

M/s. K.C.C. Software Ltd. and Others v. Director of Income Tax (Investigation) and Others

Civil Appeal No. 769 of 2008

[2008] 2 SCR 168 | 2008-01-29

The appeal was dismissed because the section 132B order had not been challenged, but the Court directed that money in the Commissioner's personal-deposit account earn fixed-deposit interest and that assessment finish by the statutory deadline. It distinguished bank balances from cash in hand without deciding the broader conversion-and-retention challenge.

132(1)(iii) | 132(3) | 132(8A) | 132B | 153A | 153B

2-judge bench | Dr. Arijit Pasayat, J. | S.H. Kapadia, J.

Dismissal with protective directions

No release was ordered because section 132B remained unchallenged; the broader conversion-and-retention issue was left open, and the report contains conflicting restraint-expiry dates.

Operative context: Income-tax Act, 1961.

01 FACTS OF THE CASE

Searches in August 2005 produced seizure of jewellery, cash and fixed-deposit receipts and restraint of bank accounts. The appellants maintained that the accounts appeared in their regular books and that restraint disrupted business; Revenue disputed satisfactory disclosure. Fresh warrants in October 2005 led to withdrawal of account balances through demand drafts.

The company sought adjustment of Rs 77,68,177 towards self-assessment tax for AY 2005-06 and later Rs 40 lakh towards advance tax for AY 2006-07, with release of the balance. The writ petitions also challenged the fresh warrants and restraint and sought return of other assets. Revenue relied on a section 132B order of 1 February 2006; the appellants complained it had not been served. The Delhi High Court dismissed W.P. (C) Nos. 6313-6315 of 2006 on 15 November 2006.

Source: [SCR 171 F-H, paragraphs 2-3](#); [SCR 172, paragraphs 3-4](#); [SCR 173, paragraphs 4-5](#); [SCR 175 C-D, paragraph 7](#)

02 DISCUSSION BY THE HON'BLE COURT

The parties disputed whether money could be retained against estimated liability after the legislative changes they identified, and whether the Search and Seizure Manual justified withdrawing bank balances. The Court described the successive seizure, disclosure-adjudication and retention stages. Reading the Manual's provisions for depositing seized cash, it distinguished cash in bank from cash in hand. Its discussion of Shanti Prasad Jain and Foley v. Hill explained the ordinary debtor-creditor relationship between bank and customer.

The decisive procedural fact was that the section 132B order remained unchallenged. Paragraph 19 therefore declined the broader issue of converting assets into cash and impounding them. The observations on banking law and the Manual must be read with that reservation. The Court did not finally uphold every warrant or decide that all balances were undisclosed, nor did it order an immediate refund.

Protection during the remaining assessment period was nevertheless required: the amount transferred to the Commissioner's PD account was to be placed in an interest-bearing fixed deposit. The stated reason was to protect both sides where a successful assessee would ultimately be entitled to statutory interest.

Source: [SCR 176, paragraphs 9-12](#); [SCR 179 C-H, paragraphs 15-17](#); [SCR 180, paragraphs 17-19](#)

03 JUDICIAL DECISION

The Court refused the requested substantive relief because the section 132B order had not been challenged. It dismissed the appeal subject to the fixed-deposit direction and required assessment on or before 31 March 2008, the statutory time stated in the case. There was no order as to costs.

Source: [SCR 181 A-E, paragraphs 19-20](#)

04 OUTCOME / IN WHOSE FAVOUR

Appeal dismissed subject to protective investment and timely-assessment directions. Result: Revenue resisted release; the assessee received protective directions pending assessment. Costs: No order as to costs. Scope: Broader legality of converting assets to cash and retaining them left unadjudicated; no immediate refund or final interest award. Limit: The dismissal rests on the unchallenged section 132B order; the deadline and investment direction belong to this proceeding.

Source: [SCR 181 A-E, paragraphs 19-20](#)

05 AKHB REVIEW POINT

Identify and challenge the operative retention or application order, not only the original search warrant or expired restraint. Keep proof of service, the release application and each requested tax adjustment together. Where funds remain in departmental custody, seek a specific preservation arrangement and identify the governing assessment deadline. Do not cite the cash/bank distinction as a universal exemption of bank accounts from seizure or treat this judgment as resolving the parties' arguments about estimated liabilities.

Source: [SCR 181 A-E; procedural and protective implications](#)

SOURCE & VERIFICATION

Original reported Supreme Court judgment

14-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

Open cited source rendition

Paragraphs 4 and 6 contain inconsistent dates for expiry of restraint; this note does not reconstruct a corrected date. The operative order uses section 132B, despite varying 132(B) typography elsewhere.

These years identify the requested self-assessment and advance-tax adjustments, not a final assessment determination by the Supreme Court.

STATUTORY SCOPE

Income-tax Act, 1961.

Current statutory equivalence and Income-tax Act, 2025 applicability have not been verified. No automatic carry-over of this precedent is claimed.

LATER TREATMENT

Source checked 2026-10-06. In *Jaya Balajee Real Media Pvt. Ltd. v. Principal CIT*, W.P. No. 25470 of 2017 (High Court at Hyderabad, 11 October 2017), paragraphs 27–31 considered and distinguished K.C.C. Software: that court characterised it as concerning accounted-for balances, unlike the unaccounted funds before it. This is the later court's characterisation; K.C.C.'s own report records disputed disclosure. Judicial text checked in an Indian Kanoon HTML rendition; comprehensive later history remains unverified.

IDENTIFIED SOURCE LINKS

[Jaya Balajee Real Media Pvt. Ltd. v. Principal CIT \(2017-10-11\), nonofficial judicial-text reproduction](#)

Paragraphs 27–31; procedural context and ultimate disposal also read. Public judicial-text HTML mirror, no raw PDF hash or physical page-image review claimed.

AI DISCLOSURE

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