

The Stock Exchange, Ahmedabad v. Assistant Commissioner of Income Tax, Ahmedabad

Civil Appeal No. 1727 (NT) of 1998 / Companion Civil Appeal No. 7571 of 1999 in jurisdiction block; No. 7511 of 1999 in operative ending (unresolved source discrepancy)

[2001] 2 SCR 255 | 2001-03-02

Whether the deceased member's membership/nominating right, after vesting in the Exchange under the rules, was property belonging to the assessee attachable under section 281B, and whether any money was due from or held by the Exchange for section 226(3).

281B | 226(3) | 159(3)

Three-judge bench | S.P. Bharucha, J. | N. Santosh Hegde, J. | Y.K. Sabharwal, J.

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

Historical vested membership right; mixed disposition and conflicting identifiers

The main Exchange appeal succeeded on the deceased member's vested nomination right under the then rules; the companion appeal was dismissed. Its number is 7571/1999 in the jurisdiction block but 7511/1999 at the end, and the attachment date is printed as both 15 and 14 February 1994. These discrepancies are unresolved. Do not extend the holding to all deposits, continuing members, modern demutualised exchanges or current priority law. Only the expressly bounded 2010 and 2014 comparisons are checked; comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

Rajesh Shah joined the Ahmedabad Exchange on 19 February 1988 and died on 7 February 1994. On 12 February 1994 his heirs said they could not meet his liabilities. The Board was said to have declared him a deemed defaulter and resolved to dispose of the vested membership right. Revenue provisionally attached the membership card, margin money and security deposits; the factual recital dates the order 15 February 1994, whereas the ending calls it 14 February 1994 (SCR 257-D-258-A, 262-D-E).

The Board disposed of the membership right to UTI Security Ltd. for Rs 27 lakh by a resolution of 5 December 1994. Revenue issued a section 226(3) garnishee notice dated 14 June 1995 for Rs 12,24,887. The Exchange asserted that nothing was owed to or held for the deceased or his heirs. The High Court rejected the Exchange's challenge because it found a property element in membership (SCR 258-A-F).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 281B required property belonging to the assessee; section 159(3) treated legal representatives as assesseees for the Act. The nature of the membership right therefore had to be tested against the actual exchange rules. Membership was a personal permission with inalienability and tightly conditioned nomination rights. Rules 9 and 10 vested the right in the Exchange on death or default, subject to the limited nomination mechanism and satisfaction of liabilities; Rules 15, 50 and 51 mattered because the heirs could not discharge those liabilities (SCR 258-D-260-H).

On the combined rules, once nomination vested in the Exchange it belonged absolutely to it, with consideration distributed under Rule 16. The heirs had not exercised a qualifying nomination and had not paid the required dues. Rule 16 was properly applied. The Court did not need to decide whether a person could validly be declared a defaulter after death: death itself engaged Rule 9 (SCR 261-B-262-B).

On these facts the membership right was not property of the assessee; no amount on account of the deceased was due from or held by the Exchange. The attachment and garnishee provisions could not operate as asserted. The judgment is not a free-standing immunity for all assets of every stock-exchange member (SCR 262-C-D).

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

03 JUDICIAL DECISION

The Exchange's main appeal was allowed, the High Court judgment was set aside, and the provisional attachment order and garnishee notice dated 14 June 1995 were quashed. The ending dates the attachment 14 February 1994, unlike the 15 February factual recital. The connected appeal is dismissed under No. 7511 of 1999 in the ending, while the jurisdiction block prints No. 7571 of 1999. Parties were left to bear their own costs. Both the mixed linked disposition and the unresolved identifiers are retained (SCR 257-B-C, 262-D-E).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Stock Exchange on the main appeal; connected appeal dismissed

Civil Appeal 1727 (NT)/1998 allowed; attachment and garnishee notice quashed; companion appeal dismissed, with its source-number conflict disclosed

Final rule-specific recovery holding; no remand

No blanket exemption for security deposits, other member-owned assets, continuing members' business rights, or modern demutualised membership/trading rights. Post-death default-declaration validity was not decided.

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

05 AKHB REVIEW POINT

Identify exactly what Revenue seeks to attach: a membership/nominating right already vested in the Exchange, proceeds of that right, security deposited by the member, or money actually due to the estate. Then establish the governing rules, date of death/default, liabilities, nomination conditions and distribution provisions. These categories cannot be collapsed into the word membership.

The bounded Techno Shares comparison addresses a non-defaulting continuing member's section 32(1)(ii) depreciation claim under historical BSE rules. The bounded 2014 Bombay Exchange comparison separately examines ownership of deposited securities and exchange lien priority. Neither turns this 2001 decision into a conclusion about present demutualised exchanges or present recovery priority legislation.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, jurisdiction, companion-number and attachment-date recitals

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover; jurisdiction and judicial opening, SCR 257-B-H

Source role: reported metadata and judicial text

2.

