

Assistant Commissioner, Assessment-II, Bangalore and Others v. Velliappa Textiles Ltd. and Others

Criminal Appeal No. 142 of 1994

[2003] Supp. 3 SCR 763 | 2003-09-16

Whether prosecution sanction under section 279 was invalid for want of a prior hearing, and whether a company could be prosecuted under the then-considered sections 276C, 277 and 278 read with section 278B when the prescribed punishment included mandatory imprisonment and fine.

2(31) | 276C | 277 | 278 | 278B | 279(1) | 279(2) | 276B (quoted precedent only) | 278A (Mathur J contextual discussion)

Three-judge bench: 2-1 on corporate prosecution; unanimous on absence of a mandatory pre-sanction hearing | S. Rajendra Babu, J. | B.N. Srikrishna, J. | G.P. Mathur, J.

Assessment years: 1985-86

Historical corporate-prosecution rule overruled; preserve the separate sanction holding and actual order

Velliappa's 2-1 bar on company prosecution where imprisonment and fine were mandatory was expressly overruled on that point by the 3-2 majority in *Standard Chartered Bank* (5 May 2005). Do not state the 2003 corporate immunity as current law. Its unanimous section 279 pre-sanction-hearing holding is separate. In 2003 Revenue's appeal was dismissed for the company and allowed regarding the managing director, contrary to the reversed editorial headnote. No criminal guilt was determined. *Standard Chartered* is a FERA comparison and ordered further hearing of the individual matters. Comprehensive later treatment, present statutory law and 2025-Act mapping remain unverified.

01 FACTS OF THE CASE

Velliappa Textiles Ltd. (respondent 1) and its managing director C. Velliappa (respondent 2) faced a tax prosecution. For AY 1985-86, covering the accounting period ending 30 June 1984, the company returned income of Rs 43,940 and claimed Rs 9,16,442 for depreciation, investment allowance and related allowances on two machines said to cost Rs 14,79,589. After an assessment appeal remand, inquiries indicated dispatch on 2 and 12 July 1984 and installation after the accounting period. The authorised representative agreed that the allowance claim be disallowed. This narrative was the background to prosecution, not a Supreme Court finding of criminal guilt (Mathur J, paragraph 2, SCR 786-787).

The Commissioner sanctioned prosecution on 26 March 1992. The company and managing director obtained quashing under section 482 CrPC in the Karnataka High Court: the company could not be imprisoned, and the sanction was treated as invalid for lack of a hearing. The High Court allowed fresh action against the managing director after a hearing and fresh sanction. Revenue appealed. The Supreme Court also found that the sanction order actually recorded the assessee's explanations dated 9 January 1991 and 9 March 1992, whose existence was not disputed (Mathur J, paragraphs 1-4, SCR 785-788).

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

02 DISCUSSION BY THE HON'BLE COURT

Sanction and hearing, common to all three judges: Mathur J held that section 279 did not require an opportunity of hearing before the administrative act of granting prosecution sanction. The authority must consider the relevant facts and form the requisite prima facie satisfaction; sanction is a condition precedent, not a conviction, and the accused can defend the charge at trial. The availability of compounding under section 279(2) did not create a right to a pre-sanction hearing or a unilateral right to compound. Independently, the factual premise that no opportunity had been given was wrong. Srikrishna J and Rajendra Babu J expressly agreed with Mathur J on this issue (Mathur J, paragraphs 4–8, SCR 787–791; concurrences at SCR 773 C–D and 777 A–B).

Corporate prosecution, historical majority: Srikrishna J, joined on this question by Rajendra Babu J, treated imprisonment plus fine as a mandatory combined sentence under the provisions considered. They reasoned that the court could not replace that prescription with fine alone by supplying a legislative omission, even though a company could not be imprisoned. On that basis the company's prosecution was held unsustainable. Srikrishna J disagreed with the fine-only approach in *M.V. Javali*; Rajendra Babu J considered the necessary change legislative. This 2–1 holding must be read as a displaced historical rule, not an operative immunity for companies (SCR 775–785).

Corporate prosecution, Mathur J's dissent: Mathur J would allow prosecution and, if guilt were proved, impose fine on the company. He distinguished adjudication of guilt from sentencing and execution; the impossibility of imprisonment should not immunise a corporate offender when fine was also prescribed. He relied on the statutory inclusion of companies, the identification of the directing mind and the approach in *M.V. Javali*, and would have allowed Revenue's appeal in full (paragraphs 9–21, SCR 791–804). His proposed company disposition was not the 2003 operative result.

