

Commissioner of Income Tax, Mumbai v. Anjum M.H. Ghaswala and Ors.

Civil Appeal Nos. 4126–50 of 2000 and connected proceedings (full list below)

[2001] Supp. 4 SCR 303 | 2001-10-18

Whether the Settlement Commission could waive or reduce mandatory sections 234A, 234B and 234C interest as a term of settlement under sections 245D(4) and (6), independently of statutory CBDT relaxation.

119(2)(a) | 234A | 234B | 234C | 245A | 245B | 245C | 245D(4) | 245D(6) | 245F | 245H | 245-I | 220(2A) (statutory contrast) | 158BF (historical statutory contrast)

Five-judge Constitution Bench | Dr. A.S. Anand, CJI | K.T. Thomas, J. | R.C. Lahoti, J. | N. Santosh Hegde, J. | S.N. Variava, J.

Assessment years: See the source-scope notes; no year inferred.

Waiver question only; circular relief and historical limits remain

The Court rejected an independent settlement power to waive mandatory interest, but preserved relief available under section 119 circulars. It decided only that question and placed the matters before a Division Bench; no individual demand, interest endpoint or reopening authority was determined. Brij Lal separately addressed the historical cutoff and section 154 bar; later 2011/2015 amendments and the 2021 forum closure prevent mechanical present-day use. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

A five-member Special Bench of the Settlement Commission had held in Ashwani Kumar Aggarwal that sections 245D(4) and (6) did not authorise waiver or reduction of statutory interest. A seven-member Bench reversed that view in its 12 December 1997 order, treating compromise, the terms-of-settlement provision, the powers of an income-tax authority and the object of Chapter XIX-A as permitting waiver for AY 1989–90 onwards. Revenue challenged that jurisdictional conclusion (SCR 307–309).

The Supreme Court considered the waiver question in Civil Appeal Nos. 4126–50/2000 within the listed connected batch. The report does not decide individual settlement computations, state taxpayer-by-taxpayer assessment years, or determine whether each applicant met a particular CBDT circular condition (SCR 308 and 321–322).

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

02 DISCUSSION BY THE HON'BLE COURT

Section 245D(4) conferred wide settlement power but expressly required conformity with the Act. Section 245D(6) dealt with payment terms, such as instalments and the last payment date; it was not an independent substantive power to cancel a statutory charge. Treating its reference to interest as a waiver power would also suggest an untenable power to waive the tax itself. Penalty and prosecution immunity under section 245H stood on their own express statutory basis (SCR 310–315 and 320).

Sections 234A, 234B and 234C were mandatory. The Act expressly provided relaxation or exclusion where intended, illustrated by section 220(2A) and the historical block-assessment provision. Express Newspapers concerned earlier assessment years governed by different interest provisions which allowed discretion; its observations could not be transplanted into the later mandatory scheme (SCR 311–316).

The Commission could not equate its quasi-judicial settlement function with the Board's administrative power under section 119 to relax statutory rigour for classes of cases. Nor could purposive interpretation or a supposed inherent power override the clear statutory command. The 21 May 1996 press release was distinguished from a circular issued under section 119 (SCR 316–320).

The Court nevertheless accepted a specific, important qualification: beneficial section 119 circulars could be applied by the Commission on their own conditions through its income-tax-authority powers. It referred to the Board's 23 May 1996 notification/circular. Enforcing that relaxation did not turn the Commission into the Board or confer an unlimited personal waiver jurisdiction (SCR 321).

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

03 JUDICIAL DECISION

The Constitution Bench held that sections 245D(4) and (6) did not authorise reduction or waiver of statutorily payable sections 234A, 234B and 234C interest except to the extent of relief under section 119 Board circulars. It expressly decided no other issue and directed that all matters be placed before a Division Bench for disposal in accordance with law. No costs were ordered (SCR 321–322).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue on the general waiver-power question, subject to eligible circular relief for assesseees

Legal question decided; matters placed before a Division Bench for further disposal; no costs

Binding answer on the identified jurisdictional issue; remaining appeal/petition merits not decided in this judgment

No blanket refusal of statutory/circular relief, no individual interest calculation, and no decision fixing the interest cutoff or authorising section 154 reopening.