Topic: Facts and operative rule framework

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6; 7

Paragraphs: Unnumbered judicial text, SCR 258-A-261-D

Source role: judicial text

3.

Topic: Death/default issue reserved; ownership holding and mixed disposition

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Unnumbered judicial text, SCR 261-E-262-F

Source role: judicial text

4.

Topic: Bounded later distinction: continuing member, historical depreciation scope

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20; 21; 22

Paragraphs: 19-25

Source role: bounded later judicial comparison

5.

Topic: Bounded later application: card proceeds versus member securities

Source url: [Open cited source](#)

Pdf pages: 29; 30; 31; 32; 47

Paragraphs: 16–17; 25–26

Source role: bounded later judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Y.K. Sabharwal, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER CHECKS AND THEIR LIMITS

1.

Label: Bounded later judicial distinction; not current-law certification

Case: M/s. Techno Shares & Stocks Ltd. v. Commissioner of Income Tax IV

Decision date: 2010-09-09

Source asset id: 2010_11_437_458

Read scope: Paragraphs 19–25 and adjacent continuation, physical PDF pages 18–22; cover

Finding: The later Court discusses Ahmedabad and explains why a non-defaulting continuing BSE member's right of access and participation could be a depreciable business/commercial right under section 32(1)(ii). Paragraph 24 expressly confines its holding to the BSE membership right and assessment years before it. The post-death/default vesting setting must not be generalised to deny all economic character to a continuing membership.

Comprehensive status: not verified

2.

Label: Bounded later judicial application and asset distinction

Case: The Stock Exchange, Bombay v. V.S. Kandalgaonkar and Others

Decision date: 2014-09-25

Source asset id: 2014_14_409_455

Read scope: Paragraphs 15–17 at physical PDF pages 27–32 and paragraphs 25–26 at page 47; cover

Finding: The later Court applies Ahmedabad to membership-card proceeds, but distinguishes other assets and securities, whose ultimate surplus belonged to the member. The relevant security rules transferred possession rather than ownership; the exchange lien made it a secured creditor with priority in that case. The actual rule-specific ownership and priority analysis must be read separately. No later insolvency/security-priority amendments or demutualised trading-right regime was verified.

Comprehensive status: not verified

HISTORICAL STATUTORY CONTEXT

Sections 281B and 226(3) were applied with the then Ahmedabad Stock Exchange Rules, Bye-laws and Regulations, particularly Rules 5–7, 9–11, 15–16 and 50–54 and Appendix C. The rules were approved under the Securities Contracts (Regulation) Act, 1956 and were not under challenge. Their terms and the post-death vesting facts are essential; later demutualisation and present trading-right regimes are not mapped.

IDENTIFIED PROCEDURAL HISTORY

Main appeal from Gujarat High Court judgment dated 17 January 1998 in SCA No. 9089 of 1995. The report gives differing numbers for the connected 1999 appeal, preserved separately.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 8 PDF pages; SHA-256

479e7d67cb88436276b4c6a2a48b27ca988bc00228f9fb135054eba4603476c9. Original bytes preserved.

Complete unnumbered judicial text from SCR 257-D through 262-E (physical PDF pages 3–8); preceding headnote excluded.

No adjacent judgment.

Open cited source rendition

The companion appeal appears as 7571 of 1999 at SCR 257-C and as 7511 of 1999 in both operative text and reporter result at SCR 262-E–F. No docket correction or preferred number is certified.; The provisional attachment is dated 15 February 1994 in the factual narrative at SCR 257-F but 14 February 1994 in the quashing paragraph at SCR 262-D–E. The original images confirm both.; The headnote inaccurately describes Rule 9 as a rule of the Securities Contracts (Regulation) Act; the judicial reasoning concerns the Exchange's approved rules.; The Court expressly left unnecessary the contention that default could not be declared after death. It is not a decision validating all such declarations.; The primary judgment does not separately analyse the ownership of every margin/security deposit. Its result cannot be expanded into universal deposit immunity, particularly in light of the separately labelled 2014 comparison.

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: 8

SHA-256: 479e7d67cb88436276b4c6a2a48b27ca988bc00228f9fb135054eba4603476c9

bounded later judgment comparison - PDF pages: 22

SHA-256: 4cb3cd7503737db1fa0649fa48f4fc8a926ca6d146fcc01bedb2ad35813c367d

bounded later judgment comparison - PDF pages: 47

SHA-256: 75ecb5e7f98cb93015cb2462e1ed3ee2a49c0cafdbba9ccd30b8796f004c431ea

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