Mens rea must not be flattened into a general corporate immunity. Srikrishna J expressly agreed with Mathur J's approach to attributing the directing person's mental state to the company (SCR 777 H–778 A). Rajendra Babu J raised doubts but expressly reserved a fuller answer for a more appropriate case (SCR 774 B–G). The decisive majority ground was the mandatory-sentence issue. The later *Standard Chartered* lead opinion expressly declined to decide corporate mens rea (SCR 63 D–F).

Actual later treatment, bounded comparison: In *Standard Chartered Bank v. Directorate of Enforcement* (5 May 2005), the five-judge Court divided 3–2. Balakrishnan J, with separate concurrences by Dharmadhikari and Arun Kumar JJ, rejected immunity where a company cannot undergo the imprisonment component but can be fined. The lead opinion expressly overruled the *Velliappa* majority on that point; its reasoning concerned imprisonment and fine together, preserved the different position of natural persons, and must not be extended into a universal ruling about imprisonment-only offences. Srikrishna J's dissent, joined by Hegde J, would retain *Velliappa*. The common final order answered the reference against corporate immunity and sent all appeals and the writ petition for further hearing; it did not convict anyone or finally dispose of the individual merits. This is a principally FERA section 56 comparison, not a separately established Income-tax Act appeal holding (*Standard Chartered*, SCR 71 F–73 C, 73 D–81 E, 81 F–90, final JUDGMENT block).

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

03 JUDICIAL DECISION

The final ORDER, following the 2003 majority, dismissed Revenue's appeal as regards respondent 1, the company, and allowed it as regards the prosecution of respondent 2, the managing director (PDF 42/SCR 804 F–G). The company retained the quashing of its prosecution on the then-majority imprisonment rationale; the managing director did not retain quashing on the pre-sanction-hearing ground. The Court did not convict either respondent, impose a fine or imprisonment, or decide the substantive assessment deduction. No express costs direction appears in the final order. The separate 2005 reference later displaced the corporate-prosecution rule; it did not rewrite the recorded 2003 party-specific disposition.

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Mixed: company succeeded in retaining quashing in 2003; Revenue succeeded regarding the managing director

Revenue appeal dismissed for respondent 1; allowed regarding prosecution of respondent 2. Velliappa's corporate-imprisonment rule subsequently overruled on the referred point by Standard Chartered Bank.

Final split disposition of the quashing appeal; prosecution maintainability and sanction issues, without criminal guilt or tax deduction merits adjudication

No current corporate immunity, no general exemption from mens rea offences, no unconditional validity of every sanction and no holding that withdrawal of an allowance claim proves criminal guilt.

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

05 AKHB REVIEW POINT

For professional citation, separate the two questions before relying on this judgment. The unanimous section 279 hearing analysis is a distinct holding, subject to verifying the applicable statutory version and later law. It did not dispense with a genuine sanction, application of mind, proof of the charged offence or the accused's trial rights. The allowance narrative supplies the prosecution background and cannot substitute for proof of wilful evasion or a false verification.

The 2003 majority's company-imprisonment bar must be presented together with Standard Chartered's express later rejection. Cite the later majority for the bounded corporate-prosecution proposition; do not silently promote Mathur J's 2003 dissent into the original holding or attribute the later dissent's reasoning to the Court. In particular, a company's inability to undergo imprisonment does not let its officers replace a statutorily required sentence with fine alone. Check the offence, the relevant year, the company's and individual's roles, and the applicable statutory text separately.

Read the operative orders rather than the editorial result lines. Velliappa's headnote reverses the two respondents' results; its closing report shorthand says only 'Appeal dismissed'. Neither overrides the common ORDER. Standard Chartered is retained as a registered comparison source because it resolves the corporate-prosecution reference in a FERA setting; its discussion of tax provisions and precedents does not itself justify another tax-merits note.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Source url: [Open cited source](#)

Pdf pages: 42

Paragraphs: Final common ORDER; distinguish Mathur J's immediately preceding dissenting proposed disposition

Later comparison disposition: Standard Chartered common final JUDGMENT places all appeals and the writ petition for further hearing before the respective benches; no final tax-appeal merits disposition identified in that judgment.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Primary identity, date and case number

Source url: [Open cited source](#)

Pdf pages: 1; 10; 11

Paragraphs: Cover and criminal appellate jurisdiction recital

Source role: reported metadata and judicial text

Scr pages and letters: 763; 772–773

2.

Topic: Editorial reversal of the disposition; not a judicial holding

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: Editorial opening disposition

Source role: editorial error only

Scr pages and letters: 764 F

3.

Topic: Rajendra Babu concurrence on sanction; reservation of mens rea question; corporate-sentence majority

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14

Paragraphs: Unnumbered Rajendra Babu J opinion

Source role: judicial text

Scr pages and letters: 773 C–776 C

4.