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

05 AKHB REVIEW POINT

Separate a mandatory liability from the legal route for relaxing it. Identify the precise statutory charge and applicable circular, then prove that the taxpayer falls within its stated class, conditions and period. An offer of settlement or cooperation alone does not create a free-standing waiver power, and a press release is not interchangeable with a section 119 circular. The 1996 circular's conditions are described only as the judgment describes them; its complete text and present operation have not been independently audited here.

Brij Lal, in the bounded primary comparison below, confirms that Ghaswala did not decide the section 234B endpoint. Brij Lal's own historical conclusion fixes that endpoint at section 245D(1) admission and rejects section 154 reopening of concluded settlements. Those are separate issues, and later express rectification and interest amendments must be checked before applying them. The Commission ceased to operate under the 2021 legislation; this note is not an invitation to file a new settlement application.

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

APPEAL AND PROCEEDING NUMBERS

Civil Appeal Nos. 4126–50 of 2000 / Civil Appeal Nos. 6275–86/98, 1561, 3859/99 (grouped as printed) / SLP(C) Nos. 17832–34, 16404–05, 16407–11/2000 (grouped as printed) / Civil Appeal Nos. 6414–15, 3744/98, 5655–59/99, 16810/96 and 1858 of 1999 (grouped as printed)

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, bench and grouped proceedings

Source url: [Open cited source](#)

Paragraphs: Cover; jurisdiction recital; opening judicial passage

Source role: reported metadata and judicial text

Pdf pages: 1; 5; 6

2.

Topic: Commission disagreement and limited issue

Source url: [Open cited source](#)

Paragraphs: SCR 308–309

Source role: judicial text

Pdf pages: 6; 7

3.

Topic: Statutory mandate and meaning of terms of settlement

Source url: [Open cited source](#)

Paragraphs: SCR 310–315

Source role: judicial text

Pdf pages: 8; 9; 10; 11; 12; 13

4.

Topic: Board powers, interpretive and inherent-power limits

Source url: [Open cited source](#)

Paragraphs: SCR 316–320

Source role: judicial text

Pdf pages: 14; 15; 16; 17; 18

5.

Topic: Circular exception and exact limited disposition

Source url: [Open cited source](#)

Paragraphs: SCR 321–322

Source role: judicial text

Pdf pages: 19; 20

6.

Topic: Later distinction between waiver, cutoff and reopening

Source url: [Open cited source](#)

Paragraphs: Paragraphs 10 and 12–17

Source role: bounded later judicial comparison

Pdf pages: 44; 49; 50; 51; 52; 53; 54

7.

Topic: Later express rectification power

Source url: [Open cited source](#)

Paragraphs: Finance Act 2011 section 30; printed 2.24

Source role: bounded later statutory comparison

Pdf pages: 1155

8.

Topic: Later settlement-interest and rectification changes

Source url: [Open cited source](#)

Paragraphs: Paragraphs 48.4–48.7 and 49.5–49.6

Source role: bounded later statutory comparison

Pdf pages: 73; 74

9.

Topic: Commission cessation

Source url: [Open cited source](#)

Paragraphs: Finance Act 2021 section 64

Source role: bounded later statutory comparison

10.

Topic: Statutory new-application bar

Source url: [Open cited source](#)

Paragraphs: Published 2024 (No. 1) section 245C(5) and footnote 36

Source role: bounded later statutory comparison

11.

Topic: Separate pending-application mechanism

Source url: [Open cited source](#)

Paragraphs: Published 2025 section 245D(9)–(10)

Source role: bounded later statutory comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

N. Santosh Hegde, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY COMPARISONS AND TEMPORAL LIMITS

1.

Source urls: [https://dor.gov.in/files/acts_files/IT%20Act%20\(English\)_0.pdf](https://dor.gov.in/files/acts_files/IT%20Act%20(English)_0.pdf)

Checked provision: Finance Act 2011 section 30 (physical page 1155)

Finding: An express section 245D(6B) power to rectify an apparent mistake in a section 245D(4) order was inserted from 1 June 2011, originally within six months of the order and subject to notice/hearing when liability is modified.

Limit: Later enactment, not a holding of the 2001/2002 Court; no retroactivity or particular-case determination.

2.

