

## Commissioner of Income Tax, Madras v. Express Newspaper Ltd.

Civil Appeal Nos. 2841–2844 of 1993

[1994] 1 SCR 64 | 1994-01-11

**Whether a settlement application merely offering part of disputed loss claims to tax satisfied section 245C, and whether the Commission could exclude investigation material gathered after the application when deciding admission under the then section 245D scheme.**

245A(b) (historical definition of case) | 245B(3) (Commission composition context) | 245C(1) | 245D(1) | 245D(1A) (then applicable; subsequently omitted) | 245D(4) (context) | 143(2), 147, 276C, 277, 278 and 278B (factual/prosecution-report background)

Three-judge bench | J.S. Verma, J. | Yogeshwar Dayal, J. | B.P. Jeevan Reddy, J.

Assessment years: 1985-86, 1986-87, 1987-88, 1988-89

### Jurisdiction-only result under a historical settlement regime

The admission order was set aside for all four years, but tax and alleged-loss merits were expressly reserved. The source's Rs 50,000 income wording is not the historical statutory test: the checked proviso concerns additional income-tax and a return-filing condition. Do not carry forward the deleted section 245D(1A), old investigation timing or broad interest-waiver aside. Ghaswala and Kotak supply the bounded qualifications described here; 2021 legislation discontinued the Commission and barred new applications. Current applicability and comprehensive later treatment remain unverified.

### 01 FACTS OF THE CASE

The assessee's revised return for AY 1985-86 showed a loss of Rs 32,80,700. The AO treated transactions in potatoes, scrap and shares as fabricated and assessed Rs 1,27,95,570 on 30 March 1988. While its appeal was pending, the assessee applied for settlement on 16 December 1988 for AYs 1985-86 through 1988-89; assessments for the latter three years were then pending. It offered Rs 1,32,27,969 as additional income and stated tax of Rs 14,35,720, seeking settlement, immunity and interest waiver. The appellate Commissioner dismissed the AY 1985-86 appeal on 31 March 1989 (paragraphs 1–3, physical pages 5–7).

The Commissioner's 6 July 1989 report objected on the basis of extensive investigation of the claimed losses and related material. The Commission nevertheless allowed all four years to proceed, treating material gathered after the application as irrelevant and finding the earlier material insufficiently conclusive. Revenue challenged that admission order, not a completed settlement computation (paragraphs 4–6, physical pages 7–9).

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

## 02 DISCUSSION BY THE HON'BLE COURT

A valid section 245C application had to disclose fully and truly income not disclosed before the AO, its manner of derivation and the other prescribed particulars. Once properly admitted under the historical scheme, the Commission dealt with the whole case for the relevant year, not only the newly disclosed component. The Court read the then section 245D(1A) with section 245D(1): the Commissioner's objection was reviewable by the Commission, but the nature of the case, report and investigation had to be assessed consistently with the Act's scheme (paragraphs 7–19, physical pages 9–16).

On these facts, offering part of the already claimed losses to tax did not supply the required undisclosed income and derivation. The Commission also misdirected itself by excluding all post-application material. The usual reference point was the Commissioner's report, and paragraph 20 expressly permitted later material too where the interests of justice called for it. Filing alone did not stop the department's investigations under the governing historical regime (paragraphs 20, 22–23, physical pages 17–18). The printed threshold and broad interest-waiver aside require the separate historical and later-source safeguards below.

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

## 03 JUDICIAL DECISION

The application lacked the first requirement of section 245C(1) and should have been rejected at the outset. All four appeals were allowed and the Commission's admission order was set aside. The assessments for all four years were to proceed according to law. The assessee was allowed one month from the judgment to appeal to the Tribunal against the appellate Commissioner's 31 March 1989 order, with that appeal treated as timely if filed within the allowed period. The Court expressly reserved the underlying merits. The assessee was ordered to pay Revenue Rs 10,000 costs (paragraph 24 and closing directions, physical pages 18–19).

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

## 04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on settlement jurisdiction and validity of admission

Four appeals allowed; admission order set aside; ordinary proceedings to continue; limited Tribunal-appeal opportunity preserved; Rs 10,000 costs to Revenue

Settlement-jurisdiction ruling only; underlying additions, loss genuineness, penalties and criminal merits expressly left to the competent authorities

No Supreme Court recomputation or final finding sustaining every alleged bogus loss; the one-month filing indulgence was case-specific, not a general statutory deadline.

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

## 05 AKHB REVIEW POINT

For a historical settlement file, distinguish the return disclosures, the AO's discoveries, the actual settlement disclosure and the Commissioner's report. Check whether the application supplies the required income and its derivation rather than only withdrawing part of a disputed claim. Keep admission jurisdiction separate from the ultimate tax merits and from immunity under section 245H.

