

Director General of Income Tax (Admn.) & Anr. v. M/s. GTC Industries Ltd. & Anr.

Civil Appeal No. 5038 of 2016

[2016] 4 SCR 1010 | 2016-05-12

Whether Revenue could recover tax dues after the company ceased to be sick and its rehabilitation scheme expired, and whether the scheme's direction to consider waiver conclusively removed interest and penalty.

220(2)

Two-judge bench | A. K. Sikri, J. | R. K. Agrawal, J.

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

Historical recovery directions; interest and penalty remain reserved

This 2016 judgment permits recovery after expiry of SS-02, subject to secured-creditor rights, but does not finally decide waiver or payment of interest and penalty. Its limited BIFR clarification direction did not revive the scheme and must not be treated as a currently available procedural route without checking later law. No current-law, later-treatment or Income-tax Act, 2025 certification is supplied.

01 FACTS OF THE CASE

GTC Industries entered the SICA process in 1997. A rehabilitation scheme described as SS-02 contained tax-relief requests framed for consideration, including waiver of interest and penalty; its general terms restricted attachment during rehabilitation and suspended recovery of disputed liabilities. The revised rehabilitation period ran for eight years from 31 March 2003 to 31 March 2011. The company's net worth became positive on 31 March 2007 and BIFR discharged it on 29 June 2007, while directing implementation of outstanding provisions for the unexpired scheme period (paragraphs 2-8).

Revenue later demanded Rs. 761.35 crore and investigated proposed development of the company's properties. After the company sought protection, BIFR restrained coercive recovery on 9 April 2010; AAIFR upheld protection on 31 January 2011. Separately, BIFR refused to extend the rehabilitation scheme on 31 March 2011, AAIFR affirmed by majority in June 2011, and the company withdrew its challenge on 5 July 2011. Despite those later events, the Delhi High Court dismissed Revenue's pending writ on 16 August 2011 and directed it to seek lifting of the SICA bar from BIFR (paragraphs 9-18).

Before the Supreme Court, the Revenue's 2 May 2016 affidavit revised its claimed total to Rs. 652.45 crore: principal tax Rs. 81.66 crore, penalties Rs. 83.29 crore, and section 220(2) interest through 30 April 2016 of Rs. 487.50 crore. The company disputed the demand and asserted that the scheme required waiver of interest and penalty. The figures are the Revenue's claims; the entire total was not ordered unconditionally payable (paragraphs 25-32).

Source: [reported judgment / paragraphs 2-8; proposed terms and final scheme distinguished / PDF pages 3, 4, 5, 6, 7 / judicial text; reported judgment / paragraphs 9-18 / PDF pages 7, 8, 9, 10, 11 / judicial text; reported judgment / paragraphs 25-32 / PDF pages 14, 15 / judicial text](#)

02 DISCUSSION BY THE HON'BLE COURT

The High Court's assumption that a subsisting rehabilitation scheme still barred recovery was contrary to the record. The scheme expired on 31 March 2011; extension had been refused and that refusal had attained finality after withdrawal of the company's writ. The company had also ceased to be sick in 2007. Revenue could therefore recover arrears after 2007 and in any event after the scheme expired (paragraphs 19-20, 24).

The company could not convert AAIFR's observation about the permission it should previously have sought into present leave to modify the scheme. That observation explained the company's breach in dismantling the unit and pursuing property development without prior permission; it did not reopen an already lost opportunity. Its later modification application was not maintainable (paragraphs 21-24).

On quantum, the Court recorded Revenue's clarification that the demand excluded amounts it was still contesting in appeals and included only amounts payable under the Commissioner (Appeals) orders. It did not, however, decide the distinct waiver issue. The company's claim that the words to consider made waiver mandatory, and its cited High Court decisions, remained submissions. The Court allowed the parties to seek BIFR clarification limited to whether that clause was mandatory or recommendatory, with a two-month decision period and no revival of broader scheme proceedings (paragraphs 25-32).

Source: [reported judgment / paragraphs 19-24 / PDF pages 11, 12, 13 / judicial text; reported judgment / paragraphs 25-32 / PDF pages 14, 15, 16 / judicial text](#)

03 JUDICIAL DECISION

The Revenue appeal was allowed and disposed of on specified terms. The Income Tax Department could attach and sell company properties, including the Ville Parle land, under the Income-tax Act, subject to secured creditors' rights. Sale proceeds were to pay principal tax and admitted excise dues. Payment of interest and penalty was expressly dependent on the limited BIFR clarification; the Court did not finally adjudicate the waiver issue. No other proceedings, including scheme modification, were to be entertained by BIFR after the scheme's lapse. The developers' intervention plea was rejected because their agreements violated the scheme and conferred no enforceable right on that basis. No costs direction is stated (paragraphs 32-35).

Source: [reported judgment / paragraphs 32-35 / PDF pages 15, 16 / judicial text](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on recovery and cessation of scheme protection; interest and penalty waiver left undecided

Civil Appeal No. 5038/2016 allowed and disposed of on the specified recovery terms; developers' intervention plea rejected

Final on entitlement to proceed with recovery and lack of further scheme-modification jurisdiction; expressly not final on interest/penalty waiver or payment

Attachment and sale remain subject to secured creditors' rights. Principal tax and admitted excise dues may be paid from proceeds; interest and penalty depend on the limited clarification. Permission to seek that historical BIFR clarification is not an unrestricted remand or reopening of the rehabilitation scheme, and is not represented as a current procedural route.

