

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

Civil Appeal No. 6316 of 2005 and connected proceedings (full list below)

[2007] 8 SCR 1051 | 2007-08-17

Could Revenue use section 226(4) before the 1992 Act Special Court to recover a nonnotified debtor's tax from proceeds realised while executing decrees for a notified creditor, and did the brevity of the rejection order require interference?

226(4) | 222

2 Judges | G.P. Mathur, J. | P.K. Balasubramanyan, J.

Assessment years: See the source-scope notes; no year inferred.

IMPORTANT: NONNOTIFIED TAX DEBTOR IN A SPECIAL COURT EXECUTION

This judgment rejects Revenue's section 226(4) intervention within the 1992 Act Special Court framework. It does not extinguish the tax debt, immunise all sale proceeds from tax recovery, or decide priority under every statute. The notified creditor and nonnotified tax debtor must be kept distinct. Eight appeals share one judgment; the printed chronology and application-number discrepancies, and different company descriptions/counts, remain flagged. Complete later treatment, historical enactments and 2025 mapping are unverified.

01 FACTS OF THE CASE

The Tax Recovery Officer, Central Range-1 brought Civil Appeals 6316-6323 of 2005 under section 10 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992. The appeals challenged the Special Court's 24 February 2005 rejection of Intervention Applications 458-465/2004 in Execution Applications 98-105/2001. The jurisdiction line and opening opinion verify eight civil appeals, although the frozen catalogue lists only 6316/2005. One common judgment resolves all eight; the report does not map each appeal to a particular intervention or decree (physical 3-4, paragraph 1).

Dhanraj Mills Pvt. Ltd. had been notified under section 3(2), bringing its assets within statutory attachment. Killick Nixon Pvt. Ltd. and group companies owed it substantial sums; Killick Nixon also guaranteed repayment. The Custodian pursued suits for the notified creditor and obtained decrees on 18 September 1997. In the execution applications a receiver was appointed on 14 February 2003 to take charge of sufficient assets. Killick Nixon's property was auctioned; on 24 November 2004 the Special Court confirmed sale to Gama Constructions for Rs. 30 crores. Killick Nixon itself was not a notified person. Paragraph 2 refers to 13 group companies, while paragraph 8 refers to 9 subsidiaries. These are different company descriptions and counts that the report does not reconcile; the text does not establish that they describe the same set (physical 4-5, 12).

Revenue had a certified demand of Rs. 25.88 crores against Killick Nixon and sought priority payment before distribution of the auction money. It also asked that the Custodian be restrained from distributing proceeds before satisfying its claim. Paragraph 2 records filing on 25/30 August 2004 but gives the intervention range as 450-465, unlike 458-465 in the caption/opening. It also says a report ordered on 1 September 2004 was supplied on 19 June 2004; that reverse chronology is printed in both the SCR and the bounded official alternate text. Neither discrepancy is silently corrected (physical 4-5).

The Special Court rejected the applications because they sought recovery orders against a third party that was not notified. Revenue argued that money realised from a judgment-debtor's property remains that debtor's until paid out, enabling section 226(4) recovery and State priority while it remains in court. It invoked Manmohan Lal, Lakshman Swarup Om Prakash, Somasundaram Mills and Dena Bank. The Custodian relied on the notified creditor's statutory attachment/distribution regime and section 13's overriding effect, with Solidaire India as authority. Revenue also objected that the Special Court had used only a short order despite the section 10 appeal on facts and law (physical 8-13, paragraphs 4-9).

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

02 DISCUSSION BY THE HON'BLE COURT

G.P. Mathur J. gave the sole opinion. The Court reproduced section 3 and sections 9A(1)–(3), 11 and 13 of the 1992 Act. Notification attaches property belonging to the notified person; the Custodian deals with it under Special Court directions. Section 9A supplies civil jurisdiction in the specified statutory field, including claims relating to attached property. Section 11 provides for disposal and an ordered distribution of the notified person's liabilities, including taxes due from that person. Section 13 gives the Act effect over inconsistent laws, instruments and orders (paragraph 3, physical 5–8). The tax debtor's identity therefore matters: the statutory priority for a notified person's taxes cannot simply be treated as a priority for taxes owed by every third party whose assets are realised in the proceeding.

Revenue's authorities were recounted at length but should remain attributed to its argument. The Manmohan Lal passage discusses certificate recovery under section 222, recovery from money in court under section 226(4), and the need to decide a valid-demand-service objection before paying tax from court funds. Lakshman Swarup addresses court custody of money belonging to the assessee; the Somasundaram Mills passage describes State priority while sale proceeds remain in court. Dena Bank concerned Karnataka sales-tax priority on its own facts. This judgment did not find defective service on Killick Nixon, cancel its demand, or overrule those authorities. Their general propositions did not enable the particular intervention in the Special Court's statutory setting (paragraphs 4–5, physical 8–10).

