

Harshad Shantilal Mehta v. Custodian and Others (with connected appeals and transferred case)

Civil Appeal No. 5326 of 1995 and connected appeals (front matter) / Civil Appeal No. 5225 of 1995 (Custodian appeal identified in the body) / Transferred Case No. 5 of 1998

[1998] 3 SCR 389 | 1998-05-13

Which income-tax liabilities receive priority in distribution of attached property under the Special Court Act, and how far the Special Court may control payment without reopening the assessment.

2(43) | 156 (demand-notice provision described; source prints 157)

Three-judge bench | Sujata V. Manohar, J. | S.P. Kurdukar, J. | D.P. Wadhwa, J.

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

Distribution priority does not cancel the assessed tax or waive interest

The Special Court could control payment from its fund for strong statutory reasons but could not reopen tax assessments; unpaid liabilities survived. Interest and penalty were excluded from the first tax-priority tier, not universally waived. Individual amounts and title claims remained for determination. The case-specific undertaking is not a general 18% refund rule. Source section-number defects are flagged and comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

As distribution approached for attached assets of the Harshad Mehta Group and Fairgrowth Financial Services, the Special Court considered legal questions about priority, tax, interest and penalties. Its order of 20 February 1995 was appealed by the Custodian and notified parties. A constitutional challenge pending in the Delhi High Court was transferred and heard with the appeals and intervenors (physical pages 7–9).

The Supreme Court addressed the statutory framework rather than adjudicating a specified assessment year or fixing an individual's income or tax. The relevant securities-transaction period was described throughout as 1 April 1991 to 6 June 1992. Questions also arose about third-party interests in attached property, amounts already paid to Revenue under interim orders and a proposed scheme for selling shares (physical pages 9–15 and 24–25).

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

02 DISCUSSION BY THE HON'BLE COURT

The Special Court must identify the notified person's own right, title and interest before distribution. Existing third-party interests, including mortgages or pledges, are not automatically extinguished, subject to the Custodian's statutory power to cancel qualifying fraudulent transactions. Third-party ownership claims must be determined before sale or distribution. Attachment of an inseverable property does not convert the third party's interest into assets available for the notified person's debts (physical pages 12–15).

For the priority in section 11(2)(a) of the Special Court Act, taxes due meant lawfully assessed, quantified liability presently payable and final and binding by the time of distribution, rather than every unassessed charge. The Court connected the income-tax priority to income from securities transactions during the statutory period, and also covered rates or taxes on attached property payable for that period. Other-period tax liabilities did not disappear but fell outside that priority. Distribution, after examination of claims, was the relevant cut-off for ascertainment, rather than the Act's commencement or notification date (physical pages 15–19, particularly page 18/SCR 406A–E).

The Special Court could not reopen tax assessments or sit as a tax appellate authority. Nevertheless, it could decide the amount discharged from the Custodian's fund. For strong reasons involving serious miscarriage of justice, fraud, collusion or grossly disproportionate assessments, it could reduce the amount paid in priority. The unpaid assessed balance remained enforceable through lawful routes. The Court expressly qualified the payment-in-full observations in A.K. Menon while retaining its no-tax-appeal principle (physical pages 19–23).

Income-tax, interest and penalty were distinct; section 2(43) did not make the latter two tax for section 11(2)(a). Exclusion from that priority did not waive them. Any relief against their imposition had to be pursued under the taxing statute where available, while the Special Court could consider payment from surplus under section 11(2)(c). The source misnumbers the demand-notice provision as section 157; the separate statutory check confirms section 156 describes those distinct components (physical pages 23–24).

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

03 JUDICIAL DECISION

All appeals were disposed of under the stated interpretation without costs. The Special Court was directed to examine Revenue's claim and decide whether interim payments should be returned in accordance with the Union's recorded undertaking. It was also to consider the share-sale scheme, with any further modifications. No particular refund amount or reduced assessment was fixed (physical pages 24–25).

The constitutional challenge did not survive the Court's interpretation preserving third-party interests; Transferred Case No. 5/1998 was dismissed. Banks or financial institutions asserting ownership could establish their claims before the Special Court before the property was sold or distributed. No title to a particular property was adjudicated in this common judgment (physical page 25).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed institutional and creditor interests; no single quantified assessee/Revenue merits winner

Appeals disposed of with interpretive and consequential directions; transferred constitutional case dismissed; no costs

Final interpretation of distribution priority and jurisdiction, with individual claims, amounts and consequential orders for the Special Court

No tax assessment annulled, no automatic tax/interest/penalty waiver, no general insolvency priority rule and no quantified immediate refund.

