
(1993) 01 P&H CK 0048
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2734 of 1992

Harmel Singh and Another	Vs	APPELLANT
Union of India (UOI) and Others		RESPONDENT

Date of Decision : 29-01-1993

Acts Referred:

Income Tax Act, 1961 — Section 132

Citation : (1993) 112 CTR 1 : (1993) 204 ITR 334

Hon'ble Judges : K.P. Bhandari, J

Bench : Single Bench

Advocate : H.L. Sibal and R.S. Rai, for the Appellant; R.P. Sahney, for the Respondent

Judgement

K.P. Bhandari, J.—This judgment will dispose of Civil Writ Petitions Nos. 2734, 2743, 2736 and 2735 of 1992 because all these writ petitions arise out of the same action of the Income Tax authorities.

2. Action has been taken against the petitioners on the basis of a complaint received by the Assistant Director of Income Tax. On the basis of the complaint, the Assistant Director of Income Tax (Inv.), Ludhiana, recorded a note dated January 20, 1992, suggesting that action u/s 132 of the Income Tax Act, 1961 (for short, "the Act"), may be taken. This note was put up before the Deputy Director of Income Tax (Inv.), Chandigarh, who on January 21, 1992, agreed with the note of the Assistant Director of Income Tax suggesting action u/s 132 of the Act and forwarded it to the Director of Income Tax. Thereupon, the Director of Income Tax agreed with it and passed the necessary orders on January 24, 1992, and warrants of authorisation were issued u/s 132 of the Act.

3. The primary challenge in the writ petition to the action taken u/s 132 of the Act is based on the ground that there was no material before the concerned authority for taking action u/s 132 of the Act. The action of the respondents u/s 132 of the Act is wholly arbitrary, unreasonable and capricious. The respondents have filed written statement and have justified the action taken by them.

4. Mr. H.L. Sibal, senior advocate, for the petitioners, submitted that there was no material before the competent authority for taking action u/s 132 of the Act. He further submitted that the tankers which were alleged to be the property of the petitioner were lying usually parked at the petrol pump. These were not concealed goods. For this reason, no action u/s 132 of the Act is called for for taking the tankers in possession. He also submitted that the action of the respondent authority being contrary to the provisions of Section 132 of the Act is arbitrary, unreasonable and capricious and is, therefore, violative of Article 14 of the Constitution.

5. Mr. R.P. Sawhney, standing counsel for the Board of Revenue, contended that the action of the respondents is in conformity with the power conferred on the Department u/s 132 of the Act. Mr. R.P. Sawhney strongly contended that in order to determine the legality and validity of the action taken by the respondents against the petitioners, the court cannot go into the question of sufficiency of the material before the authority.

6. In order to determine the legality and validity of the action taken in the present case, it is necessary to consider the provisions of Section 132 of the Act. The provisions of Section 132 of the Act read as under :

"132. Search and seizure.--(I) Where the Director-General or Director or the Chief Commissioner or Commissioner or any such Deputy Director or Deputy Commissioner as may be empowered in this behalf by the Board, in consequence of information in his possession, has reason to believe that-

(a) any person to whom a summons under Sub-section (1) of Section 37 of the Indian Income Tax Act, 1922 (11 of 1922), or under Sub-section (1) of Section 131 of this Act, or a notice under Sub-section (4) of Section 22 of the Indian Income Tax Act, 1922, or under sub-section (1) of Section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account, or other documents as required by such summons or notice, or

(b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income Tax Act, 1922 (11 of 1922), or under this Act, or

(c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income Tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

then -

(A) The Director-General or Director or the Chief Commissioner or Commissioner, as the case may be, may authorise any Deputy Director, Deputy Commissioner, Assistant Director, Assistant Commissioner or Income Tax Officer, or

(B) such Deputy Director or Deputy Commissioner, as the case may be, may authorise any Assistant Director, Assistant Commissioner or Income Tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to-

(i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by Clause (i) where the keys thereof are not available;

(iia) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

(iii) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(iv) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(v) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing."