The Custodian submitted that proceeds realised in execution for notified Dhanraj Mills were assets of that notified party, that Killick Nixon was unnotified, and that the 1992 Act controlled distribution. Solidaire India's passage explains that monies payable to notified persons are assets to be collected before section 11 distribution. Paragraph 7 endorses the overriding-effect principle, drawing on Solidaire's resolution of competing 1992 Act and Sick Industrial Companies Act 1985 non-obstante provisions. The Court's formulation is expressly where the Special Court Act applies. The reference to SICA section 32 and its FERA/urban-land exceptions is precedent context, not an adjudication of a BIFR scheme or those enactments in this case (physical 11–12).

Paragraph 8 applies the statutory jurisdiction rule to the recovery sought. Dhanraj Mills was notified; Killick Nixon was not. Killick Nixon's property was sold in execution of decrees in favour of Dhanraj Mills. On that basis, the Special Court could not entertain Revenue's section 226(4) application to realise Killick Nixon's tax dues. The decision therefore materially limits the use of that 1961 Act recovery power in this other statutory forum. It should not be restated as a rule that attachment invariably transfers all third-party ownership, that the tax debt ceased to exist, or that section 226(4) can never reach execution proceeds in an ordinary competent court. The stronger automatic-ownership formulation appears in the Custodian's argument; the Court's operative reasoning is the particular statutory attachment, jurisdiction and overriding framework (physical 12).

The Court also rejected the challenge based on the terse form of the Special Court order. The

02 DISCUSSION BY THE HON'BLE COURT

relevant legal ground had been identified; moreover, the Supreme Court had itself examined the merits and concluded that the interventions were not maintainable. This is a final reasoned statutory-recovery determination, rather than a routine interim disposal or an unexplained refusal to hear an appeal (paragraph 9, physical 12-13).

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

03 JUDICIAL DECISION

All Civil Appeals 6316-6323/2005 were dismissed as lacking merit. The rejection of Revenue's intervention applications as not maintainable before the Special Court stood. No costs were ordered. There was no remand, direction paying Rs. 25.88 crores to Revenue, fresh allocation of the Rs. 30 crore sale price, annulment of the tax demand or adjudication of recovery in another forum (paragraphs 9-11, physical 13/SCR 1063).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Custodian/respondents on Special Court maintainability; against the Tax Recovery Officer/Revenue

All eight appeals dismissed; section 226(4) intervention refused in this forum

Final substantive interpretation of recovery jurisdiction involving 1961 Act section 226(4)

No tax-debt extinguishment, no adjudicated assessment years, no recovery ruling for all other forums or statutory regimes.

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

05 AKHB REVIEW POINT

For a recovery claim involving a specialised statutory court, identify separately the assessee owing tax, the notified person, the property/right attached and the capacity in which the court holds or collects proceeds. Here the notified creditor Dhanraj Mills and the nonnotified debtor Killick Nixon were different entities. A general claim to Crown priority or the existence of money in court did not answer the Special Court's jurisdiction and overriding-statute questions. The case belongs in a 1961 Act repository because section 226(4) was the actual recovery power invoked and rejected on reasoned statutory grounds.

Keep quoted historical law and the deciding court's ratio separate. The quoted Manmohan Lal passage refers to the Income-tax Officer and describes the Tax Recovery Officer's then-distinct role. A bounded departmental section 226 page explicitly labelled 1995 includes the Assessing Officer or Tax Recovery Officer in subsection (4), with amendment footnotes. That comparison cautions against using an older quoted passage as a timeless rule excluding the TRO. It is not an authentication of every operative 2004–2007 amendment or the current text.

Do not recast section 13 as blanket displacement of all income-tax law. The judgment preserves the qualifier that the Special Court Act governs where applicable and decides a recovery intervention against the particular nonnotified debtor. It does not determine the continued collectability of the debt through other lawful routes, nor all taxes, interest or penalties due by a notified person under section 11. Exact later treatment was not authenticated in the bounded search; neither absence of a found decision nor the age of this ruling establishes current validity or 2025 Act equivalence.

