

Commissioner of Income Tax v. M/s. Hindustan Bulk Carriers

Civil Appeal No. 7966 of 1996 / Civil Appeal No. 7967 of 1996

[2002] Supp. 5 SCR 387 | 2002-12-17

Under the historical settlement provisions, did section 234B interest end at an earlier regular assessment or reassessment or extend to the final section 245D(4) settlement order, and how did admission, separate default-interest fields and prior payments affect the analysis?

234B | 245C | 245D(1) | 245D(2A) | 245D(2B) | 245D(2C) | 245D(2D) | 245D(4) | 245D(6) | 245D(6A) | 245F(1) | 245F(2)

Three judges; three authored opinions | M.B. Shah, J. | Arijit Pasayat, J. | D.M. Dharmadhikari, J.

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

IMPORTANT: HISTORICAL MAJORITY ENDPOINT DISPLACED BY BRIJ LAL; DISTINCT OPINIONS AND LATER STATUTORY CHANGES

Hindustan Bulk Carriers' majority section 234B endpoint at the final section 245D(4) order cannot be presented as the governing rule for the historical question after the five-judge decision in Brij Lal (21 October 2010). Brij Lal expressly identifies that majority holding and, in paragraph 16(2), adopts the section 245D(1) admission order instead. This is an adverse, proposition-specific displacement, not a verified blanket overruling of every passage. Shah J. formally concurred in Hindustan but used materially different admission-stage and tax-plus-interest reasoning; neither his reasoning nor the majority's no-interest-on-interest language should be converted into a universal formula. Later departmental editions also contain section 234B(2A), express section 245D(6B) rectification and Interim Board modifications. Historical rates, thresholds, payment periods and jurisdiction stages are not certified for present use. Comprehensive later treatment, current-law applicability and Income-tax Act, 2025 mapping remain NOT VERIFIED.

01 FACTS OF THE CASE

The Revenue brought Civil Appeals 7966 and 7967 of 1996 against the Settlement Commission's Special Bench order dated 28 March 1995, identified in the appellate recital as proceeding 1/45 Tech. 94 SC/3865. The Supreme Court described the impugned common decision as *Gulraj Engineering Construction Co., In re and Others*, (1995) 215 ITR (AT) 1. The dispute was the terminal date for section 234B interest when a case was settled under Chapter XIX-A. The report does not give Hindustan Bulk Carriers' business transactions, individual assessment years, application or admission dates, actual tax figures or a separate factual account for the second appeal. The editorial headnote's reference to appellant-assessee is inconsistent with the title and judicial account of the Revenue's appeals (physical pages 9-11/SCR 395-397).

The Special Bench considered five procedural situations: (I) section 143(1) determination without a regular assessment, with or without inquiry notices; (II) a regular section 143(3) or 144 assessment followed by a pending first appeal; (III) a return filed but no section 143(1), 143(3) or 144 determination; (IV) reopening under section 147 without a return responding to section 148 or a completed reassessment; and (V) a completed reassessment with a pending first appeal. Its majority allowed interest to the final settlement order for situations I and III, to the regular assessment for II, from regular assessment to the settlement order for IV, and from regular assessment to reassessment for V. These were categories of legal situations, not five separately identified Supreme Court cases (physical pages 9-10/SCR 395-396).

The Revenue argued that the Commission's settlement of previously undisclosed income required mandatory interest through its section 245D order. The assessee argued that section 234B(4) adjusted the amount of interest without moving the ordinary assessment or reassessment endpoint; alternatively, they asserted the absence of a charging provision or specified endpoint. The Court treated the section 234B starting point as undisputed. Amounts of Rs 10 lakh, Rs 2 lakh and Rs 8 lakh later used by Pasayat J. are hypothetical illustrations. AYs 1985-86 to 1987-88 occur only in the discussion of *Express Newspapers*, and 1 April 1989 in the quoted commencement provision; neither supplies the actual assessment years of these appeals.

Source: [reported judgment / paragraphs Unnumbered / PDF pages 9, 10, 11 / Judicial opening, submissions and appellate recital](#)

02 DISCUSSION BY THE HON'BLE COURT

Pasayat J. distinguished the defaults addressed by sections 234A, 234B and 234C. The immediate controversy concerned section 234B and failure to pay sufficient advance tax. He read the historical section 234B machinery alongside sections 245C, 245D and 245F. An application had to disclose previously undisclosed income fully and truly; admission placed the case within the Commission's exclusive jurisdiction under the then section 245F(2). Settlement nevertheless had to accord with the Act. Relying on Anjum M.H. Ghaswala, he rejected any inherent settlement power to waive mandatory interest, while expressly preserving relief under the applicable section 119 Board circulars. The immunity from prosecution and penalty under section 245H did not create an unrestricted interest-waiver power (physical pages 11-20/SCR 397-406).