7. The scope of Section 132 of the Income Tax Act came up for consideration before the Supreme Court in *Income Tax Officer, Special Investigation Circle-B, Meerut Vs. Seth Brothers and Others etc.*, . The Supreme Court observed as follows (at page 843) :

"The section does not confer any arbitrary authority upon the Revenue Officers. The Commissioner or Director of Inspection must have, in consequence of information, reason to believe that the statutory conditions for the exercise of the power to order search exist. He must record reasons for the belief and he must issue an authorisation in favour of a designated officer to search the premises and exercise the powers set out therein. The condition for entry into and making search of any building or place is the reason to believe that any books of account or other documents which will be useful for, or relevant to, any proceeding under the Act may be found. If the officer has reason to believe that any books of account or other documents would be useful for, or relevant to, any proceedings under the Act, he is authorised by law to seize those books of account or other documents and to place marks of identification therein, to make

extracts or copies therefrom and also to make a note or an inventory of any articles or other things found in the course of the search. Since by the exercise of the power a serious invasion is made upon the rights, privacy and freedom of the taxpayer, the power must be exercised strictly in accordance with the law and only for the purposes for which the law authorises it to be exercised. If the action of the officer issuing the authorisation or of the designated officer is challenged, the officer concerned must satisfy the court about the regularity of his action. If the action is maliciously taken or power under the section is exercised for a collateral purpose, it is liable to be struck down by the court. If the conditions for exercise of the power are not satisfied, the proceeding is liable to be quashed. But where power is exercised bona fide, and in furtherance of the statutory duties of the tax officers, any error of judgment on the part of the officers will not vitiate the exercise of the power. Where the Commissioner entertains the requisite belief and for reasons recorded by him authorises a designated officer to enter and search premises for books of account and documents relevant to or useful for any proceeding under the Act, the court in a petition by an aggrieved person cannot be asked to substitute its own opinion whether an order authorising search should have been issued. Again, any irregularity in the course of entry, search and seizure committed by the officer acting in pursuance of the authorisation will not be sufficient to vitiate the action taken, provided the officer has in executing the authorisation acted bona fide."

8. Although earlier it was necessary that the authorities concerned should not only have reason to believe but such reason should also be recorded in writing, after the amendment in 1975 of Rule 112, it is no longer necessary to record the reason. That rule "after recording his reasons for doing so" has been omitted but the obligation is still there u/s 132 that in consequence of information in his possession he had reason to believe, then the concerned authorities may cause search and seizure to be made. The concerned authority, since that amendment, need not record the reason under new Rule 112 and Form No. 45, provided he had information in his possession in consequence whereof he had reason to believe that the search and seizure was necessary.

9. The scope of Section 132 of the Income Tax Act also came up for consideration before the Mysore High Court in the case of C. Venkata Reddy and Another Vs. Income Tax Officer (Central) I, Bangalore and Others, . The Bench expounded the scope of the section in the following words (at page 238) :

"The use of the words, "has reason to believe" on the basis of information in his possession excludes the possibility of any unreasonable exercise of the power. The basis for the exercise of the power, it should be noticed, is not mere suspicion but a reasonable belief upon information already in possession of the appropriate officer. It would also, in our opinion, postulate that information in the possession of the officer is not a mere canard or an unverified piece of gossip but information which, in the circumstances, may be regarded as fairly reliable, because no belief can ever be said to flow reasonably from anything but

information which may be regarded as fairly reliable. Hence, the careful selection of these words by the statute and the drastic nature of the powers necessarily point to a judicial application of the mind to some substantial material by the officer acting with a sense of responsibility."

10. Therefore, the existence of tangible material, for formation of the opinion is a prerequisite.

11. In *BALWANT SINGH AND OTHERS Vs. R. D. SHAH, DIRECTOR OF INSPECTION, Income Tax, NEW DELHI, AND OTHERS.*, a Division Bench of the Delhi High Court held that the High Court could not test the adequacy of the grounds leading to the satisfaction which was recorded u/s 132 of the Act. It was, however, observed that the Director of Inspection or the Commissioner ought not to lightly or arbitrarily invade the privacy of a subject. If the grounds on which the belief is founded are non-existent or are irrelevant or are such on which no reasonable person can come to that belief, the exercise of the power would be bad, but short of that, the court cannot interfere with the belief bona fide arrived at by the Director of Inspection. It is, however, for the court to examine whether the reasons for the belief have a rational connection or a relevant bearing to the formation of the belief. A search warrant, it was further observed, could not be issued merely with a view to making a roving or fishing enquiry, but could be issued only when there existed a good ground for believing that further proceedings may have to be taken.