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

APPEAL AND PROCEEDING NUMBERS

Civil Appeal No. 6316 of 2005 / Civil Appeal No. 6317 of 2005 / Civil Appeal No. 6318 of 2005 / Civil Appeal No. 6319 of 2005 / Civil Appeal No. 6320 of 2005 / Civil Appeal No. 6321 of 2005 / Civil Appeal No. 6322 of 2005 / Civil Appeal No. 6323 of 2005

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: No costs

Remand: False

INDIVIDUAL PROCEEDING OUTCOMES

1.

Case number: Civil Appeal No. 6316 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458–465/2004 in executions 98–105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

2.

Case number: Civil Appeal No. 6317 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458-465/2004 in executions 98-105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

3.

Case number: Civil Appeal No. 6318 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458-465/2004 in executions 98-105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

4.

Case number: Civil Appeal No. 6319 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458-465/2004 in executions 98-105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

5.

Case number: Civil Appeal No. 6320 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458-465/2004 in executions 98-105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

6.

Case number: Civil Appeal No. 6321 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458-465/2004 in executions 98-105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

7.

Case number: Civil Appeal No. 6322 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458-465/2004 in executions 98-105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

8.

Case number: Civil Appeal No. 6323 of 2005

Underlying proceeding: Common 24 February 2005 Special Court order on interventions 458–465/2004 in executions 98–105/2001; exact appeal-to-application mapping not given

Outcome: Dismissed under the common judgment; intervention rejection upheld

Costs: No costs

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Eight appeals, entity roles, recovery history, Rs 25.88/30 crore and printed anomalies

Source url: [Open cited source](#)

Pdf pages: 3; 4; 5

Paragraphs: jurisdiction and paragraphs 1–2; SCR 1053–1055

Source role: judicial text

2.

Topic: Complete quoted Special Court statutory framework

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7; 8

Paragraphs: paragraph 3; SCR 1055–1058

Source role: judicial text

3.

Topic: Revenue and Custodian arguments and quoted authorities

Source url: [Open cited source](#)

Pdf pages: 8; 9; 10; 11

Paragraphs: paragraphs 4–6; SCR 1058–1061

Source role: judicial text

4.

Topic: Overriding effect, 226(4) forum holding, short-order challenge, common dismissal, no costs

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: paragraphs 7–11; SCR 1062–1063

Source role: judicial text

OPERATIVE STATUTORY FRAMEWORK

Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992

AMOUNTS AND THEIR DISTINCT REPORTED ROLES

1.

Amount: Rs. 25.88 crores

Role: Revenue's certified demand against Killick Nixon pending recovery; assessment years and tax/interest/penalty breakup not supplied

Pinpoint: paragraphs 2, 4; physical 4-5, 8

2.

Amount: Rs. 30 crores

Role: Auction sale price to Gama Constructions confirmed 24 November 2004; not an award to Revenue or the final distribution

Pinpoint: paragraph 2, physical 5

3.

Amount: Not stated in the reviewed record

Role: Underlying decrees' aggregate sum and ultimate creditor distributions not quantified; no costs

Pinpoint: paragraphs 2, 10-11

QUANTIFICATION AND MONETARY LIMITS

Every amount is attributed to its procedural role; no new tax computation or distribution is invented.

REPORTED SOURCE ANOMALIES AND THEIR LIMITS

1.

Location: Frozen metadata versus jurisdiction line, physical 3

Issue: Catalogue gives Civil Appeal 6316/2005 only; read report gives 6316-6323/2005.

Handling: Preserve frozen anchor and verify all eight appeals in the separate primary identity; one common judgment and one note.

2.

Location: Paragraph 1 versus paragraph 2, physical 4-5

Issue: Interventions 458-465/2004 versus 450-465/2004.

Handling: Use the caption/opening challenged set while preserving the later printed inconsistency; do not invent sixteen Supreme Court appeals.

3.

Location: Paragraph 2, physical 5

Issue: Report said supplied 19 June 2004 in compliance with direction 1 September 2004.

Handling: Reverse chronology remains unresolved; official alternate web text repeats it. No guessed correction.

4.

Location: Paragraph 2 versus paragraph 8, physical 4, 12

Issue: Paragraph 2 describes 13 group companies; paragraph 8 describes 9 subsidiary companies. The report does not explain whether these are different sets.

Handling: Preserve both descriptions and counts without asserting a necessary contradiction or inventing a company-set reconciliation.

5.

Location: Front jurisdiction line versus paragraph 1, physical 4

Issue: Front list repeats Misc.Petition 189/1995; opening lists seven distinct petition numbers.

Handling: Record the common procedural ranges and no invented one-to-one mapping to eight appeals.

6.

Location: Paragraph 8, physical 12

Issue: Awkward owed money from wording and former stood as guarantor could reverse roles if read in isolation.

