

M/s. R.S. Infra-Transmission Ltd. v. Saurinindubhai Patel and Ors.

Civil Appeal No. 3469 of 2022

[2022] 6 S.C.R. 930 | 2022-07-11

Whether an auction sale in DRT bank-recovery proceedings could remain set aside under Second Schedule rule 60 where the borrowers applied and deposited the proclaimed amount, the 5% purchaser payment and stated interest within 30 days, but cured an interest shortfall after that period because the Recovery Officer had inaccurately specified the recoverable amount and the Bank supplied its calculation sheet late.

Second Schedule, rule 60

Two-judge bench | M. R. Shah, J. | B. V. Nagarathna, J.

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

01 FACTS OF THE CASE

IndusInd Bank held a DRT recovery certificate for Rs 71,88,819.87, with 12% annual interest from 27 December 1999 until realization and recovery costs and expenses. Two immovable properties at Mauje Karan Nagar, Tehsil Kadi, District Mehsana were attached. A proclamation issued on 28 November 2006 fixed the auction for 8 January 2007 and stated dues of Rs 1,27,30,527, including interest as at 30 June 2006. Respondent Nos. 1 and 2 made the successful bid of Rs 1.35 crore and deposited it on 22 January 2007.

On 25 January 2007, within the 30-day period discussed in the judgment, the borrowers applied under rule 60 of the Second Schedule to the Income-tax Act, 1961, read with sections 25 to 29 of the bank-recovery Act. They deposited Rs 1,27,30,527, Rs 6,75,000 representing 5% of the purchase money for the auction purchasers, and Rs 3,01,290 described as 15% interest from the sale proclamation to the deposit date. These are the judgment's recorded figures, not a fresh computation. The Bank's 6 February reply asserted a shortfall. In the chronology adopted in paragraph 6.2, the borrower had deposited a further Rs 2.80 lakh by the 9 February hearing; the Bank supplied its calculation sheet on 12 February; and the remaining Rs 77,647 was paid on 13 February. The two top-ups, totalling Rs 3,57,647, came after the 30-day period.

The Recovery Officer allowed the application and set aside the auction on 15 February 2007. The Bank returned the original property documents on 19 February and obtained release of the deposited amount. On the same day, the borrowers executed two sale deeds in favour of R.S. Infra-Transmission for Rs 1,40,89,855. That appellant was the subsequent private purchaser, distinct from the auction purchasers.

The auction purchasers successfully challenged the Recovery Officer's order before DRT on 18 May 2007. DRAT allowed the borrowers' Appeal 223/2007 on 7 September 2015 and again set aside the auction. The Gujarat High Court reversed DRAT on 22 December 2015 and consequently confirmed the auction sale, treating the short deposit as non-compliance with rule 60. R.S. Infra appealed to the Supreme Court. The narrative also records unsuccessful status-quo/receiver proceedings before the Recovery Officer and DRT, a further DRAT Appeal 43/2008, and cross-objections about redemption. The Supreme Court's operative order does not separately determine those collateral proceedings.

Source: [official court hosted report / paragraphs 2.1-2.6 / PDF pages 6, 7, 8 / judgment](#); [official court hosted report / paragraphs 2.7-2.12 / PDF pages 8, 9 / judgment](#); [official court hosted report / paragraphs 6.1-6.2; 6.5 / PDF pages 15, 16, 17, 18 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the Recovery Officer had to specify the correct recoverable amount. The proclaimed figure included interest only up to 30 June 2006, and the Officer's omission or inaccuracy caused the later interest shortfall. The borrower had already deposited the substantial proclaimed amount, the 5% purchaser payment and the stated interest. The Court regarded the remaining Rs 3,57,647 as small relative to those deposits and found no reason for deliberate withholding (paragraph 6.1).

The Bank did not supply the calculation sheet in time for the borrower to meet the identified balance within the initial 30 days. Paragraph 6.2 records the additional Rs 2.80 lakh, the sheet supplied on 12 February 2007 and payment of Rs 77,647 the next day. The Court reasoned that, had the Bank supplied the sheet with its 6 February reply, identified as the twenty-ninth day from auction, the balance could have been deposited in time. On these facts, it found substantial compliance/compliance with rule 60. This is not a finding that all deposits were made within 30 days or a general dispensation from that requirement.

Rule 60 gives a judgment debtor an important final opportunity to preserve property after a court auction. The Court considered *Hotel Paras Garden, Balapur v. Central Bank of India*, 2015 SCC Online Bom 3398, on that legislative purpose: depositing the stipulated amounts within the prescribed time permits the defaulter to avoid the auction without assigning a cause. It held that this protection should not be defeated on technical grounds or by an innocent mistake attributable to the recovery process rather than the debtor (paragraphs 6.3-6.4).

