

Sri Mohan Wahi v. Commissioner, Income Tax, Varanasi and Others

Civil Appeal No. 2488 of 2001

[2001] 2 SCR 912 | 2001-03-30

Whether a tax-recovery auction could be confirmed after the underlying demands had been eliminated before confirmation, and whether the sale could stand when the mandatory section 156 demand notice had never been served.

156 | 220(1), (3), (4) | 222 | 224 | 225(3) | 264 | Second Schedule Rules 56, 60, 61, 62, 63 and 65

Three-judge bench | Dr. A.S. Anand, C.J. | R.C. Lahoti, J. | Doraiswamy Raju, J.

Assessment years: 1967-68, 1968-69, 1969-70

Nil demand before confirmation and unserved demand; interest is nonprecedential

The recovery sale failed because demands had disappeared before actual confirmation and the original section 156 demand notice had not been served. This is not a blanket rule for post-confirmation reductions or a requirement to issue a fresh notice after every appeal. Purchaser restitution included split 12% interest liability, expressly declared fact-specific and nonprecedential. The report's writ-party, assessment-year-scope and section-number anomalies are disclosed. Comprehensive later treatment and current-law mapping remain unverified.

01 FACTS OF THE CASE

A house inherited by four brothers was attached for UPCC firm tax recovery; two of the brothers were partners. The recovery narrative begins with AYs 1967-68 to 1969-70 and certificates issued in 1973-74. A 3 December 1979 proclamation showed demand of Rs 30,82,000 and an upset price of Rs 1,70,000. Respondent 3's bid at that price was accepted on 11 January 1980; Rs 42,500 was deposited that day and Rs 1,27,500 on 25 January 1980 (SCR 915-E-916-A).

A co-owner's widow obtained an injunction against confirmation on 9 January 1980. It continued until her suit was dismissed for default on 12 January 1998; restoration was sought the next day and granted on 30 July 1999. Meanwhile, after the Tribunal's 11 December 1987 remand of four assessment appeals, the demands were eliminated on different dates in 1989. The 1987 appellate order also upheld the finding that the assessee had not been served a demand notice. Revenue's 26 March 1990 communication recorded nil demands; the firm asked for certificate cancellation on 22 November 1996 and counsel followed up on 16 January 1997 (SCR 916-B-917-C).

Despite this, the TRO confirmed the sale on 25 March 1998, limited to the interests of the two partner-brothers, and issued a sale certificate. Revision under section 264 was dismissed on 21 May 1999. The High Court dismissed the appellant's writ petition. The absence of outstanding demands and the departmental communication were admitted in the writ record (SCR 917-D-H).

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

02 DISCUSSION BY THE HON'BLE COURT

Reduced in section 225(3) includes reduced to nil. Once the relevant final-and-conclusive appellate result removes the outstanding demand, the certificate must be cancelled. Rules 56 and 63 make an actual confirmation order necessary; lapse of the ordinary application period does not automatically make the sale absolute. An intervening fact going to the foundation of recovery must be considered before confirmation. Here the demand had disappeared well before the 1998 confirmation and the Department had notice of it (SCR 918-C-921-A).

Civil-decree auction authorities protecting stranger purchasers were distinguished in light of the Second Schedule scheme; even those authorities recognised exceptional foundational defects. The Court did not create a general power to undo any already-completed auction merely because a later event occurs (SCR 921-B-922-B).

Independently, section 156 required service of a demand notice before treating the assessee as in default and invoking recovery. On the established non-service finding, the foundation for the proceedings was absent. The Court criticised refusing to address that pleaded, preserved defect on an unduly technical basis. It carefully distinguished the original demand-service requirement from fresh notice after a later reduction: the 1964 validation legislation had superseded that part of Seghu Buchiah Setty which required a new demand after every alteration (SCR 922-C-925-H).

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

03 JUDICIAL DECISION

The appeal and writ petition were allowed; the High Court judgment, all proceedings for sale of the property and the TRO's confirmation were quashed. There was no remand and no costs order (SCR 925-H-926-A, G).

Respondents 1 and 2 were directed to refund the purchaser's Rs 1,70,000 within two months. At 12% per annum, the appellant had to pay interest on Rs 42,500 from 11 January 1980 and on Rs 1,27,500 from 25 January 1980, each through 22 November 1996; on default that interest could be recovered from the house. From 23 November 1996 until refund, respondents 1 and 2 bore interest at the same rate. Interest was also to be calculated and paid within two months. The Court expressly said this interest allocation was equitable, fact-specific and not a principle of law to be followed as precedent (SCR 926-B-G).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Appellant on invalidity of recovery sale, with purchaser restitution and split interest burdens

Appeal and writ allowed; sale proceedings and confirmation quashed; refund and apportioned equitable interest directed; no remand; no costs

Final two-ground invalidation: nil demand before confirmation and foundational non-service of demand

The 12% rate and allocation are expressly nonprecedential. No blanket rule for every post-confirmation reduction, every irregular service case, or fresh notices after each appellate variation.

