

Assistant Commissioner of Income Tax v. A.K. Menon and Others

Civil Appeal No. 6323 (NT) of 1995

[1995] Supp. 2 SCR 181 | 1995-07-18

Whether the Special Court distributing attached assets could examine the bona fides, reasonableness, justification or enforceability of notified persons' income-tax assessments instead of leaving their merits to the taxing statute's hierarchy.

Assessment/reassessment and statutory appellate hierarchy: no numbered Income-tax Act provision identified in this order

Two-judge bench | A.M. Ahmadi, C.J. | S.P. Bharucha, J.

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

Assessment jurisdiction preserved; payment rule expressly qualified later

Menon bars the Special Court from sitting in appeal over income-tax assessments. Harshad Shantilal Mehta (three judges, 13 May 1998) expressly qualified its payment-in-full observations: strong reasons in serious miscarriage, fraud/collusion or gross-disproportion cases may justify reducing payment from Custodian funds, while the balance tax debt survives. Menon did not order immediate payment of Rs. 80,80,198.34 or decide any assessment year. The separate statutory-PDF retrieval failed; comprehensive later treatment, current-law applicability and 2025-Act mapping remain unverified.

01 FACTS OF THE CASE

The Assistant Commissioner sought release of Rs. 80,80,198.34 from funds with the Custodian, describing that sum as the tax liabilities of respondents who were notified persons under the Special Court Act, 1992. Counsel for some notified persons wanted to demonstrate that the demands were unreasonable and unjustified. The Special Court acknowledged that it could not sit in appeal over tax orders, but considered scrutiny of bona fides necessary to avoid an absurdly large claim defeating the statutory distribution priorities. It adjourned the application to permit that challenge (physical pages 2-3/SCR 182 D-183 A).

The Revenue appealed from the Special Court's order of 21 March 1995 in Miscellaneous Application No. 107 of 1993. The Supreme Court granted special leave and heard Civil Appeal No. 6323 (NT) of 1995. The recorded sum is the amount sought for release, not a Supreme Court computation or an order directing its immediate payment. No assessment years, separate demand components or original SLP number are supplied (physical page 2/SCR 182 A-F).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court reviewed the Special Court Act's arrangement: the Custodian deals with notified persons' property as directed; section 7 supplies the criminal jurisdiction described in the order; sections 9A and 9B had added civil and arbitration-related jurisdiction; and section 11 controls disposal of attached property and the order of discharge of liabilities. Section 11(2)(a) gives the listed revenue and tax liabilities priority, subject to the statutory language about payment in full as far as may be (physical page 3/SCR 183 B-F).

The Court distinguished adjudication of a tax assessment from distribution of available attached funds. It held that the Special Court could not sit in appeal over, or overrule, tax authorities, the Income Tax Appellate Tribunal or courts on notified persons' tax liabilities. It described the distribution power as deciding what could be paid from the available funds and whether payment would be whole or partial, with provision for the balance so far as possible. Those payment observations must now be read with the later express qualification discussed below; they are not an unqualified current rule that every assessed rupee must have priority (physical pages 3-4/SCR 183 F-184 A).

The Custodian relied on S.V. Kondaskar's statement that a liquidation court could scrutinise the Revenue's claim after assessment. The Court read that passage in its setting. Kondaskar addressed whether a tax officer needed liquidation-court leave to reassess a company for escaped income. Its reasoning treated the Income-tax Act as a complete assessment/reassessment code and located challenges within its appeal, reference and revision machinery. A winding-up court could not acquire the functions of the tax officer merely because the assessee was in liquidation. The present order understood the later scrutiny passage as concerning payment from liquidation funds consistently with the interests of creditors, not a parallel power to reassess income tax (physical pages 4-5/SCR 184 B-185 D).

The operative jurisdictional conclusion was that the Special Court could not determine whether an assessment made by the competent taxing authority was bona fide, reasonable, justified or enforceable. That conclusion resolved the live attempted collateral challenge; the Court did not adjudicate the merits of any respondent's assessment (physical page 5/SCR 185 E).

