

Secured creditors have preference over taxation authorities on confiscated goods: SC

CIVIL APPEAL NO.2196 OF 2012; February 24, 2022 PUNJAB NATIONAL BANK VERSUS UNION OF INDIA & ORS.

Facts:

1. The moot question before the Hon SC was whether the rights of secured creditors prevail over the rights of taxation authorities, in respect of goods seized by the taxation authorities.
2. In Bank of Bihar vs State of Bihar [(1972) 3 SCC 196], Hon SC did not interfere with the seizure but only held that after the goods had been seized by the government, the secured creditors may still retain his right to satisfy his debt.
3. In the case of Solidaire India Ltd. v. Fairgrowth Financial Services Ltd. and others, reported in (2001) 3 SCC 71, it was held that if there is a conflict between the two special Acts, the latter Act must prevail.

The Hon SC held that:

1. Generally, the dues to Government, i.e., tax, duties, etc. (Crown's debts) get priority over ordinary debts.
2. Only when there is a specific provision in the statute claiming "first charge" over the property, the Crown's debt is entitled to have priority over the claim of others.
3. Since there is no specific provision claiming "first charge" in the Central Excise Act and the Customs Act, the claim of the Central Excise Department cannot have precedence over the claim of secured creditor, viz., the petitioner Bank.
4. So we hold that the claim of secured creditor will prevail over Crown's debts. In view of our above conclusion, the petitioner UTI Bank, being a secured creditor is entitled to have preference over the claim of the Deputy Commissioner of Central Excise, first respondent herein.