For the terminal date, Pasayat J. used harmonious and purposive construction. In his view, stopping interest earlier would give a person who withheld part of the income an advantage over one who disclosed and paid correctly. His express conclusion was that section 234B interest ran from 1 April following the relevant financial year to the section 245D(4) order, with quantification under section 245D(6). He distinguished the separate defaults covered by the then sections 245D(2C) and 245D(6A). The discussion includes a difficult intermediate passage on physical page 23 referring to no further sections 234A-C charge after the application is allowed to proceed; it must be read alongside, and not substituted for, his explicit section 245D(4) summation on that same page and physical page 21. Brij Lal later expressly describes this final-order endpoint as Hindustan's majority holding (physical pages 21-23/SCR 407-409; Brij Lal, paragraph 15, physical pages 53-54/SCR 1219-1220).

Shah J. opened by agreeing with both other judgments, but his separate supplement requires distinct treatment. He described statutory interest on newly disclosed income as running until the order entertaining the application, followed by the then 35-day payment period. Physical page 25 prints a reference to section 245C for that order; the surrounding reasoning concerns admission and payment under section 245D. He then treated the crystallised liability as tax plus interest, explaining the then section 245D(2C) charge on that aggregate if payment was delayed. He acknowledged an interest-on-interest effect before explaining it by merger into the statutory amount. This is materially different from a simple assertion that every judge used the final settlement endpoint or prohibited every possible charge on an amount containing interest. The note preserves his formal concurrence without treating his separate explanation as the majority endpoint rule (physical pages 23-26/SCR 409-412).

Dharmadhikari J. expressly concurred with Pasayat J. and supplied additional reasons on two questions. First, under the then sections 245D(1) and 245F(1)-(2), mere filing did not halt ordinary assessment or recovery; those proceedings became subject to the Commission's powers only after formal admission. Second, computation on the aggregate of previously returned and newly disclosed income had to respect the Act, with credit for tax and interest already paid. He endorsed the settlement-order endpoint, insisted on appropriate adjustments to avoid duplicate interest for an already covered period, and stated that the provisions did not permit interest on interest. His discussion of Express Newspapers and

02 DISCUSSION BY THE HON'BLE COURT

Ghaswala distinguished the older discretionary interest provisions from the later mandatory sections 234A–C. Pasayat J.'s express circular-relief qualification remains important despite broader no-waiver phrases in the supplements (physical pages 26–37/SCR 412–423).

The reproduced statutory text is historical and not a reliable ready-made computation for an unidentified year. It quotes 1.5% monthly section 234B interest, 15% annual interest in the then sections 245D(2C) and (6A), and 35-day payment periods. It also discusses a Rs 1 lakh application threshold introduced from 1 July 1995, after the impugned Special Bench order; Shah J. calls that the threshold at the time of his judgment. Those quotations do not establish which version governed every original application. Likewise, Dharmadhikari J.'s description of aggregate income cannot replace a provision-by-provision computation with the actual payment dates and credits (physical pages 12–18, 24–26 and 29–33).

A bounded direct reading of Brij Lal supplies the material adverse treatment. Kapadia CJI's Constitution Bench judgment distinguishes ordinary assessment from assessment by settlement, separates admission under section 245D(1) from final settlement under section 245D(4), and retains the distinct statutory fields of section 234B and the then sections 245D(2C) and (6A). Paragraph 15 contrasts Hindustan's majority final-order endpoint with the same-day Damani Brothers admission-stage result as part of explaining why section 154 rectification was also untenable in those cases. Paragraph 16(2) unequivocally selects the section 245D(1) order, not the section 245D(4) order, as the historical section 234B endpoint. Paragraphs 14 and 16 must be read together: some reasoning speaks of the application date, while the express answer identifies the admission order. The adverse result displaces Hindustan's inconsistent endpoint proposition; the judgment does not pronounce a blanket overruling of every Hindustan holding or separately adopt Shah J.'s entire tax-plus-interest explanation. Brij Lal also held that the then Commission could not reopen concluded settlements under section 154. The report contains a single Constitution Bench opinion, not a separate dissent (Brij Lal, paragraphs 10–17, physical pages 41–54/SCR 1207–1220).

