

When the taxman comes for your cloud: The PIL that challenged India's digital search powers

As the Income Tax Act, 2025 takes effect and digital search operations begin under its authority, concrete challenges will follow.



internet/cloud data

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There is something quietly radical about the power to conduct a tax raid. It bypasses the ordinary rules of legal engagement. It requires no notice, no hearing, no opportunity to respond before officials are already at the door. Indian law has always defended this power on the logic of necessity. In tax raids, surprise is the point, because a warned taxpayer is a taxpayer who has already shredded the documents.

Courts, including the Supreme Court, have historically accepted this logic and upheld search and seizure powers under the Income Tax Act with minimal intervention.

But a Public Interest Litigation (PIL) filed in early 2026 asked a harder version of that question. It asked not just what it means to search a home or a vault, but what it means to search a life. Because that, increasingly, is what a digital raid does.

The case and the petitioner

Vishwaprasad Alva challenged specific provisions of the search and seizure regime under both the Income Tax Act, 1961 and the Income Tax Act, 2025. It particularly targets the “anticipatory” triggers and non-disclosure rules embedded in those statutes.

Alva is the founder and Managing Director of Skanray Technologies, a medical-technology company that gained public prominence during the COVID-19 pandemic as a major ventilator supplier. In November 2019, the Income Tax Department conducted a search and survey at his residence and at Skanray’s premises under Section 132 of the 1961 Act. The petition alleges that despite the *panchnamas* recording no recovery of incriminating material, officials subsequently leaked false claims to media outlets suggesting large hauls of gold and cash had been found.

In subsequent Press Council proceedings, the journalist responsible for the stories reportedly submitted that the report was based entirely on information provided by Income Tax officials. The Press Council's inquiry committee found that proper verification had not been conducted and directed an unconditional apology. However, by that point, the reputational damage had been done.

The petition is careful to frame itself as a public interest challenge rather than a grievance about the 2019 raid specifically. Alva states explicitly that he is not seeking personal relief for his own search and that the facts of his experience are included illustratively to ground the broader constitutional challenge. Whether that framing is entirely convincing or not, the legal questions the petition raised are substantial and timely, with the 2025 Act now extending search powers explicitly into digital and cloud environments.

What the law actually says and what the petition challenged

Section 132(1)(b) of the 1961 Act authorises a search if the designated authority believes a person “will not, or would not” produce books of account or

documents if served with a summons. Section 132(1)(c) goes even further and enables search based on a mere belief that money, bullion, or other valuables “would not be disclosed” as income. The corresponding provisions in the 2025 Act are Sections 247(1)(a)(II) and 247(1)(b).

The petition's central target is this future-looking language in the statute, what it calls the “anticipatory” limbs. The argument is that these provisions authorise a full-scale raid not because any violation has occurred, but because officials predict that a violation *might* occur, that someone ‘*would not*’ cooperate or ‘*would not*’ disclose, if asked. No prior default, no proven non-compliance, no refusal in fact is needed; only a prediction.

To that, add the 2025 Act’s explicit reach into digital life. Section 247 authorises search of “computer systems,” expressly defined under Section 261 (e) of the 2025 Act to include remote servers, cloud servers and “virtual digital space.” It further empowers officers to require access codes or, if those are not provided, to simply override them. Once the 2025 Act comes into force this year, a tax official can compel access to a person’s emails, private chats, cloud-stored documents and any data backed up to a remote server.

This is not a trivial expansion. The physical world has natural limits; you can only take what exists in the room. The digital world, as anyone who has ever looked at their cloud storage knows, does not. The petition notes that the digital search regime effectively allows officers to access laptops, mobile phones and private communications without any prior judicial oversight.

The third structural flaw the petition identifies is the non-disclosure rule. An Explanation inserted into Section 132 by the Finance Act, 2017 and applied retrospectively directs that the “reasons to believe” recorded before a search cannot be disclosed to any person, any authority, or even the Income Tax Appellate Tribunal. This provision is replicated as Section 249 of the 2025 Act.

The arguments

Privacy, proportionality and the post-Puttaswamy landscape

The petition’s most significant prayer is to bring income tax search powers into the post-*KS Puttaswamy* constitutional framework. The 2017 nine-judge bench decision recognised privacy as a fundamental right under Article 21 and mandated that any intrusion must satisfy the three-pronged test of legality, necessity and proportionality. The petition argues that earlier decisions

upholding Section 132 of the 1961 Act, particularly *Pooran Mal* (1974), were rendered before privacy was recognised as a fundamental right and before the Court developed its manifest arbitrariness doctrine.

