

Standard Chartered Bank and Ors. etc. v. Directorate of Enforcement and Ors. etc.

Civil Appeal No. 1748 of 1999 — Lead FERA appeal from Bombay High Court W.P.(C) 1972/1994, judgment dated 7 November 1998. and connected proceedings (full list below)

[2005] Supp. 1 SCR 49 | 2005-05-05

By a 3-2 majority, a company can be prosecuted for an offence prescribing imprisonment and fine; on conviction the prescribed fine may be imposed although imprisonment cannot be carried out against it. Velliappa Textiles was overruled on that obstacle to corporate prosecution.

Foreign Exchange Regulation Act, 1973; material Income-tax Act, 1961 corporate-prosecution relevance | Income-tax Act, 1961: 276B | Income-tax Act, 1961: 276C | Income-tax Act, 1961: 277 | Income-tax Act, 1961: 278 | Income-tax Act, 1961: 278B

5 Judges; 3-2 on the referred corporate-prosecution issue | N. Santosh Hegde | K.G. Balakrishnan | D.M. Dharmadhikari | Arun Kumar | B.N. Srikrishna

01 FACTS OF THE CASE

The lead company challenged FERA notices and contended that it could not be prosecuted under section 56 because the provision prescribed mandatory imprisonment with fine. Connected matters raised the same sentencing obstacle. A three-Judge Bench doubted Velliappa Textiles, which had accepted that objection in an Income-tax prosecution, and referred the question to this Constitution Bench.

Source: [Balakrishnan J. opening and reference context; SCR 60-62](#)

02 DISCUSSION BY THE HON'BLE COURT

Balakrishnan J., joined by Dharmadhikari and Arun Kumar JJ. in separate concurrences, read the statutory scheme as exposing companies to prosecution. Impossibility of imprisoning a company did not require immunity where the prescribed fine could be enforced. Otherwise a corporation could face a lesser offence punishable with fine while escaping a graver one carrying imprisonment and fine. That sentencing solution was expressly confined to juristic persons; it did not permit omission of mandatory imprisonment for a natural person. Srikrishna J., dissenting for himself and Santosh Hegde J., considered fine-only sentencing an impermissible rewriting of the statute requiring legislative correction.

Source: [Majority and separate concurrences; SCR 69-74 and 77-81; Srikrishna J. dissent, SCR 81 F-90 D](#)

03 JUDICIAL DECISION

The majority rejected corporate immunity based on the imprisonment component and overruled Velliappa on that point. FERA section 56 supplied the operative setting. The Income-tax connection is substantial: Velliappa concerned sections 276C, 277 and 278 read with section 278B, and Arun Kumar J. also discussed section 276B through M.V. Jawali. The Court did not decide guilt under those offences or corporate attribution of mens rea; the latter question was expressly left open.

Source: [Velliappa context, express reservation of mens rea, referred holding and M.V. Jawali discussion; SCR 61-63,73,81](#)

04 OUTCOME / IN WHOSE FAVOUR

Reference answered by a 3-2 majority; Velliappa's corporate-prosecution/imprisonment rule displaced. The common final JUDGMENT directed all appeals and the writ petition to their respective benches for further hearing. It did not convict a company or finally dispose of every underlying contention. Arun Kumar J.'s separate opinion proposed dismissal of the lead appeal; the common final JUDGMENT governs the recorded group disposition.

Source: [Common final JUDGMENT following dissent: SCR 90](#)

05 AKHB REVIEW POINT

Separate capacity to prosecute a company from proof of the offence and the available sentence. This decision answers the obstacle created by prescribed imprisonment plus fine. The majority distinguishes imprisonment-only provisions and preserves the statutory sentence for natural persons. Apply the relevant tax offence and company-liability provision to the particular prosecution; this reference supplies neither a finding of guilt nor a corporate mens rea rule. The amendment to section 278B discussed in the dissent is historical source context, not a verified statement of current legislation or retroactivity. For the separate attribution question, the bounded Iridium later-history discussion is relevant. Distinguishing it from the issue expressly left open in this 2005 reference is an editorial comparison of the two sources, not a statement that Iridium expressly characterized itself as resolving that reservation.

Source: [Corporate mens rea left open; imprisonment-only and natural-person limits; dissent's historical amendment discussion: SCR 63 F.71 F-G.72 F-H.83; Iridium SCR judicial paragraphs35-40.45-46; corporate attribution, Standard Chartered application, and quashing set aside without guilt finding.](#)

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 1748 of 1999 — Lead FERA appeal from Bombay High Court W.P.(C) 1972/1994, judgment dated 7 November 1998. / Civil Appeal Nos. 1749, 1750, 1751 and 1944 of 1999 — Connected civil appeals in the reference group. / Criminal Appeal Nos. 685, 684 and 688 of 2005; Criminal Appeal Nos. 847 and 848 of 2004 — Connected criminal appeals printed at PDF 11/SCR 59. / Writ Petition (Criminal) No. 165 of 2004 — Connected writ petition; included in the final direction for further hearing.