Later departmental statutory editions were checked only as a warning against automatic carryover. Section 234B(2A)(a)–(c) expressly distinguishes the additional tax disclosed in the application, a later increase by settlement order and rectification adjustments. The displayed section 245D also contains subsection (6B) with an express rectification mechanism and subsections (9)–(10) with Interim Board modifications. These later texts prevent treating either Hindustan or Brij Lal as a universal present-day formula or a perpetual absence of any rectification power. Their temporal application to a particular settlement, the full amendment chain and current-law status have not been certified.

Source: [reported judgment / paragraphs Three unnumbered opinions; boundaries identified in sources / PDF pages 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 / Judgment; bounded later judicial comparison / paragraphs 10–17 / PDF pages 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 / Bounded later primary comparison](#)

03 JUDICIAL DECISION

The Court allowed the Revenue's appeals to the extent stated in Pasayat J.'s opinion. The historical majority rule, shared in substance by Dharmadhikari J., put the section 234B endpoint at the final section 245D(4) settlement order, with the applicable rate and statutory adjustments. Dharmadhikari J. separately concluded that, under the then jurisdictional provisions, ordinary assessment and recovery became subject to the Commission only on formal admission. Shah J. formally concurred but gave the materially different admission-stage and aggregate tax-plus-interest explanation set out above. The final judicial direction disposed of the appeals accordingly; the reporter's concluding label reads "Appeals partly allowed". No individual tax or interest calculation, separately quantified relief or costs direction appears (physical pages 23 and 37/SCR 409 and 423).

For subsequent reliance, the endpoint just stated is the decision rendered in 2002, not the later controlling answer. Brij Lal's contrary Constitution Bench conclusion in paragraph 16(2) displaces that endpoint for the historical question it decided. Other propositions require their own statutory-version and later-treatment checks.

Source: [reported judgment / paragraphs Unnumbered / PDF pages 21, 23, 25, 26, 30, 33, 36, 37 / Separate reasons and operative endings](#); [bounded later judicial comparison / paragraphs 15-17 / PDF pages 53, 54 / Adverse later primary conclusion](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue, to the extent of the historical majority endpoint ruling

Both Revenue appeals allowed to the extent indicated; final judicial wording disposes of them accordingly; reported as partly allowed. No costs direction is stated.

Reasoned final determination of the statutory endpoint and related historical jurisdiction/adjustment principles; no individual recomputation supplied.

The final-order endpoint was later displaced by Brij Lal's Constitution Bench answer. No quantified taxpayer assessment, general compounding rule, unrestricted waiver, current-law formula or 2025 mapping is supplied.

Source: [reported judgment / paragraphs Unnumbered / PDF pages 9, 23, 37 / Appeal list and operative endings](#)

05 AKHB REVIEW POINT

For a legacy settlement file, begin with the actual assessment years, application, admission and final-order dates, the precise statutory version and each payment or credit. Separate section 234B advance-tax default from the then section 245D(2C) admission-payment default and section 245D(6A) post-settlement default. Do not use the five Special Bench scenarios as a list of five decided taxpayer assessments, or import the Court's illustrative figures into a computation.

Cite Hindustan only with its three-opinion structure and the Brij Lal qualification. A citation to mandatory interest does not answer the endpoint question; a quotation from Shah J.'s supplement does not establish a unanimous compounding rule; and the no-duplicate-interest discussion does not remove liability under every distinct statutory provision. Check any claimed waiver against the specific section 119 circular and its conditions. Reconstruct credits without charging the same default twice.

The later section 234B(2A) text, express rectification provisions and Interim Board changes require a fresh temporal analysis. Neither the historical admission-stage jurisdiction rule nor Brij Lal's historical section 154 holding should be carried into a later regime without that work. This note supplies no current-law certificate, Income-tax Act, 2025 crosswalk or automatic precedent carryover. AKHB REVIEW POINT is editorial analysis, not part of the Court's reasons.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Costs: Not stated in the original judgment; no inference of a no-costs order.

Proceeding outcomes

1.

Appellant role: Revenue

Costs: No direction stated

Individual assessment years:

Individual quantum: Not supplied

Pinpoint: Physical pages 9, 23 and 37/SCR 395, 409 and 423

Case number: Civil Appeal No. 7966 of 1996

Outcome: Allowed to the extent indicated in the common judgment; disposed of accordingly, reported as partly allowed.

2.

Appellant role: Revenue

Costs: No direction stated

Individual assessment years:

Individual quantum: Not supplied

Pinpoint: Physical pages 9, 23 and 37/SCR 395, 409 and 423

Case number: Civil Appeal No. 7967 of 1996

Outcome: Allowed to the extent indicated in the common judgment; disposed of accordingly, reported as partly allowed.

SEPARATE JUDICIAL OPINIONS AND READING BOUNDARIES

1.