Historical threshold correction: paragraph 11 of the source prints income exceeding Rs 50,000. The independently checked official 1992 section 245C text and its 1987 effective-date footnote instead make the relevant proviso a return-filing condition plus additional income-tax exceeding Rs 50,000. The judgment did not dismiss this application for failing that numerical threshold. The source's wording is preserved as a caution, not published as an eligibility rule.

Bounded later judicial checks: the five-judge Anjum M.H. Ghaswala decision, 18 October 2001, physical pages 13–14 and 19–20, explains that Express Newspapers' interest-waiver observation belonged to the old interest provisions. It supplies no general waiver power for mandatory sections 234A–234C, apart from applicable section 119 circular relief. Separately, the two-judge Kotak Mahindra Bank decision, 25 September 2023, paragraphs 7–7.3 and 11, distinguishes Express on its facts when addressing section 245H immunity. Prior AO discovery is not invariably fatal in that later setting; full and true disclosure and cooperation remain material. Neither bounded check is described as a wholesale overruling or a comprehensive citator result.

Do not transfer the 1988 application procedure to a later regime. The checked compilation records omission of section 245D(1A) effective 27 September 1991 and the 2007 change in section 245F(2) exclusive-jurisdiction timing. Checked official 2021/2024 texts record discontinuance of the Commission and a new-application bar from 1 February 2021. Transitional relief, later litigation and current applicability require separate review.

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

## PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

**Topic:** Identity, author, appeal group and initial facts

**Source url:** [Open cited source](#)

**Pdf pages:** 1; 5; 6; 7

**Paragraphs:** Paragraphs 1–3 and jurisdiction recital

**Source role:** reported metadata and judicial text

2.

**Topic:** Commission report and admission order

**Source url:** [Open cited source](#)

**Pdf pages:** 7; 8; 9

**Paragraphs:** Paragraphs 4–6

**Source role:** judicial text

3.

**Topic:** Historical case definition, application and printed threshold

**Source url:** [Open cited source](#)

**Pdf pages:** 9; 10; 11; 12

**Paragraphs:** Paragraphs 7–12

**Source role:** judicial text

4.

**Topic:** Applicable section 245D(1A) and reserved 1991 change

**Source url:** [Open cited source](#)

**Pdf pages:** 12; 13; 14; 15; 16

**Paragraphs:** Paragraphs 13–19

**Source role:** judicial text

5.

**Topic:** Report date, later evidence and jurisdictional failure

**Source url:** [Open cited source](#)

**Pdf pages:** 17; 18

**Paragraphs:** Paragraphs 20–23

**Source role:** judicial text

6.

**Topic:** All four years, Tribunal opportunity, express merits reservation and costs

**Source url:** [Open cited source](#)

**Pdf pages:** 18; 19

**Paragraphs:** Paragraph 24 and closing directions

**Source role:** judicial text

7.

**Topic:** Actual historical additional-tax threshold

**Source url:** [Open cited source](#)

**Pdf pages:**

**Paragraphs:** Section 245C(1) proviso and footnote 43

**Source role:** bounded historical statutory text

8.

**Topic:** Later interest-waiver explanation

**Source url:** [Open cited source](#)

**Pdf pages:** 13; 14; 19; 20

**Paragraphs:** Unnumbered judicial text

**Source role:** bounded later judicial comparison

9.

**Topic:** Later section 245H factual distinction

**Source url:** [Open cited source](#)

**Pdf pages:** 20; 21; 26

**Paragraphs:** Paragraphs 7–7.3 and 11

**Source role:** bounded later judicial comparison

**10.**

**Topic:** 1991 and 2007 procedural changes

**Source url:** [Open cited source](#)

**Pdf pages:** 883; 888

**Paragraphs:** Section 245D(1A) omission and section 245F(2) provisos

**Source role:** bounded statutory history

**11.**

**Topic:** 2021 discontinuance

**Source url:** [Open cited source](#)

**Pdf pages:**

**Paragraphs:** Finance Act 2021 section 64

**Source role:** bounded statutory history

**12.**

**Topic:** 2021 new-application bar

**Source url:** [Open cited source](#)

**Pdf pages:**

**Paragraphs:** Section 245C(5) and footnote 36

**Source role:** bounded statutory history

## **JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS**

B.P. Jeevan Reddy, J.

## **ACT IDENTIFIED IN THE REVIEWED SOURCE**

Income-tax Act, 1961

## **SPECIFIED LATER CHECKS AND THEIR LIMITS**

**1.**

**Source asset id:** S 2001 4 303 322

**Kind:** direct judicial explanation

**Pin:** Physical pages 13–14 and 19–20

**Finding:** Express interest-waiver language explained by its historical interest provisions; not authority for a general sections 234A–234C waiver, subject to section 119 circular relief.