Later treatment, separately checked and not part of the 1995 order: the three-judge decision in Harshad Shantilal Mehta expressly agreed that the Special Court cannot sit in appeal over or reopen assessments, but qualified Menon's payment-in-full observations. It distinguished tax liability under the taxing machinery from how much would be paid out of Custodian funds. Strong reasons could justify scaling down that payment in serious cases of miscarriage of justice, fraud or collusion, or grossly disproportionate demands affecting the statutory purpose and other claimants. The unpaid tax liability subsisted; the later judgment also limited section 11(2)(a) priority to the statutory period and distinguished tax from interest and penalty. This is a material qualification, not a general appellate power over assessment and not an outright overruling of Menon's jurisdictional distinction (Harshad physical pages

02 DISCUSSION BY THE HON'BLE COURT

19-24/SCR 407-412, especially 410 B-411 D).

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

03 JUDICIAL DECISION

The appeal was allowed. The Special Court's order was set aside insofar as it required the Assistant Commissioner to produce records and allowed notified persons to show that their tax claims were not bona fide or were unreasonable, unjustified or unenforceable. There was no order as to costs. The Court did not direct immediate release of the entire claimed sum, recalculate an assessment, or annul any income-tax liability (physical page 5/SCR 185 E-G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the Special Court's lack of appellate jurisdiction over assessments

Appeal allowed; specified portions of the Special Court order set aside; no order as to costs

Final reasoned allocation of tax-assessment jurisdiction, without adjudication of assessment merits or quantified payment

The order resolves who may question assessment merits. Later Harshad qualification governs the distinct extent-of-payment issue; surviving tax debts must not be confused with priority payment from attached funds.

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

05 AKHB REVIEW POINT

Keep two questions separate: whether the assessment is correct, and what should be paid from the particular attached fund. Menon directs the first question to the tax statute's own machinery. It does not authorise the Special Court to become another assessment appellate forum, and the amount sought by the Revenue was not itself judicially recomputed or ordered to be paid in full.

Do not repeat Menon's payment observations without Harshad Shantilal Mehta. The later three-judge Court retained the assessment-jurisdiction rule but expressly qualified priority payment. A carefully supported request about distribution, based on the serious circumstances identified there, is analytically different from an attempt to reopen the assessment. The residue remains a tax debt, even where the full demand is not paid ahead of other claimants from the Custodian's funds.

The later judgment was read within stated comparison bounds, not as a full new merits review of every Special Court question. A separate India Code statutory PDF could not be retrieved: the web fetch timed out and one raw attempt retained no bytes, so no fresh statutory-PDF or current-version certification is claimed from that source. Broader later treatment, current-law applicability and any 2025 correspondence remain unverified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No order as to costs

Proceeding outcomes

1.

Case number: Civil Appeal No. 6323 (NT) of 1995

Originating court: Special Court at Bombay under the Special Court Act, 1992

Lower court proceeding: Miscellaneous Application No. 107 of 1993; order 21 March 1995

Appellant role: Assistant Commissioner of Income Tax/Revenue

Outcome: Special leave granted; appeal allowed; record-production and assessment-merits scrutiny portions of the order set aside

Costs: No order as to costs

Pinpoint: Physical page 2/SCR 182 A-E and physical page 5/SCR 185 E-G

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal, lower order, leave and amount claimed

Source url: [Open cited source](#)

Pdf pages: 1; 2

Paragraphs: SCR 181 heading; 182 A-F

Source role: identity and judicial text

2.

Topic: Special Court reasoning and statutory distribution context

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: SCR 182 F-183 F

Source role: judicial text

3.

Topic: Assessment jurisdiction and original payment observations

Source url: [Open cited source](#)

Pdf pages: 3; 4

Paragraphs: SCR 183 F-184 A

Source role: judicial text

4.