The auction purchasers also argued that Rs 4.63 lakh had been outstanding, leaving a residual deficiency even after the top-ups. The Court rejected that argument because the Bank had returned the property documents, sought and received appropriation of the deposited decretal amount, and raised no further shortfall then (paragraph 6.5). The High Court's approach failed to account for the Officer's mistake, the borrower's prompt cure and the protective purpose of rule 60 (paragraph 7). The appellant's broader submissions about an indefeasible subsequent-purchaser title, SARFAESI section 13(8) and Article 300A were not adopted as separate holdings.

Source: [official court hosted report / paragraphs 6-6.2 / PDF pages 15, 16, 17 / judgment](#); [official court hosted report / paragraphs 6.3-6.5; 7 / PDF pages 17, 18 / judgment](#); [official court hosted report / paragraphs 3.9; 3.15; 4.1-4.3 / PDF pages 11, 12, 13, 14, 15 / party submissions](#)

03 JUDICIAL DECISION

The Supreme Court allowed R.S. Infra-Transmission's appeal, set aside the Gujarat High Court judgment and restored DRAT's order of 7 September 2015 setting aside the auction of 8 January 2007. The auction purchasers' deposited amount was to be returned with accrued interest if not already received. In addition, the appellant was directed to pay Rs 10,00,000 to respondent Nos. 1 and 2 by demand draft within four weeks of the judgment. There was no order as to costs and no remand.

Source: [official court hosted report / paragraphs 8 / PDF pages 18 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Appellant subsequent purchaser and borrowers on setting aside the auction; auction purchasers received refund protection and an additional payment direction

Appeal allowed; High Court auction-confirmation judgment set aside; DRAT order setting aside the auction restored; refund with accrued interest and Rs 10 lakh additional payment directed; no costs

Rule 60 compliance issue decided on merits in a bank-recovery setting

The decision does not adjudicate income-tax assessment or arrears, lay down a general extension of the 30-day deposit period, or independently decide when redemption ends under SARFAESI section 13(8). The additional Rs 10 lakh was case-specific relief to do substantial justice, not a replacement for the statutory 5% deposit.

Source: [official court hosted report / paragraphs 7-8 / PDF pages 18 / judgment](#)

05 AKHB REVIEW POINT

Use this as a fact-sensitive borrowed-rule authority. Keep the borrower, bank, auction purchaser and later private purchaser distinct, and compile the proclamation, auction date, application, initial deposits, calculation requests, calculation sheet, top-up payments and Bank's acceptance of the decretal amount. The initial deposit of the proclaimed sum, stated interest and 5% purchaser payment, coupled with an officer-caused error and immediate cure on receiving the calculation, drove the result. It is unsafe to cite the decision as permission to make any short deposit and complete it whenever convenient. Separate the 5% statutory purchaser payment from the later Rs 10 lakh judicial direction. The judgment contains inconsistent date and document labels; verify the underlying recovery record before reproducing an interest calculation or asserting a precise sale-confirmation chronology. Do not turn the appellant's redemption submissions into a SARFAESI holding. Check the historical statutory text and later treatment before reliance; no automatic mapping or precedent carryover to the Income-tax Act, 2025 is made.

Source: [official court hosted report / paragraphs 2.3-2.6; 3.9; 3.15; 6.1-8 / PDF pages 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Second Schedule, rule 53

OTHER PROVISIONS CONSIDERED

1.

Act: Recovery of Debts due to Banks and Financial Institutions Act, 1993

Provisions: 25; 26; 27; 28; 29

Role: Recovery machinery; paragraph 2.4 identifies the rule 60 application as made read with sections 25 to 29. The judgment does not separately interpret each section.

2.

Act: Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

Provisions: 13(8)

Role: Appellant's redemption submission in paragraph 3.15, not a separately decided statutory holding.

3.

Act: Constitution of India

Provisions: Article 300A

Role: Appellant's property-right submission in paragraph 3.15, not a separate constitutional adjudication.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

M. R. Shah, J.

PARTY ROLES IN THESE PROCEEDINGS

1.

Party: M/s. R.S. Infra-Transmission Ltd.

Role: Supreme Court appellant; subsequent private purchaser from the borrowers after the Recovery Officer set aside the auction; described as respondent No. 5 in the High Court proceedings.

2.

Party: Respondent Nos. 1 and 2, including the named respondent Saurinindubhai Patel

Role: Successful auction purchasers; original High Court writ petitioners opposing the setting aside of their auction purchase.

3.

Party: Original borrowers / judgment debtors

Role: Owners whose properties were attached; applicants under rule 60 and later vendors to the appellant. The narrative uses respondent numbers across different procedural stages; these persons are not equated with the appellant merely because a number repeats.

4.

Party: IndusInd Bank Ltd.

Role: Lending bank and recovery-certificate holder; accepted appropriation of the deposited decretal amount and returned property documents. No Income-tax Department assessment or Revenue appeal is involved.

