

Rajeshwar Tiwari and Others v. Nanda Kishore Roy

Criminal Appeal No. 779 of 2007

[2010] 10 SCR 444 | 2010-08-19

Salary TDS duties and quashing misuse of criminal process

Income-tax Act, 1961: sections 192, 199, 200, 203, 206, 271C, 276B and 276BB | Code of Criminal Procedure, 1973: section 482 | Indian Penal Code, 1860: sections 406 and 120B

Two-judge Bench; judgment delivered by P. Sathasivam, J. | P. Sathasivam, J. | B. S. Chauhan, J.

No ruling on the employee's tax quantum

The Court did not independently compute Nanda Kishore Roy's taxable salary or decide whether Rs 1,640 per month was the correct deduction. Its ruling addressed whether the complaint disclosed a criminal offence on the material presented.

No blanket immunity for TDS failures

The judgment records that failure to deduct or pay TDS may attract the Income-tax Act's own penalty and prosecution provisions. Quashing this complaint does not protect an employer that actually defaults under those provisions.

Historical statutory and procedural setting

The reproduced provisions and section 482 analysis belong to the 2003-2010 setting. Verify current text, evidence and later judicial treatment before applying the decision.

01 FACTS OF THE CASE

Nanda Kishore Roy, an employee of IISCO, complained that company officers had retaliated in a promotion dispute by deducting Rs 1,640 per month from his salary as income-tax even though, according to him, he was not taxable, and that the amount had not been deposited. He also alleged an improper cooperative-loan deduction and sought criminal process for breach of trust, forgery and conspiracy. The employer stated that salary TDS was deducted uniformly under section 192, deposited to the employees' credit under section 199, and supported by Roy's Form 16 for 1 April 2003 to 31 March 2004. Police inquiry reports described the dispute as civil, but the Magistrate issued summons under sections 406 and 120B IPC. The Calcutta High Court declined to quash the proceedings under section 482 CrPC.

Source: [Complaint, employer response and procedural history / PDF pp. 4-8](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court set out the employer's salary-TDS obligation under section 192, the duty to pay deducted tax under section 200, the former return obligation under section 206, the penalty under section 271C, and prosecution provisions in sections 276B and 276BB. It recorded the employer's assertion that the deduction was uniform, deposited to Roy's credit, and evidenced by Form 16 under section 203. Against that statutory framework and the police report, the complaint disclosed no criminal case; any grievance could be taken to the employer or income-tax authority. The Court then applied settled section 482 principles: criminal process may be quashed where essential offence ingredients are absent, the dispute is essentially civil, or prosecution would abuse the court's process.

Source: [Historical TDS provisions and section 482 analysis / PDF pp. 8-17](#)

03 JUDICIAL DECISION

The complaint and supporting material did not disclose a criminal offence. The Magistrate's conclusion that there was sufficient ground to proceed under sections 406 and 120B IPC was unexplained despite the police view that the dispute was civil. The High Court's one-line refusal to quash was also erroneous because it failed to engage with the relevant material and did not exercise section 482 jurisdiction to prevent abuse of process. The proper route for the employee's TDS grievance was through the employer or income-tax authority, not this criminal complaint.

Source: [Application to complaint and quashing conclusion / PDF pp. 12-18](#)

04 OUTCOME / IN WHOSE FAVOUR

The Supreme Court allowed the criminal appeal and quashed Case No. C/438 of 2003 pending before the trial court against the appellant officers.

Source: [Operative quashing order / PDF p. 18](#)

05 AKHB REVIEW POINT

AKHB analysis: an employer responding to a salary-TDS dispute should preserve the salary estimate, deduction calculation, deposit proof, employee ledger and Form 16, and should route any correction through the statutory tax mechanism. This decision supports quashing only where the pleaded facts and available material fail to disclose the alleged criminal offence; it should not be read as converting genuine non-deposit of TDS into a merely civil matter or as deciding the employee's ultimate tax liability.

Source: [Primary reasoning underlying AKHB analysis / PDF pp. 8-18](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

The complete 18-page report was read. The reporter's headnote runs through SCR 447 / PDF p. 4, followed by counsel and P. Sathasivam, J.'s judicial reasons from SCR 447 through SCR 461 / PDF pp. 4-18. The complaint allegations, police inquiry, reproduced historical statutory text, cited precedents and the Court's own findings were distinguished. No adjoining judgment is included.

[Open cited source rendition](#)

The downloaded 18-page source exactly matches catalogue SHA-256
0ee99b335b1c157b934214f649778668584566abe5bc48961ca29d5f2724ecd4.

All pages were read in contiguous, untruncated ranges PDF pp. 1-6, 7-12 and 13-18; the operative quashing order was read on PDF p. 18.

Published corpus and reviewed-release searches found no matching party identity, Criminal Appeal No. 779 of 2007, decision date or exact source hash. The reconciliation register listed no possible published match.

The Income-tax Act analysis is substantive to the Court's conclusion that the complaint disclosed no criminal offence; the report is therefore within the central income-tax collection despite the section 482 CrPC disposition.

The report contains one judgment only; quoted statutory text and cited section 482 precedents were not treated as separate holdings.

No current-law or comprehensive later-treatment conclusion has been inferred from the 2010 primary source.

STATUTORY SCOPE

The Court reproduced and applied the Income-tax Act provisions as they stood in the historical 2003-2010 setting. It did not independently calculate the employee's taxable salary or determine the exact TDS amount. Verify the applicable statutory version, payroll evidence and later treatment before relying on the decision today.

LATER TREATMENT

Source checked 2026-10-13. No comprehensive later-treatment or current-law check has been completed. The note reports the judgment and historical provisions as considered on 19 August 2010 and does not claim that the reproduced text or procedural treatment remains unchanged.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary source; independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.