Topic: Srikrishna concurrence on sanction and attribution; mandatory-sentence reasoning

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16; 17; 18; 19; 20; 21; 22; 23

Paragraphs: Unnumbered Srikrishna J opinion

Source role: judicial text

Scr pages and letters: 776 D–785 F

5.

Topic: Facts, historical allowance claim, sanction and actual hearing

Source url: [Open cited source](#)

Pdf pages: 23; 24; 25; 26

Paragraphs: Mathur J, paragraphs 1–4

Source role: judicial text

Scr pages and letters: 785 F–788 A

6.

Topic: Sanction validity, no mandatory prior hearing, compounding and trial rights

Source url: [Open cited source](#)

Pdf pages: 26; 27; 28; 29

Paragraphs: Mathur J, paragraphs 5–8; agreed to by the other two judges

Source role: judicial text

Scr pages and letters: 788 B–791 D

7.

Topic: Mathur dissent: statutes, corporate attribution and fine-only reasoning

Source url: [Open cited source](#)

Pdf pages: 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42

Paragraphs: Mathur J, paragraphs 9–21

Source role: dissent on corporate prosecution

Scr pages and letters: 791 D–804 F

8.

Topic: Controlling 2003 mixed disposition

Source url: [Open cited source](#)

Pdf pages: 42

Paragraphs: Final common ORDER

Source role: operative judicial order

Scr pages and letters: 804 F–G

9.

Topic: Later reference identity and FERA issue; description of Velliappa

Source url: [Open cited source](#)

Pdf pages: 1; 12; 13; 14

Paragraphs: Cover; unnumbered Balakrishnan J opening

Source role: comparison judicial text

Scr pages and letters: 49; 60 C–62 E

10.

Topic: Later five-judge division and joint dissent attribution

Source url: [Open cited source](#)

Pdf pages: 1; 8; 33; 38

Paragraphs: Cover; editorial author label at SCR 56 B; dissent opening and discussion

Source role: reported authorship metadata corroborated by judicial text

Scr pages and letters: 49; 56 B; 81 F; 86 E

11.

Topic: Later majority leaves corporate mens rea undecided

Source url: [Open cited source](#)

Pdf pages: 15

Paragraphs: Unnumbered Balakrishnan J opinion

Source role: comparison majority

Scr pages and letters: 63 D–F

12.

Topic: Later fine-only corporate reasoning and express overruling on referred point

Source url: [Open cited source](#)

Pdf pages: 23; 24; 25

Paragraphs: Unnumbered Balakrishnan J opinion, including concluding paragraph

Source role: comparison majority

Scr pages and letters: 71 F–73 C

13.

Topic: Dharmadhikari and Arun Kumar separate majority concurrences

Source url: [Open cited source](#)

Pdf pages: 25; 26; 27; 28; 29; 30; 31; 32; 33

Paragraphs: Unnumbered opinions; transitions at SCR 73 D and 74 G

Source role: comparison majority

Scr pages and letters: 73 D–81 E

14.

Topic: Later dissent and historical section 278B(3) amendment discussion

Source url: [Open cited source](#)

Pdf pages: 33; 34; 35; 42

Paragraphs: Unnumbered Srikrishna J dissent; legislative-intent section and conclusion

Source role: comparison dissent not holding

Scr pages and letters: 81 F–83 F; 90 D

15.

Topic: Controlling later common order: reference resolved; matters for further hearing

Source url: [Open cited source](#)

Pdf pages: 42

Paragraphs: Final common JUDGMENT, after dissent ends

Source role: comparison operative judicial order

Scr pages and letters: 90, final JUDGMENT block

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Separate opinions of S. Rajendra Babu, B.N. Srikrishna and G.P. Mathur, JJ.; final order follows the majority

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

ADDITIONAL IDENTIFIED CITATIONS

[2003] 11 SCC 405 (identified in the later comparison judgment)

SPECIFIED LATER JUDICIAL TREATMENT AND ITS PRECISE LIMITS

1.

Case: Standard Chartered Bank and Others etc. v. Directorate of Enforcement and Others etc.

Decision date: 2005-05-05

Citation: [2005] Supp. 1 SCR 49

Asset id: S 2005 1 49 90

Bench: Five judges; 3–2 on corporate prosecution

Majority: K.G. Balakrishnan, J.; D.M. Dharmadhikari, J.; Arun Kumar, J.

Dissent: B.N. Srikrishna, J.; N. Santosh Hegde, J.

Treatment: Express overruling of Velliappa majority on corporate immunity from prosecution due to mandatory imprisonment when imprisonment and fine are prescribed; fine may be imposed on the corporate offender.

Boundary: This does not certify comprehensive later treatment. The section 279 hearing holding was outside the referred corporate-sentencing question; no current-law, imprisonment-only, corporate-mens-rea or individual guilt determination is supplied.