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

05 AKHB REVIEW POINT

Keep four matters separate: ownership of the fund, validity and amount of the tax assessment, statutory payment priority, and the amount actually disbursed from the attached fund. The Special Court's power over distribution does not make it a replacement tax appellate authority, and a priority reduction does not extinguish the unpaid tax. Similarly, excluding interest and penalty from the first tier does not cancel those liabilities.

The judgment is included because it directly interprets income-tax concepts and recovery jurisdiction, although the governing distribution statute is the Special Court Act. Its statutory period and exceptional safeguards cannot simply be imported into ordinary tax recovery, company liquidation or a later insolvency code. The original narrative of securities irregularities supplies statutory context; this judgment itself is not an individual criminal conviction.

The interim-payment undertaking recorded a four-week return period after a court call and interest of not less than 18% per annum from receipt to return, as directed by this Court or the Special Court. It is case-specific, not a generally available tax-refund rate. The Court left the actual return decision to the Special Court. The bounded 2011 compilation check concerns section 2(43) and the section 156/157 source-number discrepancy only; comprehensive later treatment, present priority law and 2025 Act correspondence remain unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, connected proceedings and actual interpretive dispute

Source url: [Open cited source](#)

Pdf pages: 1; 7; 8; 9

Paragraphs: Unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Statutory framework and third-party rights

Source url: [Open cited source](#)

Pdf pages: 10; 11; 12; 13; 14; 15

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Taxes due, statutory period and distribution date

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17; 18; 19

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: Assessment finality versus exceptional payment discretion

Source url: [Open cited source](#)

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

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Tax distinguished from interest and penalty

Source url: [Open cited source](#)

Pdf pages: 23; 24

Paragraphs: Unnumbered judicial text

Source role: judicial text

6.

Topic: Undertaking, scheme directions, constitutional case and disposition

Source url: [Open cited source](#)

Pdf pages: 24; 25

Paragraphs: Unnumbered judicial text

Source role: judicial text

7.

Topic: Tax definition and section 156/157 pinpoint correction

Source url: [Open cited source](#)

Pdf pages: 69; 747

Paragraphs: Section 2(43); sections 156–157

Source role: bounded historical statutory text

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sujata V. Manohar, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992, with direct interpretation of Income-tax Act, 1961 tax, interest and penalty concepts

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 25 PDF pages; SHA-256

6da6c67ee9b5b2ff442c21101cd69802b828ab5295a532b435db4179810a9393. Original bytes preserved.

Complete judicial text physical pages 8–25/SCR 396–413; common interpretive judgment on distribution priorities, with no quantified assessment determination.

Open cited source rendition

The front matter identifies CA 5326/1995 etc.; the opening body separately identifies the Custodian's CA 5225/1995. They are treated as connected proceedings, not silently merged into a supposed number typo. The source does not enumerate all other appeal numbers.; No individual assessment years or quantified tax amounts are stated as finally determined; the statutory transaction period is not converted into an invented assessment-year list.; Physical page 23/SCR 411 prints section 157 while describing a notice of demand. The checked 2011 compilation places that provision in section 156 and identifies section 157 as intimation of loss. The original print remains untouched.; Some narrative passages call attachment section 3(2), while the reproduced provision places attachment in section 3(3) and notification in section 3(2). The actual quoted statutory structure is preserved.; The Special Court Act title is awkwardly printed as Trial of Offenders in the opening sentence, but the cover and statutory discussion identify the 1992 Act concerning offences.; The special statutory priority does not exhaust tax liability: excluded periods, an unpaid balance, and interest or penalties can remain recoverable as explained in the judgment.; The Union's undertaking uses a case-specific minimum 18% interest direction and four-week response to a court call; this is not a general section 244A refund award or a fixed immediate repayment order.

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 subsequent judicial and statutory treatment has not been verified. Only the expressly identified bounded comparisons have been checked. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 25

SHA-256: 6da6c67ee9b5b2ff442c21101cd69802b828ab5295a532b435db4179810a9393

official department hosted historical statutory compilation - PDF pages: 1251

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

AI DISCLOSURE

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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