pathak, J. | Sabyasachi Mukharji, J.

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

May 1972 seizure; later section 132A and lawful recovery expressly preserved

This is a reasoned ruling on the pre-132A section 132 route for cash in Customs' legally sanctioned custody. Revenue's appeal was dismissed, leaving the warrant-quashing and return-to-Customs directions intact; each side bore its own costs. The Court expressly preserved recovery through appropriate authorities according to law and noted section 132A from October 1975. It did not decide tax liability or authorize unconditional payment to the respondent. The reproduced section 132 text includes later amendments, and the Motilal headnote label conflicts with the judicial discussion. Comprehensive later treatment and present/2025 mapping remain unverified.

01 FACTS OF THE CASE

Customs intercepted Tarsem Kumar on 23 August 1970 while he was travelling from Ambala to Batala. It took Rs 93,500 in Indian currency, ten gold sovereigns and the car. The High Court single judge quashed the Customs section 110(2) proceedings extending the period for the section 124 notice on 24 April 1972. Tarsem then sought return of the cash and car; he did not claim the sovereigns, which he said were not his. Before the cash was returned, the Income-tax Officer served on Tarsem and Customs a section 132 authorization dated 10 May 1972, on 12 May 1972, and took only the cash (physical pages 4–5/SCR 297–298).

Tarsem challenged the income-tax action under Articles 226 and 227. The High Court Division Bench quashed the search-and-seizure warrants and directed the Income-tax Department to return the money to Customs, with consequential directions. It also dismissed Customs' appeal from the single judge's order. The Supreme Court proceeding was Revenue's Civil Appeal 1666 (NT) of 1974 challenging the judgment on the income-tax writ; the note does not convert the connected High Court Customs appeal into a second Supreme Court appeal (physical pages 3–6/SCR 296–299).

Source: [reported judgment](#) / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 4, 5, 6 / [judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read search, possession and seizure in their statutory context, including section 132(3)'s reference to immediate possession or control and rule 112's search procedure. Customs had physical custody backed by legal authority; continued private title did not mean Tarsem retained possession for this section. Nor did the different statutory functions of the two departments make the Customs officer's custody equivalent to concealment by a private holder. Where the property's precise location was known to government and it was held by another department under legal authority, the Court rejected using section 132 to search that department and seize it (physical pages 6–9 and 11–14/SCR 299–302 and 304–307).

The Court discussed the Calcutta and Allahabad reasoning, quoted Motilal's search/seizure distinction, and approved the Punjab and Haryana approach in Ramesh Chander. It rejected the contrary views placed before it from Noor Mohd. Rahimatulla Gillani, Pannalal, Gulab and Company, and Assainar. The extensive pro-Revenue passages quoted from those cases are rejected positions, not this Court's holdings. In explaining the proper route, the Court referred to obtaining delivery or directions through appropriate authorities rather than this section 132 device (physical pages 9–14/SCR 302–307).

The Court expressly confined its conclusion to the law at the relevant time and acknowledged that section 132A had subsequently filled the gap from October 1975. It left Revenue free to approach the appropriate authorities to realize money or recover books and documents according to law. That reservation required a lawful route; it did not itself establish liability, authorize unconditional seizure, validate a later requisition or prescribe a tax amount (physical page 14/SCR 307).

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 6, 7, 8, 9 / judicial text](#); [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 10, 11, 12, 13, 14 / judicial text](#)

03 JUDICIAL DECISION

Revenue's single appeal was dismissed. The High Court's quashing of the warrants and direction that the Income-tax Department return the cash to Customs, with its consequential directions, remained undisturbed. Revenue could approach the appropriate authorities to realize money or recover books or documents in accordance with law. The parties were to pay and bear their respective costs. The Court did not itself assess tax or make an unconditional tax-refund award to Tarsem (physical pages 4 and 14/SCR 297 and 307).

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 14 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Respondents, on validity of the impugned search-and-seizure action

Civil Appeal 1666 (NT) of 1974 dismissed; High Court warrant-quashing and return-to-Customs directions stand, subject to expressly reserved lawful recovery

Reasoned final construction of historical section 132 jurisdiction and interdepartmental custody; no determination of underlying undisclosed income or tax liability

May 1972 pre-132A action only. The later requisition power and other lawful recovery routes are expressly preserved, not adjudicated as satisfied.