12. The Division Bench of the Punjab and Haryana High Court considered the scope of the aforesaid provision of the Act in *H.L. Sibal Vs. Commissioner of Income Tax and Others*, and observed as follows (at page 138);

"The applicability of Section 165, Criminal Procedure Code, to the searches made u/s 132(1) give an indication that this section is intended to apply in limited circumstances to persons of a particular bent of mind, who are either not expected to co-operate with the authorities for the production of the relevant books or who are in possession of undisclosed money, bullion and jewellery, etc. Take for instance, a particular assessee who has utilised his undisclosed income in constructing a spacious building. His premises cannot be subjected to a search under this section on this score alone. A search would be authorised only if information is given to the Commissioner of Income Tax that such a person is keeping money, bullion, jewellery, etc., in this building or elsewhere; Further, if an assessee has been regularly producing his books of account before the assessing authorities who have been accepting these books as having been maintained in the proper course of business, it would be somewhat unjustified use of power on the part of the Commissioner of Income Tax to issue a search warrant for the production of these books of account unless of course, there is information to the effect that he has been keeping some secret account books also. He has to arrive at a decision in the background of the mental makeup of an individual or individuals jointly interested in a transaction or a venture. A blanket condemnation of persons of diverse activities unconnected with each

other on the odd chance that if their premises are searched some incriminating material might be found is wholly outside the scope of Section 165, Criminal Procedure Code. This power has to be exercised in an honest manner and search warrants cannot be indiscriminately issued purely as a matter of policy."

13. The Allahabad High Court considered the matter in *Dr. Nand Lal Tahiliani Vs. Commissioner of Income Tax and Others*, . A search was conducted, pursuant to an authorisation u/s 152 of the Act, in the premises of the petitioner who was an eminent surgeon and a Professor of Surgery in the Allahabad Medical College. In this case, the court referred to the extract of the report which had resulted in the raid and formed the foundation for the action. The report had said that Mr. Tahiliani was a leading surgeon of the town and was known for his roaring practice and also for his high rate of fees for operation. It was further alleged that he stayed in a posh house owned by him and that the allegation appeared to be correct on the basis of the local enquiries which had been made. It was further stated that there were reasons to believe that action u/s 152 was called for because, in the normal course, he would not disclose to the Department his correct income and wealth. The Allahabad High Court held that the condition precedent for action u/s 132 was possession of the information mentioned in the said section. If either of the conditions was missing or not adhered to, then the authority was precluded from invoking the provisions of Section 132. In order that the averment of information must be in good faith and not a mere pretence, it was necessary that information in consequence of which it is formed must be valid and linked with the ingredients mentioned in this section. There must be rational connection between the information or material and the belief about undisclosed income. While quashing the authorisation which had been issued, the court referred to the note of satisfaction which had been recorded and observed that the reputation of roaring practice or the rumour of charging high rates of fee could not be regarded as tangible material on the basis of which an opinion could be formed as contemplated by Section 132 of the Act. The satisfaction of the authorities u/s 132 may be subjective but it must be arrived at objectively and on material which is available.

14. In *The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others*, , J.M. Shelat J., observed as under (headnote of AIR 1967 SC) :

"Before the discretion conferred by Section 237(b) of the Companies Act, 1956, to order an investigation can be exercised, there must exist circumstances which in the opinion of the authority suggest what has been set out in Sub-clause (i), (ii) or (iii). If it is shown that the circumstances do not exist or that they are such that it is impossible for any one to form an opinion therefrom suggestive of the aforesaid things, the opinion is challengeable on the ground of non-application of mind or perversity or on the ground that it was formed on collateral grounds and was beyond the scope of the statute."

