S.K. Mahajan v. Commissioner of Income Tax and another

CWP 1054/1996

CWP 1054/1996 | 2008-07-07

Interest-waiver refusal sustained within limited writ review

139 | 215 | 217 | 273A

High Court of Himachal Pradesh | Shimla | Deepak Gupta | V.K. Ahuja

Assessment years: 1988-89

01 FACTS OF THE CASE

S.K. Mahajan, a partner in S.K. Associates, sought waiver and refund of interest for AY 1988-89 after his individual and firm returns were filed late. He said tax and interest had been adjusted against the firm's excess TDS refund. The ITO rejected waiver on 2 March 1994 and the Commissioner rejected it on 26 September 1995.

Source: PDF pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

The Court noted simultaneous late filing, despite counsel's suggestion that the individual return followed determination through the firm's return, and no record of advance-tax payment. The Commissioner had considered adjustment against the firm's refund and absence of demonstrated hardship. The Court found no illegality or natural-justice defect warranting interference and declined to act as an appellate authority.

Source: PDF pp.3–4

03 JUDICIAL DECISION

The writ petition was dismissed. The Commissioner's refusal to waive interest remained effective; no refund was directed.

Source: PDF p.4

04 OUTCOME / IN WHOSE FAVOUR

Revenue-favourable dismissal on the waiver record. Adjustment or payment of interest did not itself establish entitlement to waiver in this case. The source's statutory descriptions are inconsistent, including a first-page reference to 139(B); the note does not adopt that as a corrected statutory citation.

Source: PDF pp.1–4

05 EXPERT COMMENTS

Payment and entitlement to waiver are different questions — The petitioner relied on adjustment from the firm's refund and completion of payment. The Commissioner nevertheless considered whether the waiver conditions and hardship were established, and the Court found no reviewable defect. This result does not create a general rule that payment either compels waiver or always defeats hardship; the grounds for the discretionary request remain central.

The explanation for late filing must match the record — Counsel linked the personal return to the firm's determination of income, but the pleadings showed simultaneous late returns. The absence of demonstrated advance-tax payment was also material. A waiver analysis should trace the actual chronology and impediment rather than rely on a general proposition that a partner must await the firm's return.

Limited writ review did not remove the authority's waiver power — The Court recognised the authority's power, referred to rules 117 A and 40, and held that it was not hearing an appeal from the refusal. It looked for illegality or natural-justice defects and found none. The source also blends penalty and interest terminology; it is safer to report the historical refusal than derive a standalone rate or current waiver test from those passages.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Himachal Pradesh High Court judgment; verified source copy

Complete source PDF reviewed: 5 physical pages.

All 5 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

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.

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