

Hira Lal Hari Lal Bhagwati v. C.B.I., New Delhi

Criminal Appeal Nos. 676 and 677 of 2003

[2003] 3 SCR 1118 | 2003-05-02

KVSS 1998 customs companion: settled tax matter, prosecution exclusions and quashing of identical cheating allegations.

Finance (No. 2) Act, 1998: Chapter IV, sections 87, 88, 90, 91, 95(ii)(a) and 95(iii) | Indian Penal Code, 1860: sections 120B and 420 | Code of Criminal Procedure, 1973: section 482 | Customs Act, 1962: sections 28 and 111(o); exemption Notifications 279/1983 and 64/1988 (underlying dispute)

Two-judge bench; separate concurring opinions by Dr AR Lakshmanan J and Brijesh Kumar J. | Brijesh Kumar, J. | Dr AR Lakshmanan, J.

Customs/KVSS companion, not an Income-tax assessment

The substantive settlement interpretation is relevant to the shared historical scheme, but the underlying liability was customs duty. Direct-tax definitions and exclusions must be checked separately.

No blanket criminal immunity from payment

The result concerned identical settled allegations, compliance with KVSS conditions, absence of disqualifying prosecution or conviction at declaration, and independent failure to establish the ingredients of cheating or conspiracy. It is not protection for unrelated fraud or false declarations.

Keep the chronology precise

The FIR dated 6 January 1999 preceded the final certificate dated 19 July 1999. The concurrence found no relevant prosecution pending or conviction on the declaration date. Do not describe the FIR as having been lodged after the certificate.

01 FACTS OF THE CASE

Gujarat Cancer Society imported medical equipment using exemption certificates in the name of Gujarat Cancer and Research Institute. Customs denied the exemption, demanded duty and imposed a token redemption fine on the charitable society. While its appeal remained pending, the society opted for KVSS. The designated authority determined Rs.98,40,222 on 10 February 1999; payment, withdrawal of the appeal on 16 March 1999 and a final settlement certificate dated 19 July 1999 followed. Meanwhile, a CBI FIR dated 6 January 1999 alleged cheating and conspiracy in obtaining the exemption. The office-bearers challenged the High Court's refusal to quash the resulting proceedings. The concurrence records that no relevant prosecution was pending, nor qualifying conviction entered, at declaration.

Source: [SCR1123G-1126;1136;1146 / PDFpp.6-9,19,29](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court examined KVSS finality, immunity and exclusions, rather than treating payment alone as decisive. Sections 90 and 91 addressed determination, payment, finality and covered-matter immunity; section 95(ii)(a) excluded specified prior indirect-tax prosecutions and section 95(iii) addressed prior prosecution or conviction for listed offences, including IPC Chapter XVII. The certificate itself concerned Customs Act offences and covered matters, while the FIR invoked IPC sections 420 and 120B. The Court therefore examined the identity of the allegations and the facts, not merely the certificate's label. Brijesh Kumar J emphasised that compulsory withdrawal of the tax appeal had also foreclosed a potentially relevant defence.

Source: [SCR1132-1137;1145D-1148C / PDFpp.15-20,28-31](#)

03 JUDICIAL DECISION

Dr AR Lakshmanan J held that continuing the identical criminal allegations after the completed settlement was unjustified and separately found no prima facie cheating or criminal conspiracy. Cheating required dishonest intention at inception; subsequent non-fulfilment of exemption conditions did not by itself prove it. The material did not establish the necessary agreement to commit an unlawful act or the alleged initial deception by these appellants. Brijesh Kumar J agreed and stressed the section 95 declaration-date position, fulfilled settlement conditions and abuse involved in reopening the settled controversy after requiring withdrawal of the appeal. The reasoning remains confined to this statutory setting and record; the false-declaration qualification to settlement finality is not erased.

Source: [SCR1139-1145C;1145D-1148C / PDFpp.22-31](#)

04 OUTCOME / IN WHOSE FAVOUR

Both criminal appeals were allowed and the High Court's order was set aside. FIR R.C.1(E)/99/EOW-1/DLI and the proceedings initiated pursuant to it against the appellants before the Chief Metropolitan Magistrate, Delhi, under section 420 read with section 120B IPC were quashed. This was final quashing of the identified proceedings, not a remand, a restoration of the customs exemption, or a general discharge of every person connected with the imports.

Source: [SCR1145C and 1148C-D / PDFpp.28,31](#)

05 AKHB REVIEW POINT

AKHB analysis: prepare a dated record of declaration, any existing prosecution or conviction, determination, payment, appeal withdrawal and certificate. Match the precise person, transaction and matter covered by the settlement against the criminal allegations, and test the ingredients of each offence independently. Do not convert covered-matter finality into unrestricted IPC immunity or transplant the indirect-tax branch into direct-tax eligibility. For a contemporary dispute, examine the governing scheme and subsequent treatment afresh; this closed historical scheme creates no present filing opportunity.

Source: [AKHB analysis based on SCR1134-1140 and 1145-1148 / PDFpp.17-23,28-31](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Complete 31-page SCR report read in page-preserving text. Reporter headnotes end on SCR1123C / PDFp.6; judicial opinions begin on SCR1123F-G / PDFp.6. Dr AR Lakshmanan J's opinion runs to SCR1145C / PDFp.28; Brijesh Kumar J's concurrence runs from SCR1145D / PDFp.28 to the final order at SCR1148D / PDFp.31. Submissions and quotations were distinguished from judicial findings.

Open cited source rendition

All 31 report pages were read; PDFpp.1,6,19,29,31 were visually inspected for caption, date, bench, dockets, certificate, statutory exclusions and operative order.

The declaration's precise calendar date is not supplied in this note. The judicial finding about the absence of prosecution at declaration is preserved without substituting the later certificate date.

The report's two concurring opinions and both grounds for quashing are retained. No matching published judgment identity or source hash was found; citation of this case in another judgment is not duplicate coverage.

STATUTORY SCOPE

Historical KVSS 1998 indirect-tax/criminal-prosecution companion, not a central Income-tax assessment decision. The same Finance (No. 2) Act settlement scheme contained distinct direct-tax and indirect-tax branches. This case concerns customs arrears and IPC allegations concerning the settled import transaction; it does not establish interchangeable eligibility rules for the two branches or for later schemes.

LATER TREATMENT

Source checked 2026-10-14. Historical KVSS 1998 decision. No comprehensive subsequent-treatment, review, stay or present-law verification was performed.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 31

SHA-256: 840b8ab8dd9c7a1f70eeb15c78713cb2a0e4ade6092590b028077d5b92373176

Related note: Smt. Sushila Rani v. Commissioner of Income Tax and Another

Related note: Union of India and Others v. M/s Nitdip Textile Processors Pvt. Ltd. and Another

AI DISCLOSURE

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