15. Again, Hidayatullah J. observed as under (headnote of AIR);

"The words "in the opinion of the Central Government" in Section 237(b) indicate that the opinion must be formed by the Central Government and it is of course implicit that the opinion must be an honest opinion. The next requirement is that "there are circumstances suggesting, etc." These words indicate that before the Central Government forms its opinion it must have before it circumstances suggesting certain inferences.

Again an action, not based on circumstances suggesting an inference of the enumerated kind will not be valid. In other words, the enumeration of the inferences which may be drawn from the circumstances, postulates the absence of a general discretion to go on a fishing expedition to find evidence. No doubt, the formation of opinion is subjective but the existence of circumstances relevant to the inference as the sine qua non for action must be demonstrable. If the action is questioned on the ground that no circumstances leading to an inference of the kind contemplated by the section exists, the action might be exposed to interference unless the existence of the circumstances is made out. Since the existence of "circumstances" is a condition fundamental to the making of an opinion, the existence of the circumstances, if questioned, has to be proved at least prima facie. It is not sufficient to assert that the circumstances exist and give no clue to what they are because the circumstances must be such as to lead to conclusion of certain definiteness."

16. A.K. Sarkar C.J., and J.R. Mudholkar), observed as under (headnote of AIR) :

"An examination of Section 237 would show that Clause (b) thereof confers a discretion upon the Board to appoint an Inspector to investigate the affairs of a company. The words "in the opinion of govern the words "there are circumstances suggesting" and not the words "may do so". The words "circumstances" and "suggesting" cannot be dissociated without making it impossible for the Board to form an "opinion" at all. The formation of an opinion must, therefore, be as to whether there are circumstances suggesting the existence of one or more of the matters in Sub-clauses (i) to (ii) and not about anything else. The opinion must of course not have been arrived at mala fide. It is only after the formation of certain opinion by the Board that the stage for exercising the discretion conferred by the provision is reached. The discretion conferred to order an investigation is administrative and not judicial since its exercise one way or the other does not affect the rights of a company nor does it lead to any serious consequences as, for instance, hampering the business of the company. The investigation undertaken under this provision is for ascertaining facts and is thus merely exploratory. The scope for judicial review of the action of the Board must, therefore, be strictly limited. Now, if it can be shown that the Board had in fact not formed an opinion its order could be successfully challenged. Quite obviously, there is a difference between not forming an opinion at all and forming an opinion upon grounds, which, if a court could go into that question at all, could be regarded as inapt or insufficient or irrelevant. A court

cannot go into the question of the aptness or sufficiency of the grounds upon which the subjective satisfaction of an authority is based."

17. While interpreting the provisions of Section 132 of the Act, a Division Bench of the Allahabad High Court in the case of *Motilal and Others Vs. Preventive Intelligence Officer and Others*, , speaking through R.S. Pathak J., observed as under (at page 422);

"In my opinion, the power conferred u/s 132(1) is contemplated in relation to those cases where the precise location of the article or thing is not known to the Income Tax Department and, therefore, a search must be made for it, and where it will not be ordinarily yielded over by the person having possession of it and, therefore, it is necessary to seize it. ... I am unable to accept the contention on behalf of the Income Tax Department that Section 132(5) will include a case where the location of the article or thing is known and where ordinarily the person holding custody of it will readily deliver it up to the Income Tax Department. Such article or thing, I think, requires neither search nor seizure."

18. This decision was approved by the Supreme Court in the case of *Commissioner of Income Tax, Haryana, Himachal Pradesh and Delhi and Others Vs. Tarsem Kumar and Another*, .

19. It is now well-settled by a series of the decisions of the Supreme Court (See *E.P. Royappa Vs. State of Tamil Nadu and Another*, ; *Mrs. Maneka Gandhi Vs. Union of India (UOI) and Another*, ; *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, and *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*,) that any executive action which is arbitrary, unreasonable and capricious necessarily results in denial of equality before law and equal protection of law guaranteed by Article 14 of the Constitution of India.