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 4, 6, 14 / judicial text](#)

05 AKHB REVIEW POINT

Identify who physically held the property, under what legal authority, the authorization date and the statutory route invoked. Search-and-seizure relief is distinct from ownership, taxability and a right to unconditional release from every authority. Here the income-tax warrant failed while the Court deliberately preserved recovery according to law.

Do not export the pre-132A result to a later requisition. Equally, do not treat the judgment's bracketed statutory extract as a precise 1972 consolidation: the Department's historical amendment notes confirm that some reproduced wording was introduced in 1975. Keep the temporal warning with the rule and check the particular requisition or recovery provision independently.

Source: [reported judgment / paragraphs Unnumbered judicial text; physical PDF pages are one-based / PDF pages 8, 11, 12, 14 / judicial text; Department-hosted 1982 version, section 132\(1\) and amendment footnotes for 1 October 1975 / statutory version check; Department-hosted 1997 version, section 132A insertion footnote 87 / statutory transition check](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: Parties to pay and bear their respective costs

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

132A

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

HISTORICAL STATUTORY VERSION AND TEMPORAL LIMITS

Operative scheme: The impugned authorization was dated 10 May 1972 and served on 12 May 1972 under section 132 and rule 112(11). The Court decided the law as it stood at that time, before the requisition power in section 132A introduced from October 1975. Its substantive construction concerns possession, search and seizure under section 132(1), with section 132(3) considered in the same context.

Source pin: Physical pages 4–8 and 14/SCR 297–301 and 307.

Transition: The Court expressly says the lacuna was subsequently filled by section 132A from October 1975. The Department-hosted statutory amendment footnote identifies 1 October 1975; this is a bounded commencement check, not a current-law audit.

Quotation version caution: The judgment's bracketed section 132 quotation includes wording introduced on 1 October 1975, including additional authorizing officers, would-not-be-disclosed wording and expanded search locations. The whole quotation is not represented as a verbatim May 1972 consolidation. The ruling and its express pre-132A temporal limitation govern this note.

Limit: No conclusion is made that a later requisition met section 132A's conditions, or that the former search/custody reasoning grants permanent immunity from tax recovery.

OTHER STATUTES AND THEIR CONTEXTUAL ROLE

Income-tax Rules, 1962, rule 112(11) and rule 112 search procedure; Customs Act, 1962, sections 110(2) and 124; Constitution of India, Articles 226 and 227

SUPPLEMENTARY HISTORICAL STATUTORY SOURCES AND LIMITS

1.

Url: [Open cited source](#)

Kind: department hosted historical statutory compilation

Version: As amended by Finance Act 1982

Review scope: Section 132(1) quotation and 1975 amendment footnotes only; identifies later wording in the reported judgment, not a certification of every 1972 provision.

2.

Url: [Open cited source](#)

Kind: department hosted historical statutory compilation

Version: 1997

Review scope: Insertion footnote 87 only: section 132A introduced by Taxation Laws (Amendment) Act 1975 from 1 October 1975. Later text is not applied to the 1972 warrant.

SOURCE & VERIFICATION

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

Identified source rendition: 14 PDF pages; SHA-256

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Editorial headnote occupies physical pages 1–3/SCR 294–296. Reported proceedings span pages 3–4; complete unnumbered Mukharji J. judgment begins on physical page 4/SCR 297 and ends on page 14/SCR 307. Statutory quotation and opposing High Court passages at pages 6–13 are not all holdings of this Court. No neighbouring judgment.

[Open cited source rendition](#)

This is a challenge to the May 1972 search-and-seizure authorization, not an assessment-year quantum appeal; the judgment identifies no governing AY.

The editorial headnote labels Motilal distinguished and partly overruled. The judicial discussion quotes its reasoning and the final page relies on Motilal and Laxmipat while approving Ramesh Chander. This note follows the judicial text and does not adopt the inconsistent editorial treatment label.; The headnote misdescribes the 1962 Rules as an Act and prints section 110(II); the judicial narrative identifies the Income-tax Rules, 1962 and Customs Act section 110(2).; The statutory quotation contains post-1972 bracketed amendments. The Department-hosted 1982 section 132 page identifies relevant 1975 amendments, while the judgment expressly decides the earlier action and notes the subsequent section 132A transition.; The final Supreme Court order leaves the High Court's return-to-Customs direction standing. It should not be rewritten as an immediate unconditional payment of Rs 93,500 directly to Tarsem or a finding that no income tax was payable.

STATUTORY SCOPE

Historical statutory scheme only. No automatic mapping to the Income-tax Act, 2025 or certification of present law.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 14](#)

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