

Commissioner of Income Tax (Central), Calcutta v. B. N. Bhattacharjee and Another

Civil Appeal Nos. 454–465 of 1979

[1979] 3 SCR 1133 | 1979-05-04

Under the then Chapter XIX-A scheme, could departmental withdrawal of Tribunal appeals preclude the Commissioner's statutory objection to settlement, and what followed for hearing rights, Article 136 jurisdiction and the withdrawn appeals?

245A(a) (then definition of case) | 245C (then application provision) | 245D(1), first and second provisos (then hearing requirement and Commissioner objection) | 245M(1)–(7) (then withdrawal, deemed application and restoration route) | 245H and 245L (then immunity and judicial-proceeding provisions) | 253(2), 253(4), 254 and 255 (appellate context) | 277 (pending prosecutions; no guilt adjudication)

Two-judge bench | V.R. Krishna Iyer, J. | V.D. Tulzapurkar, J.

Assessment years: 1962-63, 1963-64, 1964-65, 1965-66, 1966-67, 1967-68, 1968-69, 1969-70, 1970-71, 1971-72, 1972-73, 1973-74

Historical settlement route and objection provision

This decision concerns the old section 245M route and former second proviso to section 245D(1), governing a 1977 application. It is not current settlement procedure: later primary material shows a different objection regime, and the 2011 compilation records section 245M's omission. Rehearing to cure denial of a hearing was valid, but estoppel could not defeat this statutory objection. Only the assessee's Tribunal appeals were revived. Tax and prosecution merits, comprehensive later treatment, current-law status and 2025 mapping are not verified by this note.

01 FACTS OF THE CASE

After a search recovered about Rs.30 lakhs in cash, assessments for AYs 1962-63 through 1972-73 were reopened. The judicial narrative describes tax burdens exceeding Rs.60 lakhs, with about Rs.35 lakhs assessed for AY 1973-74, and pending section 277 prosecutions. The Court expressly declined to determine the merits of either side's tax case. Partial relief before the Appellate Assistant Commissioner led to twelve assessee appeals and ten departmental appeals before the Tribunal (physical pages 7-8/SCR 1139-1140).

The assessee initiated withdrawal under section 245M and sought departmental withdrawal so that he could approach the Settlement Commission. The Commissioner agreed in December 1976 to withdraw the ten departmental appeals, which the Department characterised as weak or frivolous, if the assessee withdrew all twelve of his appeals. The Tribunal permitted withdrawal on 24 December 1976. The assessee applied for settlement on 6 January 1977. On being asked for a section 245D(1) report, the Commissioner objected on 1 April 1977, citing pending prosecutions for concealment and false verification. The Commission rejected the application on 3 February 1978 without an oral hearing (physical pages 8-11, 31-32).

The Commission then reheard both sides and, by the order under appeal dated 9 May 1978, held that the earlier arrangement and departmental withdrawal estopped the Commissioner from objecting. It proposed to proceed with settlement. The Commissioner brought twelve appeals by special leave against that order. The assessee contested Article 136 jurisdiction; the Revenue challenged the rehearing and the disregard of its objection (physical pages 6, 11-12).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court separated eligibility to apply from power to proceed with the application. Under the then section 245A definition, a Tribunal appeal was not a case pending before an income-tax authority. Section 245M supplied the special bridge: withdrawal of the assessee's pending appeal, a deemed pending proceeding and an application treated as one under section 245C, with restoration if settlement was not entertained. Reading the proviso to section 245M(1) purposively, the Court held that a departmental appeal withdrawn to enable settlement did not continue to bar the application. In this statutory setting, preferring an appeal meant effectively pursuing it; the early withdrawal removed the obstruction (physical pages 14, 18–24).

The Court also discussed how the restoration scheme should protect Revenue where it withdrew appeals to facilitate settlement, including a possible reading with section 253(4). That general reasoning is distinct from the actual final direction: these departmental appeals were not to be revived because the Commissioner had admitted their weakness and frivolity. The assessee's appeals were to be revived (physical pages 21–24 and 32).