20. In view of the above discussion, it is clear that :--

(1) although very broad powers have been conferred on the Income Tax authorities u/s 132 of the Act to conduct raid, yet the power must be exercised in accordance with the provisions of the Act. Opinion must be formed on the basis of the information with regard to the matter specified in this section and the material placed before the concerned authority should be considered before any opinion is formed. If there was no material before the authorities, the action would surely be contrary to the provisions of the Act. Existence of relevant material for taking action u/s 132 of the Act is a condition precedent for the exercise of power;

(2) if it is challenged before the court that there was no material before the competent authority to form an opinion, it is incumbent upon the concerned authority to disclose to the court the material on the basis of which action has been taken. If on scrutiny of the material placed before the court, the court comes to the conclusion that there was no relevant material before the authority to come to the conclusion that action u/s 132 of the Act is called for, the court in

exercise of powers under Article 226 of the Constitution can interfere. It is thus clear that power of judicial review in this area is very limited but once the court is satisfied that action has not been taken in accordance with the provisions of the Act and there was no material before the authority to form an opinion, then the court can interfere;

(3) it must also be stated that the court can only see whether relevant material was in existence on the basis of which opinion for taking action u/s 132 of the Act could be formed. The court is not entitled to go into the sufficiency of the material. So it is firmly established that even in this area of the Income Tax Act to conduct a raid u/s 132 of the Act, the power of judicial review is vested in the High Court under Article 226 of the Constitution although its scope is quite limited;

(4) if the action of the Income Tax authorities does not fall within the purview of Section 132 of the Income Tax Act, then the consequential action would be arbitrary, unreasonable and capricious and would be violative of Article 14 of the Constitution.

21. In order to satisfy the court, learned standing counsel for the Union of India showed to the court a copy of the complaint received by the Assistant Director of Income Tax. The Assistant Director of Income Tax received a complaint that the firm, Messrs. Gill and Company, is mainly handled by Mr. Harmel Singh Gill Khanna. It is stated in that complaint that Mr. Harmel Singh Gill prepares duplicate furnace oil. He is having about 25 tankers for this purpose. The entire investment on these tankers is made by Mr. Harmel Singh Gill. It was stated in the complaint that there was an investment of Rs. 70 to 80 lakhs in the tankers. Mr. Harmel Singh Gill is making huge profits out of this. On the basis of this complaint, it was requested that the premises of Mr. Gill be raided to detect the tax evasion. On the basis of this complaint, a file was constructed by the Assistant Director. It is specifically stated in the note of the Assistant Director dated January 20, 1992, that the file has been constructed on the complaint. This note of the Assistant Director merely mentions in brief the nature of the complaint received. On the basis of this complaint he formed the opinion that the company has about 25 tankers and recommended that action should be taken against the company u/s 132 of the Act. The note of the Assistant Director was placed before the Deputy Director on January 21, 1992. The Deputy Director merely on the basis of the note of the Assistant Director recommended search u/s 132 of the Act. He considered no material in support of the complaint which may substantiate the complaint. The file was put up before the Director, Income Tax, on January 24, 1992. The entire note of the Director referred to the reports of the Assistant Director and Deputy Director. It recites that local enquiries were made and the spot was inspected. Apart from the reports, he discussed no further material in this order. I directed Mr. R.P. Sawhney to place before the court the relevant material which had been collected to show that the requirements of Section 132 of the Act were satisfied. In other words, the