The proportionality argument is at its strongest when applied to digital searches. The petition contends that the anticipatory limbs fail the “least intrusive means” test because less invasive mechanisms such as summonses, surveys and assessments are already available to the revenue. Raiding someone’s cloud on the presumption that they *might* not answer if asked is a harder justification to sustain when they have not yet been asked to.

Manifest arbitrariness and unguided discretion

The Article 14 argument focuses on the breadth of the discretion that the anticipatory limbs confer. The petition argues that a power to search based purely on a prediction of future non-compliance, with no requirement of prior default or demonstrated non-cooperation, is “manifestly arbitrary and over-broad”.

This is a coherent argument, though a cautious interlocutor might note that the Court has historically read “reasons to believe” as a substantive constraint and not a formality and that High Courts do (in principle) review whether that standard was met.

Secrecy, structural inaccessibility and the fiction of judicial review

The structural problem is that a searched person who wishes to challenge the raid cannot see the reasons. They must file a writ petition in the High Court. The High Court applies a deferential standard, checking existence and good faith, not adequacy; and the reasons are produced in a sealed cover. The assessee’s counsel cannot see them, respond to them, or cross-examine on them.

Even the Income Tax Appellate Tribunal, a specialist forum created specifically to adjudicate tax disputes, is statutorily barred from seeing those reasons. No comparable provision exists in other Indian search and seizure statutes, whether the PMLA, the NDPS Act, or the Customs Act. The practical effect is that the remedy available to most searched persons is a writ petition that takes years, costs a significant amount and applies a deferential standard which is, for most practical purposes, no remedy at all.

This structural deficit becomes even more acute in the digital context. Where physical searches cause a one-time disruption, digital searches cause irreversible exposure. Once digital data has been accessed and read, privacy cannot be restored. The harm occurs at the moment of access, not at the moment of adjudication. This makes the post search and seizure review model constitutionally inadequate in a way that it may not have been for physical searches. A possible middle path would be to seize and image devices immediately, thus preserving the evidentiary advantage, but subject their subsequent examination to relevance filters, privilege protections and independent review.

Post-raid leaks as a Constitutional problem

One of the petition's more unusual prayers concerns what happens *after* a search, specifically, the practice of briefing the media. The petition argues that selective or false disclosures following a raid engage fundamental rights under Article 21, affecting privacy, dignity and the presumption of innocence. It asks the Court to mandate protocols for CBDT, modelled on the approach taken in *PUCCL-related jurisprudence*, to govern what information tax officials may disseminate following a search.

What the Supreme Court Said

The PIL reached the Supreme Court Bench of Chief Justice Surya Kant and Justices Joymalya Bagchi and NV Anjaria. At a preliminary hearing, the Bench observed that the statutory scheme requires recording of reasons and that judicial review is available, with Justice Bagchi referencing *Principal Director of Income Tax (Investigation) v Laljibhai Kanjibhai Mandalia* (2022) on the limited but existing scope of review over Section 132 authorisations. The Bench also raised the practical concern that advance notice would be counterproductive in digital cases as officials could be thwarted by device and evidence destruction.

On March 9, 2026, the Court declined to entertain the petition. It found existing remedies sufficient, stated that it could not “second-guess the wisdom of parliament” simply because an alternative design might be preferable and recorded that provisions of this nature are aimed at significant tax evaders. It acknowledged misuse potential, but treated it as a matter for legislative recalibration rather than constitutional invalidity. The petition was dismissed

as withdrawn, with liberty to approach the government by way of a representation.

This is a non-merits outcome, which means that the constitutional questions remain open.

The larger picture

The Income Tax Act, 2025 comes into force on April 1, 2026. It embeds the expanded digital search architecture, including cloud access, override of access codes and virtual digital space, into a refreshed statutory framework. As that Act takes effect and as digital search operations begin under its authority, concrete challenges will follow from businesspersons, from journalists and from professionals whose entire working lives exist on cloud servers. Those cases will raise the same questions this petition raised, but with the advantage of a specific set of facts against which proportionality can be assessed.

The petition in *Alva* may have been dismissed as withdrawn, but the underlying legal anxiety it articulates is not going away. An income tax search that, in 1961, meant officers going through paper files, now means, in 2026, officers reading your emails. That is not a distinction without a constitutional difference.

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