

Imperial Chit Funds (P) Ltd. v. Income Tax Officer, Ernakulam

Civil Appeal No. 1199 (NT) of 1979

[1996] 3 SCR 640 | 1996-03-19

Whether the section 178 amount earmarked by a company liquidator remained available for general winding-up distribution under Companies Act section 530, or was reserved for satisfying the company's tax liability.

178(1)–(6), historical company-liquidation regime | 220(2), interest included in the underlying demand

Two-judge bench | B.P. Jeevan Reddy, J. | K.S. Paripoornan, J.

Assessment years: 1972-73

Historical earmarked-fund ruling; later IBC exception and source discrepancies

This 1996 dismissal protects the section 178 amount set aside under the historical regime; it does not grant every tax debt unlimited priority or decide the tax assessment's merits. Preserve the statutory secured-creditor/costs exceptions. The checked official 2024 (No. 2) text expressly excepts the Insolvency and Bankruptcy Code, 2016 from section 178(6). The report also conflicts on the High Court date, contains an awkward twelve-month sentence and misnumbers the workmen-priority extract. The Supreme Court dismissal carries no costs order. Comprehensive later treatment and current-law mapping remain unverified.

01 FACTS OF THE CASE

Imperial Chit Funds, represented by its Official Liquidator, challenged the Kerala High Court Full Bench's refusal to require the Income Tax Officer to await proof of the Revenue's claim in the winding up. The company had been ordered wound up on 1 June 1973. An assessment dated 31 March 1975 for 1972-73 imposed Rs. 934 income tax and Rs. 93 interest under section 220(2), a total of Rs. 1,027. After recovery communications, the liquidator filed Report No. 53 dated 20 January 1977 in C.P. No. 7 of 1973 seeking directions against immediate payment (physical pages 4–5, paragraphs 1–2).

The dispute was about the statutory treatment of the tax demand in liquidation, not computation of taxable income or the amount of the assessment. The liquidator argued that the Revenue must prove its debt in the ordinary winding-up process and obtain payment under the Companies Act's distribution scheme. The Revenue relied on section 178's separate obligation to reserve sufficient funds for tax already payable or likely to become payable. Conflicting High Court approaches supplied the legal issue (physical pages 5–6 and 11–12, paragraphs 3–5).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated section 178 as more than a notice-giving procedure. The historical text required the liquidator to notify the Assessing Officer within thirty days; the officer was to notify the required tax provision within three months of receipt. Restrictions on parting with assets and the duty to set aside the notified amount were reinforced by the liquidator's personal-liability provisions. The proviso to subsection (3) expressly preserved payments for tax, qualifying secured creditors whose debts had legal priority over Government debts at liquidation, and winding-up costs and expenses considered reasonable by the Chief Commissioner or Commissioner. Where the officer had notified an amount under subsection (2), subsection (4) limited the liquidator's personal liability to that amount. These qualifications are part of the statutory text quoted by the Court (physical pages 7–8, paragraph 4).

The Court distinguished section 530(1)(a), concerned with taxes already crystallised and due and payable within the specified statutory period, from section 178(2)–(3), which also required provision for tax likely to become payable later. It relied on the legislative background, the direction to set aside funds, personal liability for non-compliance, and section 178(6)'s then non-obstante clause. It approved the Kerala and Andhra Pradesh view that the earmarked amount stood outside the assets distributable in the winding up and should satisfy the eventual tax liability rather than merely a dividend on that liability (physical pages 12–16, paragraphs 6–7).

The Court's description of the Income Tax Department as treated like a secured creditor must be read with that earmarked-fund reasoning. The approved quotation explained that the section did not reorder every claim under section 530 and that exclusion of other creditors concerned the amount set aside under section 178(3). The Court rejected the contrary line of High Court reasoning on that issue; it expressly noted that an earlier reversal of the Gujarat decision on another aspect did not resolve the present question (physical pages 6 and 13–16, paragraphs 3, 6–7).

Paragraph 8 extended the interpretation to the similar provision in section 17 of the Central Sales Tax Act, 1956. For the hypothesised situation in which authorities under both Acts sent similar orders to the liquidator, it stated that precedence would follow the dates of receipt of those orders. No actual competing Central Sales Tax demand was adjudicated on the recorded facts (physical page 16).

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

03 JUDICIAL DECISION

The Supreme Court affirmed the judgment under appeal and dismissed the company's appeal. There was no order as to costs. It did not redetermine the Rs. 1,027 tax-and-interest demand, make a quantified personal-liability order against the liquidator, or distribute a fund among competing creditors (physical page 16, paragraphs 7–9).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the historical section 178 liquidation issue

Appeal dismissed; Kerala Full Bench judgment affirmed; no order as to costs

Final determination of the historical earmarking/priority question, not assessment-computation merits

Applies to the section 178 regime and reserved amount analysed in the judgment, subject to its own statutory qualifications. It does not establish unrestricted tax priority in every insolvency or under later legislation.