Source urls: <https://www.incometaxindia.gov.in/documents/20117/6507196/CIRCULARN019-2015.pdf/e13bbcc6-5db2-6021-9202-48dc70fb85f0?t=1762867998946&version=1.0>

Checked provision: CBDT Circular 19/2015, paragraphs 48.4–48.7 and 49.5–49.6

Finding: The circular explains the 2015 section 234B(2A) amendments: interest on the additional tax disclosed in an application has an application-date endpoint, while additional tax attributable to increased income in the final settlement has an order-date endpoint; rectification adjustments and a revised section 245D(6B) time mechanism are explained. The settlement-interest amendments took effect on 1 June 2015.

Limit: Official explanation only, not an independent temporal-applicability ruling, present computation advice or a complete amendment audit.

3.

Source urls: <https://www.incometaxindia.gov.in/w/section-64-92>; <https://www.incometaxindia.gov.in/w/section-245c-47>; <https://www.incometaxindia.gov.in/w/section-245d-49>

Checked provision: Finance Act 2021 section 64; published section 245C(5); published section 245D(9)–(10)

Finding: The checked texts state that the Commission ceased to operate and new applications were statutorily barred from 1 February 2021, with separate Interim Board provisions for pending applications.

Limit: No audit of transitional relief or all later litigation, and no Income-tax Act, 2025 mapping. These cases do not offer a present new-settlement filing route.

SPECIFIED JUDICIAL COMPARISONS AND LIMITS

1.

Case: Brij Lal & Ors. v. Commissioner of Income Tax, Jalandhar (21 October 2010)

Source url: [Open cited source](#)

Checked portions: Paragraphs 1–4 introduction and 10–17; physical pages 15–16 and 41–54

Finding: Paragraphs 14–15 explain that Ghaswala decided mandatory interest and absence of independent waiver power, not the section 234B terminal point. Paragraph 16 separately fixes the historical endpoint at the section 245D(1) order and rejects section 154 reopening of concluded settlements.

Limit: This bounded reading is not comprehensive later treatment. Brij Lal paragraph 14 includes application-date wording; the explicit paragraph 16(2) conclusion uses the admission order. Later legislation is separately recorded.

SOURCE & VERIFICATION

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

Identified source rendition: 20 PDF pages; SHA-256

81e850b1be2d2bd419404054fc5b65569d80ba35f41372fa853ac25455767e69. Original bytes preserved.

Complete unnumbered judicial judgment from physical page 6/SCR 308 through physical page 20/SCR 322. Earlier editorial headnote and jurisdiction/counsel separated; complete grouped jurisdiction recital on page 5 read. No adjacent judgment.

[Open cited source rendition](#)

AY 1989–90 onwards describes the impugned Commission ruling and the introduction of the mandatory interest provisions; this report does not allocate an exact assessment year to every appeal.

Physical page 5 supplies the complete grouped jurisdiction recital. The Constitution Bench expressly took up Civil Appeal Nos. 4126–50/2000 for the waiver issue; the closing order sends all matters to a Division Bench. Years are not redistributed among the abbreviated connected groups.

The report's unnumbered judicial text, not the numbered editorial headnote, supplies the reasoning. No artificial paragraph numbers are assigned.; The reporter's final label says appeals disposed of, but the judicial operative direction places all matters before a Division Bench for disposal. The note follows the narrower operative text.; SCR 321 prints sections 245(4) and (6); the surrounding analysis and question consistently identify sections 245D(4) and (6). The missing D is retained as a source caution, not a separate legal proposition.; The earlier assessment years in Express Newspapers and AY 1989–90 statutory discussion are contextual; they are not assigned to every proceeding in this batch.; The no-waiver rule is expressly qualified by section 119 circular relief; penalty/prosecution immunity under section 245H is not abolished by this decision.

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. Comprehensive subsequent judicial treatment and current-law applicability have not been verified. Only the expressly identified bounded primary-source comparisons have been checked; no automatic Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 20](#)

SHA-256: 81e850b1be2d2bd419404054fc5b65569d80ba35f41372fa853ac25455767e69

[bounded later judicial comparison - PDF pages: 54](#)

SHA-256: d3412cdd55c53cbcf0a8e753012ce15824cc0cb2c293695169ff865657d46692

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

[official cbdt circular - PDF pages: 83](#)

SHA-256: 7b6dbd11fb674e1cc7c0c8ea368a95ffab2a7ba5b87b8d9a56d817c43383c895

[official statutory html](#)

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