

M. V. Javali v. Mahajan Borewell & Co. and Others

Criminal Appeal No. 899 of 1997

[1997] Supp. 4 SCR 320 | 1997-09-26

Corporate prosecution for failure to deposit tax deducted at source where the offence prescribed mandatory imprisonment and fine

Income-tax Act, 1961: sections 194C(2), 276B, 278B and 279(1)

Two-judge bench | M. K. Mukherjee, J. | M. Jagannadha Rao, J.

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

Procedural result

The Supreme Court restored the prosecution route; it did not decide the respondents' guilt on the underlying TDS allegation.

01 FACTS OF THE CASE

An Assistant Commissioner filed a complaint against a partnership firm and three partners alleging failure to deposit tax deducted under section 194C(2), an offence under section 276B read with section 278B. The Special Court discharged all respondents, and the High Court sustained the discharge on the view that a firm could not be prosecuted where imprisonment was mandatory (SCR pp.320-322; PDF pp.1-3).

Source: [Primary judgment: facts and issue](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 278B expressly made the company, including a firm, and responsible persons liable to prosecution. Excluding the firm would defeat that text. The Court harmonised section 276B by holding that imprisonment and fine apply where both can be imposed, while a juristic company can receive the fine alone. It rejected interpretations under which the company could not be prosecuted or could be convicted without punishment (SCR pp.322-326; PDF pp.3-7).

Source: [Primary judgment: statutory reasoning](#)

03 JUDICIAL DECISION

The appeal was allowed, the High Court order upholding discharge was set aside, and the High Court was directed to rehear Revenue's revision in accordance with law.

Source: [Primary judgment: operative order](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of Revenue only on maintainability and remand. No final conviction or merits finding was made against the firm or partners.

Source: [Primary judgment: qualified outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: separate corporate criminal liability from the sentencing form available against a juristic person, and separately prove the responsibility and statutory defences of partners or officers. A restored prosecution is not a finding of guilt. Verify the present text and later authorities before relying on this 1997 construction.

Source: [Primary judgment: review-point basis](#)

SOURCE & VERIFICATION

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

Complete seven-page SCR report read in page-preserving text and every page image inspected.

[Open cited source rendition](#)

Exact catalogue SHA-256 and seven-page count verified; all pages were read and visually inspected.

The report verifies the parties, criminal appeal, bench, statutory provisions and remand.

STATUTORY SCOPE

The judgment construes the prosecution provisions as they stood in 1997. Later amendments and later judicial treatment have not been comprehensively checked.

LATER TREATMENT

Source checked 2026-10-12. No comprehensive current-law or later-treatment clearance is represented.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report and has not been represented as independently human-reviewed.

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General legal and tax research only; not legal or tax advice. Verify the complete judgment, governing statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding, and no current-law clearance is claimed.