

R.B. Shreeram Durga Prasad & Fatehchand Nursing Das v. Settlement Commission (IT & WT) & Anr.

Civil Appeal No. 528(NT) of 1989

[1989] 1 SCR 335 | 1989-01-27

Whether a settlement rejection made without hearing was a nullity leaving the application pending for the 1979 procedural amendment, and whether the applicant had received a meaningful opportunity to answer the Commissioner's objections before the 1987 rejection.

245C, historical settlement application | 245D(1), historical hearing proviso and objection mechanism | 245D(1A), historical 1979 procedural amendment

Two-judge bench | Sabyasachi Mukharji, J. | S. Ratnavel Pandian, J.

Assessment years: 1948-49 to 1975-76 (composite settlement application), 1948-49 to 1959-60 (years to which the Commissioner objected)

Natural-justice remand under historical settlement law; no settlement entitlement

The Court set aside the 1987 rejection because the earlier denial of hearing left the application pending for the procedural 1979 amendment, and a meaningful hearing on the objections was still required. It did not order admission or settlement, reverse concealment findings, or decide either side's objections. Section 245D(1A) was later omitted; the Commission ceased operating under the 2021 amendment and new applications face the statutory bar from 1 February 2021. Transitional relief, later treatment and current-law/2025 mapping are not verified.

01 FACTS OF THE CASE

On 22 January 1977 the applicant made a composite settlement application under section 245C covering AYs 1948-49 to 1975-76. On 12 August 1977 the Commissioner objected to settlement for AYs 1948-49 to 1959-60 but agreed for later years. The Commission's order of 24 August 1977 rejected the application for the objected years without hearing the applicant. A recall application followed on 20 September 1977 and remained pending (physical pages 4-6 / SCR 338-340).

The Finance Act 1979 inserted section 245D(1A) with effect from 1 April 1979, giving the Commission power, after hearing the Commissioner, to allow an application to proceed if not satisfied with the correctness of the Commissioner's objection. On 29 May 1979 the applicant sought to contest the objections under that provision. The matter was heard in June and July 1987 (physical pages 6-7).

By the challenged order dated 7 August 1987, the Commission accepted that the 1977 rejection breached natural justice and the express hearing proviso, but treated disposal as governed by the law at the earlier date. It rejected the composite application in light of the Commissioner's objections to some years. The appeal challenged that treatment and the lack of an adequate hearing on the objections themselves (physical pages 7-8).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court read the hearing requirement as both express in historical section 245D(1) and a consequence of natural justice. Referring to B.N. Bhattachargee and the natural-justice authorities, it held that an applicant must have an opportunity to be heard before rejection. The 24 August 1977 order was a nullity because that opportunity had not been provided. Accordingly, the settlement application was still pending when the 1979 amendment took effect; because the amendment was procedural, it governed those pending proceedings and enabled the Commission to overrule the Commissioner's objections (physical pages 5–7 / SCR 339G-341H).

The 1979 provision did not make the Commissioner's objections irrelevant or require automatic admission. Its quoted proviso empowered the Commission to allow the matter to proceed if it was not satisfied with the correctness of the objections, after giving the Commissioner an opportunity to be heard. The applicant in turn had to receive a real opportunity to show why the objections were unjustified and why the Commission should not accept them in the circumstances (physical pages 6 and 8).

Although the applicant had made submissions, the Court found no clear opportunity to contest the substance of the objections in that sense. It acknowledged that concealment for the objected years had been upheld in appeals before the appropriate authorities. That did not eliminate the need to hear an argument that disclosure over the composite period could justify settlement of the entire period without the proposed bifurcation. The Court identified a submission the applicant must be allowed to make; it did not accept that submission on its merits, overturn the concealment findings or order settlement (physical page 8 / SCR 342D-G).

In exercising Article 136 review, the Court emphasised the legality of the decision-making procedure rather than deciding the settlement dispute for itself. Its intervention corrected the hearing and temporal-law errors. The Commission retained the task of considering both the objections and the applicant's answers and making the appropriate lawful order (physical pages 8–9 / SCR 342G-343C).

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

03 JUDICIAL DECISION

The appeal was allowed, the Commission's order dated 7 August 1987 set aside, and the settlement petition remanded for hearing and disposal according to law. The Commission was to consider the Commissioner's objections and the applicant's responses after a proper opportunity to show why those objections should not be accepted. Expeditious disposal was requested. The Court expressly declined to decide the correctness of either side's objections. There was no order as to costs (physical page 9 / SCR 343A-D).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Applicant on natural justice and governing procedure; settlement merits left open

Appeal allowed; 7 August 1987 order set aside; settlement petition remanded for a meaningful hearing and lawful disposal; no order as to costs

Final reasoned procedural-jurisdiction ruling with remand; no admission or settlement entitlement adjudicated

No determination that the Commissioner's objections were incorrect, no reversal of concealment findings, and no direction to settle the composite period. The nullity and pending-proceeding analysis concerns this statutory and factual setting.

