

Harendra H. Mehta and Ors. v. Mukesh H. Mehta and Ors.

Civil Appeal No. 4006 of 1995

[1999] 3 S.C.R. 562 | 1999-05-13

Historical Chapter XX-C companion: composite cross-border division and enforcement of a foreign arbitral award

Income-tax Act, 1961: Chapter XX-C; sections 269UA(a), 269UA(d), 269UC, as considered | Foreign Awards (Regulation and Enforcement) Act, 1961: sections 2, 4, 6 and 7 | Registration Act, 1908: section 17 | Transfer of Property Act, 1882: section 118

Two-judge Bench | D.P. Wadhwa J. | Santosh Hegde J.

Historical tax-statute companion, not present-day transfer clearance

The dispute concerned enforcement of a cross-border foreign award. Chapter XX-C does not apply to property transfers effected on or after 1 July 2002. This note does not establish capital-gains, gift, stamp-duty, registration or foreign-exchange clearance.

01 FACTS OF THE CASE

Two brothers with jointly held businesses and properties in India and the United States referred their differences to their elder brother as arbitrator. A March 1990 composite settlement divided the Indian and US assets into selected packages and contemplated further closing documents. The award was signed in New York on 31 October 1990 after proceedings there. The Bombay High Court ordered enforcement in India, subject to necessary FERA permission. Harendra challenged enforcement, principally arguing that the award was not a qualifying foreign award and that failure to comply with Chapter XX-C made enforcement contrary to public policy.

Source: [Appeal and FERA condition: PDF p.3](#); [Grounds opposing enforcement: PDF p.10](#)

02 DISCUSSION BY THE HON'BLE COURT

The Hon'ble Court treated the parties' business differences as commercial despite their family relationship and rejected the argument that settlement during arbitration extinguished the arbitral process. On Chapter XX-C, it read the settlement as one composite arrangement, not isolated clauses: the agreement divided existing businesses and properties equally and required later transfer/closing documents. It held that this was not an agreement for transfer under section 269UA(a), nor an exchange of immovable property of the kind alleged. It further stated that Chapter XX-C did not extend to the foreign award covering businesses and properties in India and abroad. The anti-avoidance objection did not change that conclusion; any legislative gap was for the legislature.

Source: [Composite agreement analysis: PDF pp.27-28](#); [Decisive Chapter XX-C holding: PDF pp.31-32](#)

03 JUDICIAL DECISION

The appeal was dismissed with costs, leaving the High Court's enforcement judgment undisturbed. The Hon'ble Court rejected the Chapter XX-C objection and held that the foreign award did not require registration under the Registration Act. Independently, the award created a right to obtain further transfer/closing documents, furnishing an additional answer to the registration objection. Prior confirmation in New York did not oust the statutory foreign-award enforcement route; the effect of the separately filed foreign-judgment suit was not decided.

Source: [Enforcement route and separate-suit reservation: PDF p.22](#); [Registration reasoning and final order: PDF p.32](#)

04 OUTCOME / IN WHOSE FAVOUR

The result favoured Mukesh and the other award-enforcing respondents. It was not an income-tax demand, deduction, exemption or refund determination. Enforcement/execution in India remained subject to the necessary FERA permission specified in the upheld High Court order; the Supreme Court did not itself grant regulatory permission. Nor did it determine the tax consequences of every subsequent closing document.

Source: [Preserved regulatory condition: PDF p.3](#); [Appeal dismissed with costs: PDF p.32](#)

05 AKHB REVIEW POINT

AKHB analysis: In a historical Chapter XX-C dispute, identify the actual legal effect of the whole arrangement, the distinction between an award and later conveyances, and the precise statutory enforcement objection. Do not treat the label family settlement or foreign award as universal tax immunity. This decision does not decide present-day capital-gains, gift, stamp-duty or foreign-exchange consequences. Section 269UP supplies a separate statutory cutoff for transfers effected from 1 July 2002; later treatment and the law governing any current transaction still require independent verification.

Source: [Read the tax holding in its context: PDF pp.31-32](#); [Official statutory text: Chapter XX-C cutoff](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

All 32 report pages read. Headnote and appearances: SCR 562-564; D.P. Wadhwa J.'s single judgment: SCR 564-593. This is a foreign-award enforcement appeal, included for its substantive interpretation and application of former Chapter XX-C, not as an income-tax assessment appeal. The report has unnumbered judicial paragraphs; pinpoints use printed SCR pages/letters and PDF pages.

Open cited source rendition

The Court's Chapter XX-C reasoning is at SCR 588 C-H and 592 C-H, not merely in the editorial headnote. Appellant submissions at SCR 583-588 are distinguished from the Court's accepted reasoning.

The High Court's FERA-permission condition is recorded at SCR 564 F-G and was not removed when the appeal was dismissed.

The report contains apparent internal printing inconsistencies in some earlier settlement dates/foreign monetary quotations; those details are not used as operative facts here.

STATUTORY SCOPE

Historical Chapter XX-C decision under the statutes then considered. A bounded check of Finance Act, 2002 section 100 and Income-tax Act, 1961 section 269UP confirms that Chapter XX-C was made inapplicable to immovable-property transfers effected on or after 1 July 2002. That statutory cutoff is not a comprehensive current-law or subsequent-treatment clearance.

LATER TREATMENT

Source checked 2026-10-18. Judgment as delivered on 13 May 1999. Subsequent judicial treatment has not been comprehensively verified. The narrow Chapter XX-C statutory sunset was separately checked from the Income Tax Department's statutory text on 18 October 2026.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 32](#)

SHA-256: 16e7f415110a94079542525ed5b9d26792241bc3f46aa583f4619bf6e1260372

[Finance Act, 2002 section 100: insertion of Chapter XX-C cutoff](#)

[Income-tax Act, 1961 section 269UP: statutory cutoff](#)

AI DISCLOSURE

This AKBH research note was prepared with AI assistance from the identified primary report. Independent human review is not represented.

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