

Kalyan Mills Ltd. v. Union of India & Others

Civil Appeal No. 447(N) of 1973

[1987] 1 SCR 362 | 1986-11-21

Historical income-tax recovery: civil-court receiver upheld after a third-party debtor asserted a counterclaim and statutory garnishee machinery ceased to be effective.

Indian Income-tax Act, 1922: sections 46(2) and 46(5A), as indicated by the 1948-1951 recovery chronology; the SCR headnote labels the enactment as the Income-tax Act, 1961, a discrepancy disclosed below

2-judge bench | O. Chinnappa Reddy, J. | G. L. Oza, J.

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

Source enactment discrepancy

The SCR headnote calls sections 46(2) and 46(5A) provisions of the Income-tax Act, 1961, but the notices were issued in 1948-1951 and those recovery subsections belong to the 1922 Act framework. The primary source inconsistency is disclosed rather than silently reproduced.

01 FACTS OF THE CASE

Union of India sought Rs.1,32,400.87 in income-tax, excess-profits-tax and business-profits-tax arrears from an assessee company that had acted as Kalyan Mills' managing agent. The assessee told Revenue that Kalyan Mills owed it commission and that the arrears could be recovered from that debt. Notices under section 46(2) were issued on 9 November 1948 and 30 March 1951, and a section 46(5A) notice followed on 22 July 1949. Kalyan Mills initially acknowledged the debt and promised payment, but later asserted a counterclaim and made book adjustments. Union of India filed a civil suit on 15 February 1958. The trial court found the counterclaim/adjustment ineffective against Revenue and appointed a receiver to realise debtor funds; the Gujarat High Court affirmed.

Source: [Recovery chronology, admissions and civil suit: SCR pp. 363-365 / PDF pp. 2-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The admitted commission amount was held by Kalyan Mills for the assessee company and had been attached by a prohibitory order under section 46(2). Once Kalyan Mills set up a counterclaim, the section 46(5A) machinery was no longer effective, leaving the Union to obtain civil-court adjudication. The decree did not impose an unrestricted personal money liability on Kalyan Mills: the receiver was appointed to recover only money of the assessee company lying with it and pay that amount to the Union. The Court found no error in the Gujarat High Court's approval of that limited decree.

Source: [Counterclaim, ineffective statutory machinery and receiver: SCR pp. 365-366 / PDF pp. 4-5](#)

03 JUDICIAL DECISION

The Supreme Court upheld the High Court judgment maintaining the receiver decree. It rejected the objection that such relief could arise only in execution against the original tax debtor and dismissed Kalyan Mills' appeal with costs.

Source: [Operative dismissal: SCR p. 366 / PDF p. 5](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Union of India/Revenue. The receiver could realise the assessee company's money held by Kalyan Mills, and the appeal was dismissed with costs. The judgment did not authorise recovery beyond the debtor funds held by the appellant.

Source: [Scope of receiver decree and outcome: SCR p. 366 / PDF p. 5](#)

05 AKHB REVIEW POINT

AKHB analysis: in a third-party tax-recovery file, map the underlying debt, every attachment or garnishee notice, the recipient's admissions, the timing and substance of any counterclaim, and the precise property sought. This case upheld civil relief limited to the taxpayer's funds held by the third party after the historical statutory mechanism became ineffective; it should not be read as imposing general personal liability. Verify the currently governing recovery schedule, forum and third-party objections independently.

Source: [AKHB analysis based on the attached-debt and receiver reasoning: SCR pp. 365-366 / PDF pp. 4-5](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Full 5-page SCR report read. Editorial headnote on PDF pp. 1-2 was distinguished from the unnumbered judicial text beginning on PDF p. 2.

[Open cited source rendition](#)

Exact source bytes and the 5-page count match catalogue asset 1987_1_362_366.

The SCR report gives Civil Appeal No. 447(N) of 1973; the catalogue omits the parenthetical N.

The report concerns tax arrears including income tax, excess-profits tax and business-profits tax, but it does not identify assessment years. None are inferred.

The catalogue's retrospective 1986INSC249 identifier is not printed in the report and is not independently certified here.

STATUTORY SCOPE

This recovery dispute arose from notices issued in 1948, 1949 and 1951 under historical section 46 machinery. It does not certify the availability of a receiver or the same garnishee remedy under current recovery law.

LATER TREATMENT

Source checked 2026-10-10. Comprehensive later treatment and present recovery-law applicability have not been checked. No current citator or current-law clearance is represented.

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AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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