Director had information in his possession on the basis of which he had reason to believe that action u/s 132 of the Act was called for. Mr. R.P. Sawhney submitted that apart from the complaint and notes of the Assistant Director, Deputy Director and Director, there is no other material on the record. For the purpose of determining the justification of the action, we have to see the material which was available on the date when the search warrant was issued by the Director. At that time, there was no relevant material before the Director to take action u/s 132 of the Act. The allegation that Mr. Harmel Singh Gill is having 25 tankers is highly vague and is based upon conjectures. Tankers have to be registered with the licensing authority. No information was collected by the Assistant Director or the Deputy Director to ascertain as to in whose name the tankers are registered and who has made the investment on the purchase of the tankers. It was very easy for the Assistant Director and Deputy Director to collect this information from the licensing authority. No effort was made at all. The Assistant Director and Deputy Director merely acted on the complaint which was entirely vague, indefinite and contained no particulars about the tankers. It was assumed that the use of 25 tankers would be generating a lot of income. Apart from the complaint, there was no material before the authorities that the petitioner was operating these tankers. In order to justify the action u/s 132 of the Act, it is incumbent upon the authority to collect relevant material. The wrong action u/s 132 of the Act is a serious encroachment on the civil rights of a citizen. Before action u/s 132 of the Act is taken, the requirements of Section 132 have to be fully complied with. In case the action is challenged, it is incumbent upon the authorities to satisfy the court that there was relevant material at the time of passing the order to take action u/s 132 of the Act. In order to justify the action, the authorities must have relevant material on the basis of which they could form an opinion that they have reason to believe that action u/s 132 of the Act would be justifiable. In the absence of any relevant material, the authority would be acting in excess of his powers and in violation of the mandatory requirements of Section 152 of the Act and the action of the authority cannot be sustained. One has to see the material before the authority at the time of passing the order. In the present case, at the time of passing the order, there was no material before the relevant authority except the complaint. The complaint is entirely vague and lacks particulars. It was obligatory on the part of the authorities to collect the relevant material to show that 25 tankers mentioned in the complaint belonged to the petitioner. No such material was before the authorities nor was any such material collected. I am firmly of the opinion that the authorities in the present case have acted merely on the complaint. A complaint cannot be treated as material. In support of the complaint, relevant material should have been collected. The opinion should be formed by the authorities as a result of assessment of the relevant material. No such attempt was made. The authorities considered the facts stated in the complaint to be sufficient material. It is very difficult to hold, on the facts of the present case, that there was relevant material before the authorities for action u/s 132 of the Act.

22. The Director relies upon the reports of the Assistant Director and the Deputy Director. No material is disclosed in the report of the Assistant Director or Deputy Director which may justify action u/s 132 of the Act. These reports only rely upon the complaint. There is no material in support of the complaint. The allegations made in the complaint are to be duly verified by the concerned authority and there should be material to substantiate the complaint. Although the report of the Director recites that a local enquiry has been made, no material is discussed as to what information has been received by him as a result of the local enquiry. Learned counsel for the Income Tax Department has not placed any information which had been received by the Director as a result of the enquiry. He frankly stated that all the material which was with the Department has been placed before the court. On the basis of the material placed before the court, it appears that there was no material with the respondent authority which may justify the action u/s 132 of the Act. In this view of the matter, the action of the respondent in ordering the raid and issuing warrants u/s 132 of the Act cannot be sustained. In addition, the tankers were not lying concealed. The tankers were usually parked at the petrol pump. Action u/s 132 of the Act can only be taken in order to recover goods which are lying concealed. The Supreme Court has clearly laid down that action u/s 132 of the Act cannot be taken where the goods were not concealed and lying open. No action was called for as the tankers were not lying concealed in view of the judgment of the Supreme Court in Commissioner of Income Tax, Haryana, Himachal Pradesh and Delhi and Others Vs. Tarsem Kumar and Another, .

23. When the action taken against the petitioner cannot be sustained u/s 132 of the Act, the action will become clearly arbitrary, unreasonable and capricious and is, therefore, violative of Article 14 of the Constitution. In view of the above discussion, the action of the respondent authority is clearly beyond the scope of Section 132 of the Act and the same cannot be sustained.

24. In the above cases, civil miscellaneous applications have been moved by certain applicants claiming that they are the owners of the tankers and, therefore, they should be released to them. In view of the fact that the action u/s 132 of the Act and the consequential proceedings have been found to be illegal, the tankers should be returned to the concerned parties from whom the Department had taken their custody. No further orders are called for on these applications and the same are disposed of as such.

25. In view of the above discussion, Civil Writ Petitions Nos. 2734, 2736, 2743 and 2735 of 1992 are allowed with costs and a writ of mandamus is issued. The warrants issued by the respondents u/s 132 of the Act are hereby quashed and the consequential proceedings pursuant thereto are also quashed being completely beyond the scope of Section 132 of the Act. The respondents are directed to return the documents/goods, etc., which have been seized as a result of the raid within fifteen days. Counsel's fee Rs. 500 in each case.