Topic: Kondaskar read in context and tax appellate machinery

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 184 B-185 D

Source role: judicial text

5.

Topic: Jurisdictional holding, precise reversal and costs

Source url: [Open cited source](#)

Pdf pages: 5

Paragraphs: SCR 185 E-G

Source role: judicial text

6.

Topic: Later express qualification of payment-in-full observations

Source url: [Open cited source](#)

Pdf pages: 22; 23

Paragraphs: SCR 410 B-411 D

Source role: later judicial text not part of 1995 order

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Unattributed order of the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992, sections 7, 9A, 9B and 11; Companies Act, 1956, section 446, in the discussion of Kondaskar

SPECIFIED COMPARISONS AND THEIR VERIFICATION LIMITS

1.

Status: verified bounded

Subject: Harshad express qualification, surviving assessment jurisdiction and payment distinction

Source url: [Open cited source](#)

Pdf pages: 19; 20; 21; 22; 23; 24; 25

2.

Status: not verified source access stopped

Subject: Separate Special Court Act statutory PDF

Source url: [Open cited source](#)

Read limit: Search result only; one web timeout and one raw 25-second timeout, zero bytes retained; no retry

SOURCE & VERIFICATION

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

Identified source rendition: 5 PDF pages; SHA-256 bb15963678dd1bb582cf9e288854b04c5b57b3491c742202ae505dec41e914f5. Original bytes preserved. All five physical pages read. Complete unnumbered Court order begins physical page 2/SCR 182 D and ends physical page 5/SCR 185 G, including costs. Page 1 and upper page 2 are reporter material. One unattributed order of Ahmadi C.J. and Bharucha J.; no separate opinion or adjacent judgment.

[Open cited source rendition](#)

full primary text read: True; all primary page images reviewed: True; material primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material later treatment limits prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

The order specifies no assessment years, individual notified-person assessments or tax/interest/penalty breakdown. Its description of securities offences after 1 April 1991 and on or before 6 June 1992 is statutory background, not an identified assessment year or a quantified priority-period finding in this appeal.

Physical page 2 prints Civil Appeal No. 6323 (NT) of 1995; the frozen index omits NT. Special leave is granted in the judicial text, but no original SLP number is stated. One appeal from Special Court Miscellaneous Application 107/1993, order 21 March 1995.

The actual printed appeal includes (NT), omitted by the frozen index. No SLP number or assessment year is printed.; Rs. 80,80,198.34 is the amount sought from Custodian funds; it is not a Supreme Court quantification or an immediate payment direction.; The reported Kondaskar quotation contains a duplicated phrase on physical page 5. Its substantive allocation of assessment functions is clear; the duplication is not reproduced as a new legal rule.; The 1995 language on payment and enforceability cannot be presented without the later Harshad distinction between assessment liability and distribution.; The India Code Special Court Act PDF attempt failed with no retained bytes; no source hash, image review or exact current statutory version is claimed for it.

STATUTORY SCOPE

No automatic Income-tax Act, 1961 to Income-tax Act, 2025 mapping and no present-law certification. Verify the statutory version and conditions for the relevant year.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded express qualification verified: Harshad Shantilal Mehta v. Custodian, 13 May 1998, [1998] 3 SCR 389, physical pages 22-23/SCR 410 B-411 D. The three-judge Court agreed with no appeal/reopening of tax assessment but qualified payment-in-full observations, permitting serious-case scaling down of payment from Custodian funds on strong reasons, with residual tax liability surviving. This is not a comprehensive citator/current-law check.

IDENTIFIED SOURCE LINKS

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

SHA-256: bb15963678dd1bb582cf9e288854b04c5b57b3491c742202ae505dec41e914f5

[later primary judgment express qualification - PDF pages: 25](#)

SHA-256: 6da6c67ee9b5b2ff442c21101cd69802b828ab5295a532b435db4179810a9393

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