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

05 AKHB REVIEW POINT

The usable proposition is precise: under the regime decided, the statutory tax provision was kept out of the general distributable pool and applied to tax eventually found due. Treating the Revenue as a secured creditor was the Court's explanation of that mechanism. It is unsafe to convert this into a freestanding rule that every Government claim outranks every secured creditor or workman. Check the notified amount, the earmarking obligation, the subsection (3) proviso, and the governing liquidation regime before applying the decision. The source quotes the later-inserted workmen/secured-creditor provision but does not decide an actual ranking contest with a named workman or secured creditor.

A bounded later statutory check is essential here. The official Income Tax Department page for section 178, explicitly labelled 2024 (No. 2), contains in subsection (6) an exception for the Insolvency and Bankruptcy Code, 2016. That exception is absent from the text reproduced in this 1996 judgment. This verified difference prevents presenting the old non-obstante reasoning as an unqualified statement of the later IBC position. The complete IBC distribution scheme, other later priority decisions and the 2025 Act's mapping have not been certified by this note.

The report itself needs careful handling. It gives conflicting dates for the impugned High Court order; its paragraph 2 wording about the twelve-month period is internally difficult to reconcile with the asserted inapplicability of section 530; and the workmen-priority extract is numbered 529 although the adjacent text refers to section 529A. These printed discrepancies are preserved as cautions, not silently repaired or converted into new findings.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and source-date discrepancy

Source url: [Open cited source](#)

Pdf pages: 1; 4

Paragraphs: Cover; appeal-origin line; paragraph 1

Source role: reported metadata and judicial text

2.

Topic: Liquidation, assessment, demand and issue

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: Paragraphs 1–3

Source role: judicial text

3.

Topic: Historical section 178 duties, exceptions and personal-liability limits

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Paragraph 4; section 178(1)–(6) as reproduced

Source role: judicial text

4.

Topic: Companies Act statutory context and printed section-number discrepancy

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10

Paragraphs: Paragraph 4; Companies Act extracts

Source role: judicial text

5.

Topic: Rival submissions, legislative background and distinction between debts and earmarked funds

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14; 15; 16

Paragraphs: Paragraphs 5–7; embedded High Court passages identified as quotations

Source role: judicial text

6.

Topic: Secured-creditor characterisation, Central Sales Tax qualification and final order

Source url: [Open cited source](#)

Pdf pages: 16

Paragraphs: Paragraphs 7–9

Source role: judicial text

7.

Topic: Verified later IBC exception and statutory version label

Source url: [Open cited source](#)

Paragraphs: Section 178(6); version label 2024 (No. 2)

Source role: bounded later statutory comparison

Locator type: statutory section

Source format: html

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

K.S. Paripoornan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 16 PDF pages; SHA-256

dee9926e1a0d708fd98b06092ec4ca60836b6fe4529e4ca8b8099582170e1939. Original bytes preserved.

Complete judicial text physical pages 4–16/SCR 643–655, paragraphs 1–9; source headnote pages 1–4 and embedded High Court quotations separately identified.

Open cited source rendition

Physical page 4 gives 10.8.78 in the report's appeal-origin line but 19.8.1978 in judicial paragraph 1 for the Kerala Full Bench order. Both are printed in the image; this note does not resolve the conflict or affect the verified Supreme Court date of 19 March 1996.; Physical page 5 says the tax was due and payable within twelve months before the relevant date and therefore section 530(1)(a) would not apply. The printed passage is internally awkward; no missing negative is silently supplied and no priority fact is derived from it.; Physical page 10 prints the 1985-inserted overriding workmen/secured-creditor provision as section 529; the immediately following section 530 text expressly refers to section 529A. The source is unchanged, and the extract is not treated as adjudication of an actual workmen-versus-tax contest.; The prior Kerala appeal is printed as A.S. No. 224/1968 at physical page 5 but as A.S. No. 225/1968 at pages 6, 15 and 16. The headnote and judicial text also vary the Narula Finance ITR volume. These collateral citation discrepancies are not silently normalised into verified metadata.; The discussion of personal liability states the statutory consequence; the operative order does not impose a separately quantified personal liability on this liquidator.; The Central Sales Tax precedence statement is a prospective answer to a hypothetical overlap of statutory orders, not proof of an actual Central Sales Tax claim or a general first-in-time rule for all creditors.; The official 2024 (No. 2) section 178 text is a bounded later statutory comparison, not certification of the law applicable on every date or of the Income-tax Act, 2025 crosswalk.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive later judicial treatment remains not_verified. The official Department's section 178 text labelled 2024 (No. 2) was checked solely for the later IBC exception and the text of subsections (1)–(6); no full present-law certification or IBC priority analysis is claimed.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 16

SHA-256: dee9926e1a0d708fd98b06092ec4ca60836b6fe4529e4ca8b8099582170e1939

official department historical statutory webpage

SHA-256: f783cd45adb1ade841b340d44fa789cfa871517462d619602ee0ab73febc4f1a

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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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