OPINION BOUNDARIES AND COMMON FINAL JUDGMENT

1.

Author: K.G. Balakrishnan

Role: majority

Opening and closing physical pdf pages: 12; 25

Boundary: SCR 60 C-73 C

2.

Author: D.M. Dharmadhikari

Role: concurring majority

Opening and closing physical pdf pages: 25; 26

Boundary: SCR 73 D-74 G

3.

Author: Arun Kumar

Role: concurring majority

Opening and closing physical pdf pages: 26; 33

Boundary: SCR 74 G-81 E

4.

Author: B.N. Srikrishna, for himself and N. Santosh Hegde

Role: dissent

Opening and closing physical pdf pages: 33; 42

Boundary: SCR 81 F-90 D

5.

Author: Court

Role: common final JUDGMENT

Opening and closing physical pdf pages: 42

Boundary: Final JUDGMENT block at SCR 90, following dissent

LATER-TREATMENT SOURCE PINPOINTS

1.

Source url: [Open cited source](#)

Pdf pages: 38; 39; 40; 41; 42; 43; 44; 45; 46; 51; 52

Pinpoint: Iridium SCR judicial paragraphs 35-40, 45-46; corporate attribution, Standard Chartered application, and quashing set aside without guilt finding.

SOURCE & VERIFICATION

Original reported Supreme Court judgment

42-page retained public-mirror SCR report. Text pages read: 12-42; image pages read: 1-42. The acquisition URL is preserved provenance; current endpoint availability and authentication as a signed original are not newly verified. Complete judicial body, all majority/concurrent/dissenting opinions and common final JUDGMENT, PDF 12-42/SCR 60-90. All 42 physical page images read, including preceding editorial/appearance material; no adjacent judgment.

Open cited source rendition

Opinions are unnumbered in this rendition. Use physical PDF/SCR page and author pinpoints; do not transplant paragraph numbers from another rendition.

Running headers at PDF 27-32 continue Dharmadhikari although the explicit Arun Kumar opinion begins at PDF 26/SCR 74 G.

The common final JUDGMENT at PDF 42 governs disposition; the dissent and individual proposed orders must not be presented as the Court's result.

Corporate mens rea attribution is expressly left undecided at PDF 15/SCR 63 F. The imprisonment-only distinction is at PDF 23/SCR 71 F-G; the natural-person limitation is at PDF 24/SCR 72 F-H.

Section 278B(3)'s 2004 insertion is quoted and relied upon in the dissent at PDF 35/SCR 83. No independent verification of its current operation or retrospectivity is claimed.

Editorial headnote and appearances preceding PDF 12/SCR 60 C are excluded from judicial reasoning; no adjacent judgment is included.

At PDF 24/SCR 72 D-E, the narrative describes a list of provisions as covered by section 56, although the section 56 quotations at PDF 12/SCR 60 and PDF 27/SCR 75 expressly introduce that list with 'other than'. The note does not adopt the narrative list as a statement of statutory coverage.

The Iridium auxiliary source uses SCR judicial paragraphs 35-40 and 45-46 at PDF38-46 and 51-52; paragraph numbering differs in other reproductions. Its quotations of Standard Chartered are not substituted for the 2005 source's express reservation at PDF15/SCR63 F. Attribution and the quashing disposition are distinct from a finding of guilt.

STATUTORY SCOPE

The note identifies the statutory provisions and context addressed in this judgment. No separately verified current consolidation, Income-tax Act, 2025 correspondence or automatic present-law equivalence is supplied.

Other provisions addressed: Foreign Exchange Regulation Act, 1973, section 56; Indian Penal Code, section 11; General Clauses Act, section 3(42)

LATER TREATMENT

Source checked 2026-10-08. Iridium India Telecom Ltd. v. Motorola Incorporated & Ors. (20 October 2010), SCR paragraphs 35-38, later addressed corporate liability for offences of intent through attribution from a person or body controlling the company's affairs to the degree that it thinks and acts through them. Paragraphs 39-40 applied Standard Chartered's imprisonment-and-fine principle. Paragraphs 45-46 set aside the quashing order; the allegations remained to be established, with no finding of guilt. This bounded comparison does not alter Standard Chartered's own express reservation of corporate mens rea. It does not impose liability automatically on every director. No comprehensive subsequent-history or current statutory audit is claimed.

IDENTIFIED SOURCE LINKS

[Iridium India Telecom Ltd. v. Motorola Incorporated & Ors.](#)

Only SCR judicial paragraphs 35-40, 45-46 adopted, PDF38-46/SCR628-636 and PDF51-52/SCR641-642. Identity and judicial opening on PDF1, 9, preceding 33-34 at PDF36-38 and closing context at PDF50-52 read. Headnote excluded from holdings. No complete judgment read. Text pages read: 1, 9, 36-46, 50-52. Image pages read: 1, 9, 38-46, 50-52.

AI DISCLOSURE

AI-assisted research. The AKHB Review Point is editorial analysis, not part of the Court's judgment.

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