

M/s. Connectwell Industries Pvt. Ltd. v. Union of India Through Ministry of Finance & Ors.

Civil Appeal No. 1919 of 2010

Civil Appeal No. 1919 of 2010 (Supreme Court, 6 March 2020) | 2020-03-06

Whether the Income-tax Department could enforce its subsequent attachment against property sold through DRT recovery proceedings founded on a bank mortgage and charge created before the rule 2 tax-recovery notice.

Second Schedule, rule 2 | Second Schedule, rule 16(1) | Second Schedule, rule 16(2)

Two-judge bench | L. Nageswara Rao, J. | Deepak Gupta, J.

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

01 FACTS OF THE CASE

Biowin Pharma India Ltd. (BPIL) had mortgaged Plot D-11, measuring 1,000 square metres in Phase III of Dombivli Industrial Area, MIDC, Kalyan, together with its building, plant and machinery, to Union Bank of India in 2000. The DRT made a recovery order in 2002; paragraph 2 records a recovery amount of Rs 4,76,14,943.20 with 17.34% annual interest. The DRT Recovery Officer attached the property on 29 November 2002. A rule 2 income-tax notice followed on 11 February 2003, and the Tax Recovery Officer attached the property under rule 48 on 17 June 2003. These notice and attachment dates are repeatedly stated in the judgment; the source discrepancies noted below are not silently resolved.

The DRT Recovery Officer issued a sale proclamation on 19 August 2004. Paragraph 2 records a public auction on 28 September 2004, acceptance of Connectwell's sole offer of Rs 23 lakh, a sale certificate dated 14 January 2005, delivery of possession on 25 January 2005, and registration of the certificate on 10 January 2006. Paragraph 4, when reporting the High Court's reasoning, instead describes the sale as occurring on 9 December 2004. The judgment does not explain the relationship between those two dates.

After MIDC received the Tax Recovery Officer's letter of 23 March 2006 about the tax attachment, Connectwell sought transfer of the plot and a no-objection certificate. The Bombay High Court dismissed its writ petition, reasoning that the sale followed the rule 2 notice and rule 48 attachment and was void under rule 16. Connectwell appealed, relying on the bank's earlier secured charge and the DRT recovery process. The Revenue maintained that the subsequent sale was subject to the tax attachment. Connectwell was the auction purchaser, not the tax defaulter whose assessment was under review.

Source: [official original judgment / paragraphs 1-4 / PDF pages 1, 2, 3, 4, 5 / judgment](#); [official original judgment / paragraphs 5-6 / PDF pages 5, 6, 7 / party submissions](#); [official original judgment / paragraphs 10 / PDF pages 10, 11 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court stated the qualified priority rule: a secured creditor's dues take preference over Crown debts unless a statute gives the Crown debt priority. It cited Dena Bank, Sicom, Bombay Stock Exchange and Monnet Ispat for that proposition. The qualification concerning statutory preference is important; the judgment is not an unconditional rule that every secured debt overrides every government claim (paragraph 8).

The Court examined rules 2 and 16 of the Second Schedule. Rule 2 provides for the recovery notice. Rule 16(1) restricts the defaulter or representative in interest from dealing with property without the Tax Recovery Officer's permission after service of that notice and restricts civil-court execution process. Rule 16(2) addresses private transfers or delivery after attachment, rendering them void against claims enforceable under the attachment (paragraphs 7 and 9).

The decisive chronology was the prior mortgage in 2000, the DRT recovery order and attachment in 2002, and the later income-tax recovery steps in 2003. Although the actual DRT sale occurred after the tax notice and attachment, the High Court had failed to account for the pre-existing charge under which that sale proceeded. The Court accepted the purchaser's case because the charge over the property preceded the rule 2 notice (paragraph 10). The reasoning is tied to that earlier charge and DRT sale; it does not authorize a defaulter to defeat tax recovery by creating a fresh private charge after notice.