**2.**

**Source asset id:** 2023\_14\_1\_27

**Kind:** direct judicial distinction

**Pin:** Paragraphs 7–7.3 and 11; physical pages 20–21 and 26, with paragraphs 4–14 read

**Finding:** Express distinguished on its own facts in the later section 245H immunity setting; prior AO discovery not invariably fatal.

3.

**Source:** DOR\_IT\_Act\_English\_2011\_compilation.pdf

**Kind:** legislative history only

**Pin:** Physical pages 883 and 888

**Finding:** Section 245D(1A) omitted in 1991; section 245F(2) changed for applications on or after 1 June 2007.

4.

**Source:** Finance\_Act\_2021\_section64.html and IT\_Act\_1961\_2024\_section245C.html

**Kind:** legislative history only

**Pin:** Finance Act 2021 section 64; section 245C(5), footnote 36

**Finding:** Discontinuance and new-application bar from 1 February 2021; no comprehensive transitional-relief audit.

#### **SOURCE & VERIFICATION**

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

Identified source rendition: 19 PDF pages; SHA-256

7bcaaa16889ca7d60e22ef7147f5e2c678cf8aa9a3e0f761eaa678939916af26. Original bytes preserved.

Complete judicial paragraphs 1–24 from physical page 5/SCR 68 through page 19/SCR 82, including the final merits reservation and Rs 10,000 costs. Earlier headnote and jurisdiction/counsel entries distinguished. No adjacent judgment.

##### Open cited source rendition

The cover uses Express Newspaper Ltd.; the judicial opening uses Express Newspapers Limited. The source record is kept intact and this variant is documented.; Paragraph 1 mentions three years, but paragraphs 2, 5 and the operative paragraph 24 cover all four AYs 1985-86 to 1988-89. The full four-appeal recital is used, not the single lead number in ingestion metadata.; The inspected page 5 identifies Settlement Application No. 21/V/26/89-IT and the revised return date as 26 February 1988; these are OCR-sensitive text.; Paragraph 11 visibly prints an income threshold of Rs 50,000. The checked official historical proviso is an additional-income-tax threshold exceeding Rs 50,000 with a return-filing condition. This was not the dispositive failure in this case.; Paragraphs 14–15 expressly leave the effect of the 1991 legislative change undecided. The concealment/fraud objection scheme is the then applicable section 245D(1A), not a statement of every later admission procedure.; Paragraph 20 permits consideration of post-report material in the interests of justice; the report date must not be described as an absolute evidentiary cutoff.; Paragraph 20 prints section 245-G for the application and paragraph 16 prints Commissioner where context concerns the Commission. Those visible slips are not treated as distinct statutory powers.; The broad paragraph 21 interest-waiver remark is historical context and is expressly limited by the checked Ghaswala explanation. No present-day waiver, immunity, rate, threshold or application route is certified.; Departmental allegations and assessment findings on fabricated losses are narrated as procedural background. The Supreme Court expressly reserved their merits in its final direction.

Four civil appeals from the Settlement Commission, Madras order dated 31 May 1990 in Settlement Application No. 21/V/26/89-IT. The cover uses Newspaper (singular); the judicial narrative uses Express Newspapers Limited. Both refer to this source.

## STATUTORY SCOPE

The official utility's checked Chapter XIX-A rows carry literal ----- placeholders. Those are preserved as placeholders, not converted into an authoritative no-successor, repeal or substantive-equivalence conclusion. Structural correspondence is not substantive equivalence, an assessment-year applicability decision or a current-law certification. The 2025 operative provisions have not been compared for these propositions.

Specified structural correspondence and placeholders (no automatic precedent carryover):

section 1961: 245A - Definitions; section 2025: -----; section 1961: 245B - Income-tax Settlement Commission; section 2025: -----; section 1961: 245C - Application for settlement of cases; section 2025: -----; section 1961: 245D - Procedure on receipt of an application under section 245C; section 2025: -----; section 1961: 245F - Powers and procedure of Settlement Commission; section 2025: -----; section 1961: 245H - Power of Settlement Commission to grant immunity from prosecution and penalty; section 2025: -----

## LATER TREATMENT

Source checked 2026-10-04. Comprehensive later treatment remains not\_verified. Only the separately bounded Ghaswala interest-waiver explanation, Kotak section 245H factual distinction and specified official statutory history are independently verified here.

## IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 19](#)

SHA-256: 7bcaaa16889ca7d60e22ef7147f5e2c678cf8aa9a3e0f761eaa678939916af26

[official department statutory html](#)

SHA-256: 3fc2e1e1bd02ef790b17493ec54be306ffa88f086ff15f4e98b268994e689b46

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[bounded later judicial comparison - PDF pages: 20](#)

SHA-256: 81e850b1be2d2bd419404054fc5b65569d80ba35f41372fa853ac25455767e69

[bounded later judicial comparison - PDF pages: 27](#)

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## AI DISCLOSURE

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