Source: [reported judgment / paragraphs 20-24 / PDF pages 12, 13 / judicial text](#); [reported judgment / paragraphs 32-35 / PDF pages 15, 16 / judicial text](#)

05 AKHB REVIEW POINT

Distinguish the end of recovery protection from the amount and components presently recoverable. A demand affidavit, including its interest and penalty columns, is not an unconditional adjudication that the whole figure must be paid. The operative directions reserve waiver, protect secured creditors, and limit payment from sale proceeds accordingly. Read references to modification in their procedural context: an observation that prior approval should have been sought is not permission to revive an expired scheme. This is a historical SICA recovery decision; its BIFR direction and any later insolvency or recovery framework require separate current-law checking before practice use.

Source: [reported judgment / paragraphs 20-24, 27-33 / PDF pages 12, 13, 14, 15, 16 / judicial text](#)

DETAILED DISPOSITION AND CONNECTED GROUPS

Issue results

1.

Issue: Continued protection under the rehabilitation scheme

Result: Scheme expired on 31 March 2011 and extension had been finally refused; Revenue was entitled to recover its dues

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13

Paragraphs: 19-24

Source role: judicial text

2.

Issue: Attachment and sale of company property

Result: Permitted under the Income-tax Act, subject to secured-creditor rights; proceeds to pay principal tax and admitted excise dues

In whose favour: Revenue, subject to the stated creditor protections

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 16

Paragraphs: 33

Source role: judicial text

3.

Issue: Mandatory or recommendatory waiver of interest and penalty

Result: Expressly undecided; parties permitted to obtain BIFR clarification limited to that question, with decision within two months; payment depends on that decision

In whose favour: Reserved for limited clarification

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 15; 16

Paragraphs: 30-33

Source role: judicial text

4.

Issue: Further scheme modification or other BIFR proceedings

Result: Not maintainable after lapse; only the express waiver clarification remained permitted under this judgment

In whose favour: Revenue

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 12; 13

Paragraphs: 21-24

Source role: judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 15; 16

Paragraphs: 32

Source role: judicial text

5.

Issue: Developers' intervention claim based on the property agreements

Result: Rejected because agreements violating the rehabilitation scheme conferred no right on that basis

In whose favour: Against the interveners

Pinpoints

1.

Source url: [Open cited source](#)

Pdf pages: 16

Paragraphs: 34-35

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

41(1); 115JB; 43B; 72(3); 133A

OTHER GOVERNING STATUTES

1.

Act: Sick Industrial Companies (Special Provisions) Act, 1985

Sections: 3(1)(o); 15; 18(5); 18(9); 18(12); 19(2); 22(1)

Role: Historical rehabilitation, scheme modification and protection against recovery; sections 18(5) and 22 are central to the disputed continued protection.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

A. K. Sikri, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 16 PDF pages; SHA-256

c343d80cc1a5adbeddae149f5897e3878c0fccfee81a1e167cdb8f9ee5dbb179. Original bytes preserved.

Judicial paragraphs 1-35 begin on physical page 3 and end on page 16 (SCR 1012-1025), fully read. Pages 1-2 and the opening of page 3 contain editorial headnote, jurisdiction and appearances. No adjacent judgment.

Open cited source rendition

The judgment refers to demands for different assessment years but does not enumerate them. No year list is inferred from the rehabilitation dates or the demand figures.

The case is an income-tax recovery dispute governed substantially by the historical SICA rehabilitation scheme. Section 220(2) identifies the interest component in the Revenue affidavit; it is not construed as a general interest-charging rule. Sections 41(1), 115JB, 43B and 72(3) occur in proposed/sanctioned relief clauses, while section 133A concerns the survey. The Court authorises recovery under the Income-tax Act without identifying a particular attachment or sale section; none is invented here.

The preserved public-mirror eSCR rendition is the reviewed source. No separately retrieved signed original or newly live-validated public URL is claimed.; Paragraph 3 on physical page 4 gives both 16 February 2002 and 16 December 2002 for sanction of SS-02. These are visibly different dates in the source. The note uses the scheme name and year without inventing a corrected exact sanction date.; Paragraphs 16 and 23 on physical pages 10 and 13 print the AAIFR order date as 29 June 2001, whereas paragraph 14 places the appellate decision on 29/30 June 2011 in the 2011 extension litigation. The discrepancy was visually confirmed; the narrative identifies the June 2011 procedural sequence without silently rewriting the source quotations.; The editorial headnote's unqualified statement that the quantum demanded was correct must not be used to override paragraphs 32-33, which leave interest and penalty waiver and payment unresolved. The 2 May 2016 total is expressly a Revenue affidavit claim.; Paragraph 29 records an earlier claimed total of Rs. 635.96 crore with components Rs. 164.96 crore and Rs. 471.01 crore, which sum to Rs. 635.97 crore. The note does not harmonise this separate printed arithmetic discrepancy or substitute it for the later affidavit total.; The referenced CIMMCO and Tube Investments decisions are counsel's authorities on the reserved waiver issue. Their original texts and later treatment have not been independently checked.

One reported Supreme Court civil appeal by Revenue from Delhi High Court W.P.(C) No. 1875/2011, order dated 16 August 2011. Paragraph 1 grants leave, but the report gives no SLP number. The separate company writ W.P. No. 4614/2011 and the developers' intervention applications are part of the procedural history, not additional reported Supreme Court appeals.

STATUTORY SCOPE

Historical Income-tax Act, 1961 provisions and proceedings only. No automatic mapping to the Income-tax Act, 2025.

LATER TREATMENT

Source checked 2026-10-04. No later-treatment search or present-law audit was performed for this note. Authorities quoted or discussed within this judgment are distinguished from independently checked later treatment.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 16](#)

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