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

05 AKHB REVIEW POINT

The useful sequence is defective rejection, continuing pendency, intervening procedural law, and a meaningful hearing under that law. A later meeting or opportunity to speak is not necessarily the required hearing if the party cannot challenge the adverse objection and explain why the decision-maker should not act on it. Preserve the opportunity owed to the Commissioner under the quoted 1979 proviso as well as that owed to the applicant.

The remedy was a rehearing with the substantive objections reserved. It is therefore a ruling on the required procedure, but not a holding that the application must be admitted or that a composite settlement overrides established concealment. Its broad natural-justice language should be used with the actual denial of hearing, the express statutory proviso and the pending recall request in view.

The veto machinery is historical. The checked 2011 compilation records section 245D(1A)'s 1979 insertion, 1984 amendment and omission effective 27 September 1991 (physical page 883, omission entry and footnote 59). Separately, official Finance Act 2021 section 64 records cessation of the Settlement Commission from 1 February 2021, and the checked 2024-labelled section 245C(5) records the statutory bar on new applications from that date. These bounded checks prevent presentation of the 1989 procedure as an available modern filing route. They do not audit transitional relief, pending-application treatment, later litigation or the 2025 Act. Comprehensive later judicial treatment remains unverified.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and appeal number

Source url: [Open cited source](#)

Pdf pages: 1; 3

Paragraphs: Cover and SCR 337E-H

Source role: reported metadata and judicial text

2.

Topic: Composite application and original hearing proviso

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: SCR 338B-H and 339A-H

Source role: judicial text

3.

Topic: 1979 procedural amendment and earlier rejection without hearing

Source url: [Open cited source](#)

Pdf pages: 6

Paragraphs: SCR 340A-H

Source role: judicial text

4.

Topic: 1987 order and nullity keeping the application pending

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: SCR 341A-H and 342A

Source role: judicial text

5.

Topic: Meaningful opportunity to answer Commissioner objections; scope of review

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: SCR 342A-H

Source role: judicial text

6.

Topic: Remand, reserved merits and no costs

Source url: [Open cited source](#)

Pdf pages: 9

Paragraphs: SCR 343A-D

Source role: judicial text

7.

Topic: Later omission of the historical veto provision

Source url: [Open cited source](#)

Pdf pages: 883

Paragraphs: Section 245D(1A) omission entry and amendment-history footnote 59

Source role: historical statutory context

8.

Topic: 2021 cessation of Settlement Commission

Source url: [Open cited source](#)

Statutory pinpoint: Finance Act 2021, section 64, amending section 245B(1)

Source role: later statutory context

9.

Topic: Statutory bar on new applications from 1 February 2021

Source url: [Open cited source](#)

Statutory pinpoint: Income-tax Act 1961, section 245C(5), version labelled 2024 (No. 1), and footnote 36

Source role: later statutory context

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Sabyasachi Mukharji, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 9 PDF pages; SHA-256

91d82bcdefdbc3444070b60b9b82cd3b14891d33bd7ef3e00a29bd974b973598. Original bytes preserved.

Complete unnumbered judicial text from physical page 3 / SCR 337, beginning with Sabyasachi Mukharji J. and grant of special leave, through physical page 9 / SCR 343. Editorial headnotes and appeal metadata preceding the judicial opening separated.

No adjacent judgment.

[Open cited source rendition](#)

The Court's own text begins on physical page 3; preceding headnotes are editorial. The discussion includes quotations from statutes and earlier authorities that must not be presented as additional dispositions in this case.; Although the composite years begin under the 1922 Act period, the holdings govern the 1961 Act's Chapter XIX-A settlement procedure and are independently within scope.; Physical page 4 calls the maker of the 24 August 1977 rejection the "Commissioner", while pages 5–7 identify the Commission's order and recall request. The note follows the coherent procedural account without editing the original.; The account of the 1987 position on physical page 7 is syntactically awkward. The Court's own ensuing nullity, pendency and procedural-amendment reasoning establishes the basis on which the challenged order was set aside.; Concealment had been upheld for the objected years. The Supreme Court reserved the merits of both the Commissioner's objections and the applicant's answers.; Historical section 245D(1A) was later omitted. The 2021 cessation and new-application bar are separately sourced bounded statutory checks; neither is a full current-law or transitional-relief opinion.; The official HTML sources have no physical PDF pages. Their hashes and byte lengths belong to the retained cached responses; the source URLs were separately reopened for the bounded live verification.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive later-treatment search is certified. Any actually checked later judgment or statute is expressly identified in this note.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 9](#)

SHA-256: 91d82bcdefdbc3444070b60b9b82cd3b14891d33bd7ef3e00a29bd974b973598

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

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