

Ashwin S. Mehta and Another v. Custodian and Others

Civil Appeal Nos. 667-671 of 2004 with Civil Appeal Nos. 672-675, 676-680 and 681 of 2004
[2006] 1 SCR 56 | 2006-01-03

Special Court tax-distribution companion: assessments set aside, individual liabilities and qualified property-sale remand.

Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992: sections 3, 4, 9A and 11
| Income-tax assessment, appeal and recovery machinery (best-judgment demands and appellate orders)

Two-judge bench; judgment by S.B. Sinha J. | S.B. Sinha, J. | P.P. Naolekar, J.

Remand, not tax discharge or release from attachment

The Court required fresh examination of liabilities and residential-sale confirmation. It did not fix the final tax due, release all properties, or undo the commercial-sale course.

Pending appeal differs from an assessment set aside

An outstanding demand was not suspended merely by an appeal without stay. But an assessment actually set aside could not continue to support that quantified demand pending a fresh assessment.

Later share-sale ruling limits broad reliance

Sudhir S. Mehta (16 May 2008), paras 35-43, distinguished this immovable-property remand from shares and corrected the assertion that the relevant denotification applications remained pending. Do not use this judgment as a universal bar on selling attached shares.

01 FACTS OF THE CASE

Notified members and entities associated with the Harshad Mehta family challenged the Special Court's 17 October 2003 orders permitting sale of residential and commercial premises and refusing release from attachment. They disputed clubbing their separate assets and liabilities into one group, relied on appellate orders setting aside several best-judgment income-tax assessments, and complained that supporting accounts and audit material had not been made available for inspection. The controversy required separating automatic attachment from the justification for sale and distribution, and determining the effect of the actual assessment orders rather than assuming every disputed demand remained unchanged.

Source: [SCR64-69,77-84 / PDFpp.9-14,22-29](#)

02 DISCUSSION BY THE HON'BLE COURT

Notification caused automatic attachment of the person's property; being separately accused of an offence or proving that each property arose during the statutory period was not essential. Yet notification did not justify unexplained pooling of every family member's liabilities. The Special Court had to examine individual accounts, inter-entity claims, alleged fund intermingling and the objections, with access to the relied-on documents. On tax, mere appeal without a recovery stay did not eliminate an outstanding demand. Crucially, where assessments had actually been set aside, liability had to be worked out under fresh assessments: the superseded orders could not continue to justify the same quantified dues. The Court required fresh consideration of tax disbursement under Harshad Shantilal Mehta, preserving the distinction between tax assessment under tax law and payment from attached funds under section 11.

Source: [SCR76-87 / PDFpp.21-32](#); especially [SCR85-87 / PDFpp.30-32](#)

03 JUDICIAL DECISION

The Court directed the Special Court to reconsider the individual/group-liability issues and tax disbursements with reasoned findings. The commercial-sale direction was not disturbed: those sales had not been seriously contested and third-party interests had arisen. Residential auction sales had expressly remained subject to these appeals, so their confirmation depended on the fresh decision; purchasers could await it or seek return of deposits subject to further orders. The Court ordered supervised document inspection with accounting assistance, objections, replies, supporting affidavits and a focused hearing. These directions did not extinguish the underlying tax machinery or adjudicate the final amount payable by each appellant.

Source: [SCR82-92 / PDFpp.27-37](#); commercial/residential distinction [SCR87G-90C / PDFpp.32-35](#)

04 OUTCOME / IN WHOSE FAVOUR

The appeals were allowed, the impugned judgments set aside and the matter remitted for fresh consideration, subject to the express preserved commercial-sale course. Parties bore their own costs. The Special Court was asked to complete the residential-related hearing within twelve weeks of receipt and take up commercial-sale confirmation immediately for an appropriate order within four weeks. Fresh Income-tax assessments could be placed before it by the Custodian. The appellants therefore obtained procedural and reconsideration relief, not a final merits victory eliminating tax or releasing all attached assets.

Source: [SCR90D-92E / PDFpp.35-37](#)

05 AKHB REVIEW POINT

AKHB analysis: prepare an entity-wise reconciliation of assets, inter-entity claims, assessed tax, appellate reductions, set-aside orders, stays and fresh assessments; attach the actual orders, not only a consolidated demand chart. Distinguish the existence of notification, ownership, sale, distribution priority and tax assessment. Seek access to relied-on accounts and a reasoned determination of disputed pooling. Do not equate an appeal with a stay or a remand with a tax waiver. Also check the asset class: the later Sudhir S. Mehta judgment, paras35-43, distinguished this immovable-property remand from an already-approved share-sale scheme and corrected the claimed pending denotification applications. The bounded comparison does not establish present-law clearance.

Source: [AKHB analysis based on SCR82-92 / PDFpp.27-37; Sudhir \[2008\]8 SCR1139-1143, paras35-43; Sudhir S. Mehta, paras35-43 / SCR1139-1143 / PDFpp.41-45](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

All 37 pages of the SCR report read in page-preserving text. Reporter headnotes occupy SCR56-63; S.B. Sinha J's sole judicial opinion starts SCR64C / PDFp.9 and runs through SCR92E / PDFp.37. No separate opinion. All submissions, quoted earlier holdings, current findings and operative directions distinguished.

Open cited source rendition

Full 37-page report read; PDFpp.1,9,30,31,37 visually inspected for identity, connected dockets, operative tax distinction and remand.

The report does not number its judicial paragraphs; this note uses exact SCR/PDF page pinpoints instead of importing unverified paragraph numbering.

The introductory docket includes Civil Appeal681/2004, but SCR89G expressly says Flat202 Arunachal Bhawan is not concerned in these appeals and is the subject of a separate proceeding. No order specifically disposing of that flat is inferred.

Full 49-page Sudhir S. Mehta report independently read as bounded later context. Its capital-gains question was left for legal/professional advice, not decided as a tax exemption.

Exact source hash and judgment identity did not match existing coverage. Janatha Textiles cites Ashwin; that citation is not a separate Ashwin note.

STATUTORY SCOPE

Income-tax/Special Court distribution companion under the historical securities-scam regime. This is not an appeal determining taxable income or cancelling all tax liabilities. Section 11 distribution, continued notification, individual asset ownership, assessment status and the distinct property-sale stages must be kept separate.

LATER TREATMENT

Source checked 2026-10-14. A bounded subsequent-source check identified Sudhir S. Mehta v. Custodian, [2008] 8 SCR 1099, paras 35-43: the earlier immovable-property remand did not reopen the already-approved share-sale scheme, and the claimed pending denotification applications were corrected on the record. This is not a comprehensive subsequent-treatment, review, stay or present-law check.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 37

SHA-256: 127c542ed5102d42b694eec348655c0a310797b274d50f7ea674f25489599b6a

[Related note: Harshad Shantilal Mehta v. Custodian and Others \(with connected appeals and transferred case\)](#)

Related note: Tax Recovery Officer, Central Range-1 v. Custodian Appointed under the Special Court (Trial of Offences Relating to Transaction in Securities) Act, 1992 and Others

Related note: Janatha Textiles and Others v. Tax Recovery Officer and Another

AI DISCLOSURE

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