Rehearing was lawful. The first proviso to section 245D(1) required an opportunity to be heard before rejection, even where a Commissioner's objection might ultimately prove fatal. A hearing might expose a misunderstanding or persuade the Commissioner to withdraw his objection. The decision approved curing the absence of a hearing by a fresh order in both parties' presence; it did not recognise an unlimited power to reopen merits decisions (physical pages 14–15). The Commission was also a tribunal within Article 136, given its statutory adjudicative powers affecting rights and liabilities and the judicial character of its proceedings under section 245L (physical pages 24–25).

On the decisive point, the then second proviso to section 245D(1) prohibited proceeding where the Commissioner objected on the specified concealment or fraud grounds. The objection made here met that statutory setting. Withdrawal of appeals to enable an application did not bargain away the Commissioner's public duty to consider and object to settlement when the statutory grounds arose. The estoppel reasoning was tied to that mandatory duty and public-policy safeguard. Independently, the factual elements of estoppel were absent: the assessee had initiated withdrawal himself, and there was no departmental representation inducing detrimental reliance or a blanket assurance that no later objection would be made. The Commission therefore could not disregard this objection on the asserted estoppel ground (physical pages 16–17 and 26–32).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The Court allowed Civil Appeal Nos. 454–465 of 1979. It directed that the Settlement Commission be inhibited from proceeding with this application, and that the assessee's Tribunal appeals be revived and disposed of expeditiously. It expressly directed that the departmental appeals should not be revived, given the Commissioner's own assessment of their weakness and frivolity. The parties were to bear their own costs (physical page 32/SCR 1164 F–G).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the settlement-jurisdiction issue; assessee's hearing right and revival of his Tribunal appeals preserved

Twelve appeals allowed; settlement stopped; assessee appeals revived for expedited disposal; departmental appeals not revived; parties bear their own costs

Final construction of the historical procedural scheme; underlying assessments and prosecution merits not decided

A 1977 settlement application under the then sections 245D and 245M; no unrestricted review power, no all-purpose governmental estoppel rule and no finding of criminal guilt.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Keep the three stages separate: removing the bar to making an application, affording a hearing, and satisfying the statutory conditions for proceeding. Success at either of the first two stages did not neutralise the then mandatory objection. Any argument about waiver or estoppel must identify the actual statutory duty and the representation and reliance alleged; facilitation of an application was not an assurance of admission.

A bounded direct later check of Kuldeep Industrial Corporation (10 December 1996), physical pages 10–11, both cites Bhattacharjee and reproduces a materially different section 245D(1A), whose proviso permitted the Commission to override an objection after hearing the Commissioner. The later report notes removal of the former second proviso from 1 April 1979. The government-hosted 2011 compilation separately records section 245M's omission from 1 June 1987 at physical page 892. These are historical comparisons, not a complete legislative chain or present settlement procedure.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, date and all twelve Supreme Court appeals

Source url: [Open cited source](#)

Pdf pages: 1; 6

Paragraphs: SCR 1133 heading; 1138 B–C

Source role: reported metadata and judicial text

2.

Topic: Tax background, separate appeal groups and settlement chronology

Source url: [Open cited source](#)

Pdf pages: 7; 8; 9; 10; 11

Paragraphs: SCR 1139 C–1143 E

Source role: judicial text

3.

Topic: Historical case definition and hearing/rehearing

Source url: [Open cited source](#)

Pdf pages: 14; 15; 16

Paragraphs: SCR 1146 A–1148 D

Source role: judicial text

4.

Topic: Section 245M text, withdrawn Revenue appeal and restorative construction

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20; 21; 22; 23; 24

Paragraphs: SCR 1150 F–1156 C

Source role: judicial text

5.

Topic: Article 136 tribunal jurisdiction

Source url: [Open cited source](#)

Pdf pages: 24; 25

Paragraphs: SCR 1156 D–1157 E

Source role: judicial text

6.