Source url: [Open cited source](#)

Pdf pages: 23; 24; 25; 42

Paragraphs: Balakrishnan J unnumbered reasoning/conclusion and final common JUDGMENT

Registration: Comparison source only; principally FERA section 56; no separate tax note or concrete individual Income-tax Act appeal merits holding identified.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 42 PDF pages; SHA-256

d0cc6c2aae9c13ed900beb1fefcabbf1300d9a1adfe2aa38c6025b123b39abda. Original bytes preserved.

Complete judicial text, physical PDF pages 11–42/SCR 773–804. Rajendra Babu J: unnumbered opinion, PDF 11–14/SCR 773–776, ending before SRIKRISHNA J at 776 D. Srikrishna J: unnumbered opinion, PDF 14–23/SCR 776 D–785 F. Mathur J: separately numbered paragraphs 1–21, PDF 23–42/SCR 785 F–804 F. Common final ORDER at PDF 42/SCR 804 F–G. Earlier pages 1–10 are editorial headnote/appearance material, not judicial holdings. No adjacent judgment.

Open cited source rendition

Velliappa PDF 2/SCR 764 F says the appeal was allowed for respondent 1 and dismissed for respondent 2. This is reversed by both majority opinions and the common judicial ORDER at PDF 42/SCR 804 F–G. The final editorial shorthand 'Appeal dismissed' is incomplete. The note follows the judicial ORDER.; The challenged High Court date is 29 March 1993 in the jurisdiction recital at PDF 10/SCR 772, but 12 April 1993 in Mathur J paragraph 1 at PDF 23/SCR 785. Neither date is silently harmonised; the Supreme Court decision date, 16 September 2003, is verified on the source cover.; The case-level recitals and majority conclusion include section 278, whereas the sanction narrative in Mathur J paragraph 2 describes sections 276C and 277 read with section 278B. Paragraph 4 has a further abbreviated section reference. This note does not invent a charge-sheet or resolve the report's varying section recitals.; The first two Velliappa opinions are unnumbered in this SCR rendition; Mathur J has local paragraphs 1–21. No paragraph numbers from a different reporter have been transplanted.; The explicit attribution of the Standard Chartered dissent to Srikrishna J for Hegde J and himself is in the editorial author label at PDF 8/SCR 56 B; the judicial body corroborates joint authorship through its plural voice and identification of the three opposing judges at PDF 33/SCR 81 F and PDF 38/SCR 86 E. This metadata attribution is not used as substantive reasoning.; The Standard Chartered opinion labels must be taken from the judicial transition lines: running headers continue to say Dharmadhikari during part of Arun Kumar's opinion, and name Srikrishna on a page that begins with Arun Kumar's conclusion. The actual transitions occur at PDF 25, 26 and 33.; Arun Kumar J proposes dismissal of Civil Appeal No. 1748 of 1999 at Standard Chartered PDF 33/SCR 81 E. The common final JUDGMENT at PDF 42/SCR 90, final JUDGMENT block instead places all appeals and the writ petition for further hearing; that common disposition controls this note.; The Standard Chartered dissent at PDF 35/SCR 83 A–F records insertion of section 278B(3) by the Finance (No. 2) Act, 2004 with effect from 1 October 2004 and uses it to support its view. That is historical statutory discussion in the dissent, not the majority's reason for retaining Velliappa. This batch does not separately verify the enacted amendment, its temporal application or present statutory form.; Standard Chartered's lead opinion expressly leaves corporate mens rea undecided (PDF 15/SCR 63 D–F). Its fine-only reasoning concerns juristic persons and imprisonment-plus-fine provisions, not a discretionary reduction of mandatory punishment for natural persons.; The comparison judgment contains tax-law precedents and a tax-amendment discussion, but no concrete individual 1961 Act appeal holding was identified. It is a comparison source only; no separate tax note is created.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year; the historical amendments mentioned in the judgments are not a separately verified statutory consolidation.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment has not been verified. The bounded comparison actually checked is Standard Chartered Bank v. Directorate of Enforcement, 5 May 2005, [2005] Supp. 1 SCR 49: its 3-2 majority expressly overruled Velliappa's corporate-prosecution/imprisonment rule on the referred point. That displacement is established from the judicial opinions and final order, not inferred from a headnote. The separate section 279 sanction/hearing holding was not the referred question. No current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 42](#)

SHA-256: d0cc6c2aae9c13ed900beb1fefcabbf1300d9a1adfe2aa38c6025b123b39abda

[reported comparison judgment - PDF pages: 42](#)

SHA-256: b5a704704ec09f7e2c5b38e8a6658636a4a46a0d41802fbc41706dbc46d3c4b0

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