

Commissioner of Income Tax, Mumbai v. M/s. Damani Brothers

Civil Appeal No. 7428 of 1999

[2002] Supp. 5 SCR 424 | 2002-12-17

Under the then settlement scheme, when did the Commission displace ordinary tax authorities, did settlement automatically erase existing liability, and on what statutory conditions could interest be waived or separately charged?

153(3), Explanation 1(v) (historical quotation) | 220(2) | 220(2A) | 234A | 234B | 234C | 245A(b) | 245C | 245D(1) | 245D(2A) | 245D(2C) | 245D(4) | 245D(6) | 245D(6A) | 245F (later comparison)

Three-judge bench | M.B. Shah, J. | Arijit Pasayat, J. | D.M. Dharmadhikari, J.

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

Qualified allowance; old jurisdiction and interest rules

The appeal was allowed only to the stated extent. Waiver under section 220(2A) remained conditional and required the Commission's examination; no sum was waived or quantified. Filing-versus-admission jurisdiction was later changed by the 2007 proviso. Brij Lal separately addresses the historical section 234B cutoff and section 154 bar; 2011/2015 amendments and the 2021 Commission closure must be checked. Distinct defaults may attract distinct interest, but this is not permission for interest on interest or a universal current computation. Comprehensive later treatment remains unverified.

01 FACTS OF THE CASE

Damani Brothers applied for settlement at Mumbai. A Special Bench constituted in September 1998 considered whether assessments and recovery subsisted despite a settlement application, whether the final settlement automatically displaced the lower authorities' orders and section 220(2) liability, and whether the Commission could waive that interest. Its 15 April 1999 majority ruling treated prior orders as modified rather than automatically set aside and accepted a waiver power. Revenue appealed. A two-judge Supreme Court Bench placed the matter before a larger Bench, which delivered this three-judge judgment (SCR 427–429).

Revenue disputed substitution of the Commission for ordinary authorities and its interest-waiver power. The assessee argued that filing itself conferred ordinary-authority powers on the Commission, followed by additional settlement powers after admission, and that charging advance-tax interest alongside settlement late-payment interest would duplicate the levy (SCR 429).

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

02 DISCUSSION BY THE HON'BLE COURT

Under the historical scheme considered, filing was a unilateral act, not automatic admission. Until the Commission allowed the application to proceed, it could not complete the pending assessment or act as the appellate or revisional authority in place of the ordinary authority. Those authorities could continue in the prescribed manner. Once settling the case, however, the Commission had to take account of returned and additionally disclosed income together to determine one total income. That computation requirement did not give it pre-admission jurisdiction over the pending assessment (SCR 434–436).

Liability under the lower authorities' orders did not automatically disappear. On waiver, the Court applied Ghaswala: where the Act expressly allowed relief the Commission could consider it, but statutory conditions had to be satisfied. Section 220(2A), quoted in the judgment, required genuine hardship, default due to circumstances beyond the assessee's control and cooperation in the assessment inquiry or recovery proceeding. The Commission still had to examine whether this assessee made out the required case. The judgment does not itself find those conditions proved or waive a quantified sum (SCR 430–431 and 436).

The Court distinguished repeat charging for the same default from separate interest for different defaults. Section 234B addressed deficient advance tax; the then section 245D(2C) addressed late payment of additional income-tax; section 245D(6A) addressed late payment of tax due under the final settlement. These operated in different fields. Its concluding historical discussion described sections 234A, 234B and 234C interest on the combined disclosed and additionally disclosed income until the Commission allowed the application to proceed, with the distinct settlement-interest provisions thereafter. That passage does not justify compound interest or dispense with the actual statutory trigger for each charge (SCR 436–437).

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

03 JUDICIAL DECISION

The Revenue appeal was allowed to the extent indicated in the judgment. Ordinary proceedings were not displaced merely by filing under the provisions considered; existing liability did not automatically stand set aside; and the Commission had to examine the statutory case for waiver or reduction. The operative ending does not quantify tax or interest, itself grant waiver, direct a blanket fresh assessment, or state an express costs award (SCR 436–437).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue's appeal allowed in a qualified manner; the assessee retained only condition-based statutory waiver consideration

Appeal allowed to the extent indicated; Commission to examine whether waiver/reduction conditions are made out

Legal issues decided with further taxpayer-specific waiver examination required; no quantified final liability or waiver determination

The pre-admission jurisdiction rule is historical. No automatic cancellation of lower orders, unconditional section 220 waiver, immunity from distinct late-payment interest or general compound-interest permission.

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

05 AKHB REVIEW POINT

Make separate findings about forum control, subsisting liability, waiver and the statutory period for each kind of interest. A settlement application was not a stay under the historical provisions applied here. Conversely, identifying a subsisting demand does not answer whether the express hardship, lack-of-control and cooperation conditions for section 220(2A) relief are met. The Court required that factual inquiry rather than awarding an unrestricted concession. The Rs 2 lakh/Rs 5 lakh/Rs 7 lakh passage is a hypothetical slab-rate illustration, not this assessee's tax base.

Do not carry the old admission-stage jurisdiction rule into later versions: the verified 2007 proviso to section 245F(2) gives exclusive jurisdiction from filing for applications made on or after 1 June 2007, subject to its further terms. Brij Lal later agreed with Damani's distinct-interest-fields reasoning to that stated extent and expressly fixed the historical section 234B endpoint at admission. It separately rejected section 154 reopening; the later 2011 and 2015 enactments must be distinguished. The 2021 closure/new-application bar also means this is not a present settlement-filing guide.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and appeal

Source url: [Open cited source](#)

Paragraphs: Cover; jurisdiction; opening judicial text

Source role: reported metadata and judicial text

Pdf pages: 1; 4

2.