Topic: Specific statutory objection and two reasons estoppel failed

Source url: [Open cited source](#)

Pdf pages: 26; 27; 28; 29; 30; 31; 32

Paragraphs: SCR 1158 A–1164 C

Source role: judicial text

7.

Topic: Expressly unresolved merits

Source url: [Open cited source](#)

Pdf pages: 7

Paragraphs: SCR 1139 D–E

Source role: judicial text

8.

Topic: Different revival orders and costs

Source url: [Open cited source](#)

Pdf pages: 32

Paragraphs: SCR 1164 F–G

Source role: judicial text

9.

Topic: Later citing judgment and materially different objection provision

Source url: [Open cited source](#)

Pdf pages: 10; 11

Paragraphs: SCR 791 G–792 F

Source role: bounded later judicial treatment

10.

Topic: Historical section 245M omission entry

Source url: [Open cited source](#)

Pdf pages: 892

Paragraphs: Section 245M and editorial footnote 91

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

V.R. Krishna Iyer, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961, Chapter XIX-A (historical settlement provisions governing the 1977 application)

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Constitution of India: Article 136; Taxation Laws (Amendment) Act, 1975: insertion of Chapter XIX-A as described by the Court; Indian Income-tax Act, 1922: referenced within the historical objection provision; not the governing procedural holding

SOURCE & VERIFICATION

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

Identified source rendition: 32 PDF pages; SHA-256

e1df25ec18a93b96dd428db1204f08cc76a04e249fd72a69bac5e3477e159e73. Original bytes preserved.

Unnumbered judicial body begins physical page 6/SCR 1138 C and ends page 32/SCR 1164 G. Pages 1–5 and opening page 6 are editorial headnotes; page 6 then supplies appeal metadata. One judgment, no neighbouring case.

[Open cited source rendition](#)

The original appellate heading gives Civil Appeal Nos. 454–465/1979; the catalogue's single 454/1979 is incomplete.; The judicial narrative at SCR 1139 says tax burdens exceeding Rs.60 lakhs plus about Rs.35 lakhs for AY 1973-74; the headnote's Rs.30 lakhs tax-burden statement is not adopted. The separate cash seizure was about Rs.30 lakhs.; Twelve assessee appeals and ten departmental appeals are distinct. The Court's general restorative reasoning must not obscure the express refusal to revive these departmental appeals.; Rehearing was approved to cure denial of a hearing; the fresh decision to proceed failed on the statutory objection. No unlimited merits-review jurisdiction is inferred.; The settlement and objection provisions are the versions applied to this 1977 application, not a representation of the law at every later date. The 1979 decision date does not make the later amendment regime its governing text.; Underlying tax liability and criminal guilt were expressly not decided; the judgment's policy language is not republished as a finding of guilt.

Twelve assessee appeals concern AYs 1962-63 through 1973-74; ten departmental appeals concern AYs 1962-63 through 1971-72. The source identifies reopened assessments through AY 1972-73 and a further assessment for AY 1973-74. Supreme Court appeal numbers are not individually allocated to years in the report.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 and no present-law certification. Identify the applicable statutory version and procedural route separately.

LATER TREATMENT

Source checked 2026-10-05. not_verified. Bounded direct citing-case check: Kuldeep Industrial Corporation, cover page 1 and judicial pages 10–11/SCR 791–792, for citation and different statutory objection regime only. Bounded statutory comparison: government-hosted 2011 compilation, page 892, section 245M omission entry and separate editorial history. No comprehensive later citation research, amending-Gazette chain, current-law certification or 2025 mapping.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 32](#)

SHA-256: e1df25ec18a93b96dd428db1204f08cc76a04e249fd72a69bac5e3477e159e73

[later judgment bounded check - PDF pages: 14](#)

SHA-256: 8ec101bd2061777403f412106f001d498cbb80386abedfec6c69d529789b7855

[official hosted statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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