Handling: Paragraph 2 clearly describes Killick Nixon/group as debtors to Dhanraj Mills and Killick as guarantor. Read those roles together; retain the source wording without altering it.

7.

Location: Paragraph 6, physical 11

Issue: Counsel says attached property also became property of the notified party.

Handling: Attribute this to the Custodian's submission; do not promote it into a universal judicial rule of automatic title transfer.

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

1.

Provision: 226(4)

Role: Actual recovery application whose maintainability before the Special Court is finally decided against Revenue.

2.

Provision: 222

Role: Certificate recovery contrasted in the quoted Manmohan Lal authority; not a separate order cancelling any recovery certificate.

3.

Provision: Special Court Act 1992 sections 3, 9A, 11, 13; section 10

Role: Statutory attachment, jurisdiction, distribution priority and overriding effect determine the 226(4) claim; section 10 is the appellate route.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

G.P. Mathur, J., for the Court

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY CHECKS AND THEIR LIMITS

1.

Source: Target judicial text

Status: quoted historical statutory framework read

Pinpoint: paragraph 3, physical 5-8; applied in paragraphs 7-8, physical 12

Result: Complete quoted sections 3, 9A(1)-(3), 11, 13 read in the source. Original enacted Special Court statute/1994 amendment not separately authenticated; the inherited India Code timeout stop was respected without retry or alternate acquisition.

2.

Source: Income Tax Department section 226

Url: [Open cited source](#)

Version: Explicit 1995 page label

Status: bounded official consolidation web text read

Pinpoint: Web lines 195-253, adopted subsection (4) and footnotes 47-48

Result: Subsection(4) names Assessing Officer or Tax Recovery Officer and court-held money belonging to the assessee; footnote 48 states TRO addition effective 1 April 1989. This bounded version comparison is not complete 2004-2007 or current-law/enacted-amendment authentication.

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Source: Bounded official-domain exact-name/recovery queries on 6 October 2026

Status: no exact later judicial treatment authenticated

Queries: site:api.sci.gov.in Tax Recovery Officer Custodian 6316; site:api.sci.gov.in Custodian 29311 226; site:api.sci.gov.in Tax Recovery Officer Custodian 226(4) -29311

Result: Returned target rendition; no later full judgment concerning this precise holding was authenticated. This is not evidence of no later treatment or current validity.

PDF TEXT-ONLY SOURCE CHECKS AND READING LIMITS

1.

Kind: official alternate target rendition bounded

Source role: auxiliary only

Role: auxiliary only

Title: Tax Recovery Officer v. Custodian, 17 August 2007

Source url: [Open cited source](#)

Url: [Open cited source](#)

Reported web pdf pages: 7

Physical text pages read: 1; 2; 7

Physical image pages read:

Full bounded judicial text read: False

Read bounds: Bounded adopted cover/opening and paragraph 2 anomalies at web lines 0-66, plus paragraphs 8-11 at lines 372-406; other returned passages are not promoted to a full alternate-source review.

Provenance: Official web-extracted PDF text only; no raw PDF bytes/hash or images retained.

Result: Corroborates eight appeals, date, party roles and common disposal; repeats the application-range and date discrepancies and the differently described 13-company/9-subsubsidiary sets. It does not resolve them or replace the unchanged primary.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 13 PDF pages; SHA-256

79e4119523982b0d59c8b955e117584a3ee84b3c8e48c652a0a3eb46a48fc39f. Original bytes preserved. All 13 physical pages, SCR 1051-1063: editorial headnote on pages 1-3; jurisdiction on pages 3-4; the sole Supreme Court opinion on pages 4-13, paragraphs 1-11. Eight appeals, 6316-6323/2005; no adjacent judgment.

Open cited source rendition

Frozen 2007 INSC 837 and catalogue lead appeal retained. Primary printed report is[2007]8 SCR 1051-1063. Official alternate web-derived 7-page rendition corroborates 6316-23/2005 and date, without replacing the frozen primary or authenticating a signed original.

The source does not identify the assessment years underlying the Rs. 25.88 crore certified demand. No assessment year is inferred from the dates of auction, intervention or Special Court statutory window.

STATUTORY SCOPE

Not verified; no automatic equivalence, savings, transition or precedent-carryover claim

LATER TREATMENT

Source checked 2026-10-06. Comprehensive later treatment is unverified. Any actual bounded check is recorded separately with its precise source, result and limitations.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 13](#)

SHA-256: 79e4119523982b0d59c8b955e117584a3ee84b3c8e48c652a0a3eb46a48fc39f

[Tax Recovery Officer v. Custodian, 17 August 2007](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.