Source: [official original judgment / paragraphs 7-9 / PDF pages 7, 8, 9 / judgment](#); [official original judgment / paragraphs 10 / PDF pages 10, 11 / judgment](#)

03 JUDICIAL DECISION

The appeal was allowed and the Bombay High Court judgment was set aside. MIDC was directed to issue a no-objection certificate to Connectwell. The Tax Recovery Officer, respondent 4, was restrained from enforcing the attachment order dated 17 June 2003. The Court did not extinguish BPIL's tax or penalty liability, decide its assessment merits, or give a general discharge of all possible encumbrances. There was no remand; the operative paragraph contains no separate costs direction.

Source: [official original judgment / paragraphs 11 / PDF pages 11 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Connectwell, the DRT auction purchaser, against enforcement of the Income-tax Department's attachment

Purchaser's appeal allowed; High Court judgment set aside; MIDC directed to issue NOC; TRO restrained from enforcing the 17 June 2003 attachment

Priority and attachment-enforcement dispute decided on merits; underlying tax assessment and quantum not decided

Prior secured charge and sale through DRT recovery are central. The Court did not decide that all government dues lack priority, cancel the tax arrears themselves or validate every transfer after a rule 2 notice.

Source: [official original judgment / paragraphs 10-11 / PDF pages 10, 11 / judgment](#)

05 AKHB REVIEW POINT

Build a document-backed chronology before advising on a recovery sale: mortgage or charge creation, its legal validity and priority, recovery order and certificate, DRT attachment, rule 2 notice and service, tax attachment, sale proceedings, sale certificate, possession and registration. A sale date after the tax attachment does not by itself answer the priority question where the sale enforces an earlier secured charge. Conversely, do not generalize this decision to a new post-notice mortgage or private transfer, or overlook an applicable statute that expressly gives priority. Verify the underlying records where dates matter: this judgment contains inconsistent notice, sale and certificate references. The supported holding is the priority of the antecedent charge on these facts and the specific restraint against the 17 June 2003 attachment, not a current title certificate. Check later treatment and the governing statutory version; no automatic mapping to the Income-tax Act, 2025 is made.

Source: [official original judgment / paragraphs 2-6; 8-11 / PDF pages 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Second Schedule, rule 48

PROVISION-SPECIFIC SCOPE

1.

Provision: Second Schedule, rule 2

Role: Notice requiring payment of arrears within fifteen days of service, with recovery steps in default; paragraphs 7 and 9

2.

Provision: Second Schedule, rule 16(1)

Role: Restriction after service of rule 2 notice on the defaulter or representative dealing with property without TRO permission, and on civil-court execution process; paragraphs 7 and 9

3.

Provision: Second Schedule, rule 16(2)

Role: Effect of attachment on private transfers or delivery; paragraph 9 and application in paragraph 10

4.

Provision: Second Schedule, rule 48

Role: Income-tax attachment of immovable property dated 17 June 2003, in the procedural history and Revenue submission; paragraphs 4 and 6

PROPERTY AND CHARGE CHRONOLOGY

1.

Event: Mortgage to Union Bank of India

Date: 2000

Source paragraphs: 5 (submission), 10 (Court finding)

Pdf pages: 5; 10

Note: No exact creation date is stated; not invented

2.

Event: DRT recovery order and certificate

Date: 2002

Source paragraphs: 5 (submission), 10 (Court finding)

Pdf pages: 5; 10

Note: No exact order/certificate date is stated

3.

Event: DRT Recovery Officer attachment

Date: 2002-11-29

Source paragraphs: 2, 5

Pdf pages: 2; 5

4.

Event: Rule 2 income-tax notice

Date: 2003-02-11

Source paragraphs: 4, 5, 6 and concluding portion of 10

Pdf pages: 4; 5; 6; 11

Note: Paragraph 10 on page 10 also prints 16 November 2003; inconsistency is unresolved

5.