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

05 AKHB REVIEW POINT

Build the recovery chronology before advising on an auction: original notice and proof of service; certificate and outstanding amount; appellate finality and resulting reduction; communication to the TRO; injunctions; auction date; and actual confirmation date. Acceptance of the bid, expiry of the ordinary objection period, confirmation and the sale certificate are separate steps.

If the original demand notice was never served, distinguish that foundational issue from whether a fresh notice was needed after a reduction of a validly notified demand. Do not turn the Court's individual equitable refund arrangement into a statutory interest entitlement or current 12% benchmark. The separate later municipal-sale comparison confirms use of the demand-notice/nullity reasoning, not extension of the bespoke interest order.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal and recovery narrative

Source url: [Open cited source](#)

Pdf pages: 1; 4; 5; 6

Paragraphs: Cover; jurisdiction SCR 915-C; unnumbered judicial text SCR 915-E-917-H

Source role: reported metadata and judicial text

2.

Topic: Questions; statutory finality and nil-demand confirmation rule

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10

Paragraphs: Unnumbered judicial text, SCR 918-A-921-A

Source role: judicial text

3.

Topic: Civil auction distinctions, original demand service and 1964 validation

Source url: [Open cited source](#)

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

Paragraphs: Unnumbered judicial text with attributed precedents, SCR 921-B-925-H

Source role: judicial text

4.

Topic: Quashing, purchaser refund and expressly nonprecedential split interest

Source url: [Open cited source](#)

Pdf pages: 14; 15

Paragraphs: Unnumbered judicial operative text, SCR 925-H-926-G

Source role: judicial text

5.

Topic: Bounded later use of Mohan Wahi in municipal-sale/nullity context

Source url: [Open cited source](#)

Pdf pages: 29; 30; 31; 32

Paragraphs: Unnumbered judicial text, SCR 401-404; express Mohan Wahi citation at SCR 403-F-H

Source role: bounded later judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

R.C. Lahoti, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER CHECKS AND THEIR LIMITS

1.

Label: Bounded later citation in a different statutory recovery setting

Case: Bajaranglal Shivchandrai Ruia v. Shashikant N. Ruia and Others

Decision date: 2004-03-23

Source asset id: 2004_3_373_411

Read scope: Physical PDF pages 29-32/SCR 401-404, especially SCR 403-F-H; cover and ending also inspected

Finding: In a municipal auction/title dispute, the later Court expressly cites Mohan Wahi's absence-of-demand-notice setting and its concern about selling valuable property for non-existent arrears. Its surrounding reasoning concerns pleading nullity of title and mandatory municipal-sale requirements. This verifies a bounded later use of the foundational recovery reasoning, not the status of every proposition or the 12% equitable remedy.

Comprehensive status: not verified

HISTORICAL STATUTORY CONTEXT

The Court read section 225(3), including its final-and-conclusive appellate-order condition, with Second Schedule Rules 56 and 63. It separately applied the original section 156 demand-service requirement through sections 220 and 222. It distinguished this from the need for a fresh demand after reduction, discussed in light of the retrospective Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964, section 3. The Schedule rules belong to the Act, not a generic Income-tax Rules label in the headnote.

IDENTIFIED PROCEDURAL HISTORY

Appeal, after grant of special leave, from Allahabad High Court judgment dated 11 January 2000 in C.M.W.P. No. 640 of 1999; challenged TRO confirmation dated 25 March 1998 and CIT revision dismissal dated 21 May 1999.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 15 PDF pages; SHA-256

8d667e7d536ae9396ff479b58e5c0c76e57cffcb25a3e4dc22c90b0056e8d056. Original bytes preserved.

Complete unnumbered judicial text from SCR 915-E through 926-G (physical PDF pages 4–15); preceding headnote excluded.

No adjacent judgment.

Open cited source rendition

The opening recovery narrative identifies AYs 1967-68 to 1969-70 (SCR 915-G); the subsequent appellate history mentions four appeals covering AYs 1967-68 to 1970-71 (SCR 916-E–F). The distinct source scopes are preserved rather than silently merged.

The editorial headnote says the High Court dismissed a writ by respondent 3; the judicial narrative at SCR 917-F–H identifies S, the present appellant, as writ petitioner. The note follows the judicial narrative.; The opening recovery years run through 1969-70, while the later appellate-history passage runs through 1970-71. Both scopes are disclosed.; The source quotation at SCR 922-C labels the demand provision 56 although the surrounding judicial text expressly identifies section 156. No alternative section-56 rule is inferred.; The original-demand defect is distinct from the 1964 statute's dispensation with a fresh demand after reduction. Do not reinstate the superseded portion of Seghu Buchiah Setty.; The principal refund is borne by Revenue, but interest is split between appellant and Revenue at the specified 1996 boundary. An unqualified taxpayer win or Revenue-only interest summary would be incomplete.; The final 12% interest directions expressly disclaim precedential force; the holding does not establish a general statutory compensation rate.

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: 15

SHA-256: 8d667e7d536ae9396ff479b58e5c0c76e57cffcb25a3e4dc22c90b0056e8d056

bounded later judgment comparison - PDF pages: 39

SHA-256: 067ef79deac2d00b1ea9fc61a33ff731168b443e940accb1df50ee4ee382767b

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