ROLE OF EACH CITED PROVISION

1.

Provision: Income-tax Act, 1961, Second Schedule rule 60

Role: Decisive borrowed recovery rule: application to set aside sale on prescribed deposits; substantial compliance decided on the particular facts in paragraphs 6-8.

2.

Provision: Income-tax Act, 1961, Second Schedule rule 53

Role: Cited in the appellant's submission on accurate sale-proclamation particulars, paragraph 3.9. The Court placed responsibility for accurate specification on the Recovery Officer in paragraphs 6.1-6.2 without separately construing rule 53.

SCOPE OF THE INCOME-TAX ACT ISSUE

substantive borrowed 1961 provision in bank recovery

PRIMARY GOVERNING LEGISLATION

Recovery of Debts due to Banks and Financial Institutions Act, 1993

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 18 PDF pages; SHA-256

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Borrowed-provision case: the underlying debt was owed to IndusInd Bank. There is no assessment year, tax assessment, or income-tax Revenue party.

One continuous judgment, paragraphs 1-8 with subparagraphs, begins on physical page 5 and ends on page 18. Headnotes and counsel submissions have not been substituted for the Court's own reasoning.

Paragraph 2.3 dates the proclamation to 28 November 2006 and the auction to 8 January 2007.

Paragraph 6.1 calls 8 January the sale-proclamation date and alternates between sale certificate and sale proclamation. The note preserves the initial chronology and flags the later labels instead of inferring a separate sale-certificate event or recomputing interest.

Paragraph 2.6 links the Rs 2.80 lakh payment to an order dated 15 February 2007 despite mentioning the calculation sheet on 12 February. Paragraphs 3.2, 3.10 and 6.2 instead place that payment at or before the 9 February hearing and the Rs 77,647 payment on 13 February. The Court's express chronology in paragraph 6.2 is used.

Paragraph 2.7 once prints DRAT Appeal 233/2007; the rest of the material, including paragraphs 1 and 2.10-2.11, identifies Appeal 223/2007. This apparent slip is disclosed.

Paragraph 2.1 refers to O.A. 424/1999 as filed on 25 May 2006. The note does not adopt an unverified filing chronology or silently replace the stated date.

Respondent numbering shifts across procedural stages. The appellant subsequent purchaser is not treated as an original borrower; the role descriptions control.

Rs 6,75,000 equals 5% of the auction price of Rs 1.35 crore. The later top-ups equal Rs 3,57,647.

Paragraph 6.5 also contains the misspelled form Rs 3,5,7647, but immediately gives the two components. The Court rejected the auction purchasers' asserted residual shortfall based on the Bank's acceptance; the note does not independently certify the entire interest ledger.

The initial application and specified deposits were within 30 days; top-ups on or by 9 February and on 13 February were later. Substantial compliance was fact-specific, not a finding of full timely payment or a generally enlarged deadline.

The High Court had confirmed the auction sale; the Supreme Court set that judgment aside and restored the DRAT order setting the auction aside. A generic statement that the Supreme Court upheld the sale would confuse the auction purchase with the later private purchase.

Hotel Paras Garden is discussed in the Court's reasoning. Gajadhar Prasad, National Rice and General Mills, Hari Chand Shri Gopal and Ajith Kumar appear in appellant submissions and are not represented as independently adopted holdings.

The auction-purchaser refund, accrued interest, separate Rs 10 lakh direction payable by the appellant within four weeks, and no-costs order have all been retained. No remand or numerical recomputation was ordered.

The source index's neutral citation is not printed in the inspected judgment PDF and is not included as an independently verified citation. The downloaded Gujarat High Court report is byte-identical to the supplied PDF.

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No assessment year arises. This is a bank-debt recovery and auction dispute, not an income-tax assessment or a proceeding to recover income-tax arrears.

The Supreme Court appeal number is consistent on the cover and jurisdictional preface. The impugned case was Gujarat High Court Special Civil Application No. 17981 of 2015, decided on 22 December 2015. Paragraph 2.7 once prints the borrowers' DRAT appeal as 233/2007, whereas paragraphs 1, 2.7-2.11 otherwise identify it as 223/2007. The latter is used here with the inconsistency disclosed.

Included because the Court substantively applied rule 60 of the Second Schedule to the Income-tax Act, 1961 in DRT bank-recovery proceedings under the 1993 Act. It is a borrowed-provision authority and must not be presented as a direct income-tax assessment holding.

STATUTORY SCOPE

Rule 60 as applied by the Court to the 2007 DRT bank-recovery auction and deposits; no independent consolidated current-statute audit

No automatic mapping to the Income-tax Act, 2025 or certification of later bank-recovery or SARFAESI law.

LATER TREATMENT

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

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 / SCR page 930 - PDF pages: 18](#)

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