Event: Rule 48 tax attachment

Date: 2003-06-17

Source paragraphs: 3, 4, 6, 11

Pdf pages: 3; 5; 6; 7; 11

Note: Paragraph 3 also uses 11 February 2003 as an attachment date; the actual order restrained in paragraph 11 is 17 June 2003

6.

Event: DRT sale proclamation

Date: 2004-08-19

Source paragraphs: 2

Pdf pages: 2

7.

Event: Public auction

Date: 2004-09-28

Source paragraphs: 2

Pdf pages: 3

Note: Paragraph 4 reports the High Court's sale date as 9 December 2004; the relationship between the dates is not explained

8.

Event: Sale certificate issued

Date: 2005-01-14

Source paragraphs: 2 and 4

Pdf pages: 3; 5

Note: Paragraph 3 refers instead to a certificate issued on 25 January 2005

9.

Event: Possession delivered

Date: 2005-01-25

Source paragraphs: 2

Pdf pages: 3

10.

Event: Sale certificate registered

Date: 2006-01-10

Source paragraphs: 2

Pdf pages: 3

11.

Event: TRO letter to MIDC concerning attachment

Date: 2006-03-23

Source paragraphs: 3

Pdf pages: 3

12.

Event: Purchaser request to MIDC for transfer

Date: 2006-04-10

Source paragraphs: 3

Pdf pages: 3

SOURCE & VERIFICATION

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

Identified source rendition: 11 PDF pages; SHA-256
6947e909f037dde43115c4728cb9836c6e0aa232c31df2862c25c1b7816f5684. Original bytes preserved.

[Open cited source rendition](#)

Paragraph 10 prints the rule 2 notice date as 16 November 2003 on page 10, then refers to 11 February 2003 on page 11; paragraphs 4-6 also give 11 February 2003. Both readings were visually verified. No corrected date is asserted as an independent historical finding.

Paragraph 3 first states tax attachment on 17 June 2003 but later calls 11 February 2003 the attachment date. Paragraphs 4, 6 and the operative paragraph 11 identify 17 June 2003; relief is tied to that expressly specified order.

Paragraph 2 records an auction on 28 September 2004. Paragraph 4's report of the High Court reasoning gives sale on 9 December 2004. The judgment does not identify a confirmation event reconciling those dates; none is invented.

Paragraphs 2 and 4 give the sale certificate date as 14 January 2005, whereas paragraph 3 refers to issuance on 25 January 2005. Paragraph 2 separately identifies 25 January 2005 as delivery of possession.

Paragraph 2 labels both BPIL and Union Bank as respondent 5. The note uses their distinct substantive roles rather than asserting a corrected respondent number.

The quoted statutory passage in paragraph 7 reproduces rule 2 and rule 16(1), while rule 16(2) is described in paragraph 9. The latter is not falsely presented as part of that verbatim statutory quotation.

No AY, tax-demand quantum, exact mortgage-creation day, exact DRT order date, High Court judgment date or reporter citation is invented.

The purchaser's success is not labelled a tax-assessment win for the defaulting borrower; tax liability itself was not adjudicated.

Official original is marked Non-Reportable. No reporter or neutral citation is printed in it or independently verified for this note; the verified case number and date are used as the reference.

The judgment identifies income-tax and consequential penalty arrears but gives no assessment year, demand amount or assessment-merits issue. None is inferred.

STATUTORY SCOPE

Second Schedule rules 2, 16 and 48 in the historical recovery dispute as examined by the judgment; no independent current-statute audit

No automatic mapping to the Income-tax Act, 2025, later secured-creditor priority provisions or any subsequent insolvency/recovery regime.

LATER TREATMENT

Source checked 2026-10-04. Subsequent review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[official original judgment - PDF pages: 11](#)

SHA-256: 6947e909f037dde43115c4728cb9836c6e0aa232c31df2862c25c1b7816f5684

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.