Topic: Questions, Special Bench ruling and rival submissions

Source url: [Open cited source](#)

Paragraphs: SCR 427–429

Source role: judicial text

Pdf pages: 4; 5; 6

3.

Topic: Express section 220(2A) conditions

Source url: [Open cited source](#)

Paragraphs: SCR 430–431

Source role: judicial text

Pdf pages: 7; 8

4.

Topic: Settlement stages, aggregation and liability survival

Source url: [Open cited source](#)

Paragraphs: SCR 434–436

Source role: judicial text

Pdf pages: 11; 12; 13

5.

Topic: Conditional waiver, separate defaults and limited operative allowance

Source url: [Open cited source](#)

Paragraphs: SCR 436–437

Source role: judicial text

Pdf pages: 13; 14

6.

Topic: Ghaswala circular qualification

Source url: [Open cited source](#)

Paragraphs: SCR 321

Source role: bounded judicial comparison

Pdf pages: 19

7.

Topic: Brij Lal's bounded later treatment and formal answers

Source url: [Open cited source](#)

Paragraphs: Paragraphs 10, 12–17

Source role: bounded later judicial comparison

Pdf pages: 43; 44; 49; 50; 51; 52; 53; 54

8.

Topic: 2007 change to exclusive-jurisdiction commencement

Source url: [Open cited source](#)

Paragraphs: Section 245F(2), provisos and footnote 77; printed 1.847

Source role: bounded later statutory comparison

Pdf pages: 888

9.

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

10.

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

11.

Topic: Commission cessation

Source url: [Open cited source](#)

Paragraphs: Finance Act 2021 section 64

Source role: bounded later statutory comparison

12.

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

13.

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

Arijit Pasayat, 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: Section 245F(2), provisos and footnote 77 (physical page 888)

Finding: The first proviso inserted by the Finance Act 2007, effective 1 June 2007, assigns exclusive jurisdiction from the application date for applications made on or after that date; the further proviso addresses rejection/non-progression/invalidity.

Limit: A specific later statutory qualification of the old admission-stage jurisdiction holding, not a present forum-access assurance.

2.

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.

3.

Source urls: <https://www.incometaxindia.gov.in/documents/20117/6507196/CIRCULARNO19-2015.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.

4.

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: Commissioner of Income Tax v. Anjum M.H. Ghaswala (18 October 2001)

Source url: [Open cited source](#)

Checked portions: Complete judgment, especially SCR 313–321

Finding: The mandatory-interest rule has an express section 119 circular exception; absence of independent waiver power is not absence of all authorised relief.

Limit: This judgment's general rule does not establish Damani Brothers' individual eligibility for any concession.

2.

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

Source url: [Open cited source](#)

Checked portions: Paragraphs 10–17, physical pages 41–54

Finding: Paragraph 10 agrees with Damani Brothers to the extent that section 234B and the historical section 245D late-payment charges operate in different fields. Paragraphs 14–16 identify the earlier cutoff controversy and expressly fix the historical section 234B endpoint at section 245D(1), while rejecting section 154 reopening.

Limit: No wholesale approved/overruled status inferred. Paragraph 14 also has application-date wording; this note follows paragraph 16(2)'s formal admission-order answer, subject to later statutory change.

SOURCE & VERIFICATION

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

Identified source rendition: 14 PDF pages; SHA-256

142f120ad48a824da9bb8d4c7dad0bd83066e310f30a0a35eeb17af801d4c826. Original bytes preserved.

Complete unnumbered judicial judgment from physical page 4/SCR 427 through physical page 14/SCR 437, including historical statutory quotations. Earlier editorial headnote excluded; jurisdiction recital on page 4 read. No adjacent judgment.

[Open cited source rendition](#)

No assessment-year allocation for Damani Brothers is supplied; AY 1989–90 in the statutory quotation is not treated as the case's assessment year.

The operative expression is appeal allowed to the extent indicated above; the reporter's unqualified appeal allowed label is not a quantified taxpayer result or unrestricted Revenue victory.; The report contains no actual case income figures or specific assessment years. The two/five/seven lakh figures on SCR 436 are explicitly an illustration.; SCR 436 once prints section 246D(6A). The surrounding discussion and SCR 437 clearly identify section 245D(6A); this source slip is not treated as a separate provision.; The three section 220(2A) conditions are statutory constraints, not a judicial finding that the assessee satisfied them. No unconditional waiver or individual recovery endpoint is invented.; The closing discussion groups sections 234A, 234B and 234C; their distinct triggers and computations are not collapsed into a universal identical formula. Brij Lal's express terminal-point answer concerns section 234B.; Historical interest rates, thresholds and payment periods in the quotations are not certified as current. The 2007 section 245F(2) change, later interest amendments and forum closure must remain visible.

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: 14](#)

SHA-256: 142f120ad48a824da9bb8d4c7dad0bd83066e310f30a0a35eeb17af801d4c826

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

SHA-256: 81e850b1be2d2bd419404054fc5b65569d80ba35f41372fa853ac25455767e69

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

SHA-256: d3412cdd55c53bcf0a8e753012ce15824cc0cb2c293695169ff865657d46692

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

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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