Author: Arijit Pasayat, J.

Formal position: Principal opinion

Read scope: Complete unnumbered opinion

Endpoint: Express final section 245D(4) endpoint at physical pages 21 and 23; intermediate admission-language tension preserved.

Qualification: Historical majority proposition displaced by Brij Lal.

Physical page range: 9; 23

2.

Author: M.B. Shah, J.

Formal position: Express agreement with both other opinions; separate supplement

Read scope: Complete unnumbered supplement

Endpoint: Describes interest to the order entertaining the application and the then subsequent payment/default scheme.

Qualification: Formal concurrence does not remove materially different admission-stage and tax-plus-interest reasoning; not treated as a unanimous formula.

Physical page range: 23; 26

3.

Author: D.M. Dharmadhikari, J.

Formal position: Express concurrence with Pasayat J.; additional reasons

Read scope: Complete unnumbered supplement

Endpoint: Settlement-order endpoint, prior-payment adjustments and prohibition of interest on interest in his stated analysis.

Qualification: Brij Lal identifies the contrary Hindustan endpoint as a majority holding; admission-based exclusive jurisdiction is a historical statutory-version proposition.

Physical page range: 26; 37

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

2(40); 119; 139; 140A; 142; 143; 144; 147; 148; 208; 210; 234A; 234C; 245A(b); 245B; 245H; 139(8), 215(4), 216 and 220(2A): earlier/discretionary interest context; 154 and 245-I: Brij Lal comparison only; 234B(2A), 245D(6B), 245D(9) and (10): later statutory caution only

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Arijit Pasayat, J.; separate supplements by M.B. Shah, J. and D.M. Dharmadhikari, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Case: Brij Lal & Ors. v. Commissioner of Income Tax, Jalandhar

Date: 2010-10-21

Bench: Five-judge Constitution Bench

Source asset id: 2010_11_1167_1220

Pinpoints: Paragraphs 10-17, especially 15 and 16(2); physical pages 41-54/SCR 1207-1220

Result: Adverse proposition-specific displacement of Hindustan's majority section 245D(4) endpoint by the section 245D(1) endpoint. No blanket express overruling of every holding or wholesale adoption of Shah J.'s separate explanation claimed.

Limits: Selected complete reasoning and conclusion read; historical statutory setting; no comprehensive citator search.

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: bounded later statutory html

Title: Income-tax Act, 1961, departmental 2024 (No. 2) edition, section 234B

Url: [Open cited source](#)

Source format: HTML

Version: Displayed 2024 (No. 2); Hindi interface with English statutory text; Income-tax Act, 1961

Accessed at: 2026-10-05T19:54:27Z

Full document read: False

Full judgment text read: False

All document text read: False

All document images read: False

Read bounds: Section and edition identity and statutory lines 64-101 read; substantive reliance confined to subsection (2A)(a)-(c), lines 89-91, distinguishing application-stage additional tax from a later settlement increase and associated rectification adjustment. No complete amendment-chain or temporal-applicability audit.

Provenance: Official departmental HTML successfully read within the stated bounds. No PDF pagination, raw-HTML integrity hash, Gazette authentication, whole-Act review or current-law certification is asserted.

2.

Kind: bounded later statutory html

Title: Income-tax Act, 1961, departmental 2025 edition, section 245D

Url: [Open cited source](#)

Source format: HTML

Version: Displayed 2025 edition of the Income-tax Act, 1961; not the Income-tax Act, 2025

Accessed at: 2026-10-05T19:54:27Z

Full document read: False

Full judgment text read: False

All document text read: False

All document images read: False

Read bounds: Section and edition identity and displayed section text read; substantive reliance confined to subsection (6B) with both provisos, lines 109-115, and subsections (9)-(10), lines 118-125, together with the displayed 2023 amendment footnote at line 140. These identify a later express rectification mechanism and Interim Board modifications. No whole Act or transitional litigation audit.

Provenance: Official departmental HTML successfully read within the stated bounds. No PDF pagination, raw-HTML integrity hash, Gazette authentication, whole-Act review or current-law certification is asserted.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 37 PDF pages; SHA-256

3d7d82dc858bf0a71f4e667ef094f5df5878e386ce908ce31bdb9cea394e753b. Original bytes preserved.

Open cited source rendition

full primary text read: True; all primary page images reviewed: True; source integrity verified: True; actual statutory scope verified: True; all listed proceedings accounted for: True; all authored opinions separately accounted for: True; material adverse treatment prominent: True; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

SCR volume, page, date and three-judge bench verified from the original report. Brij Lal refers to this decision as (2003) 259 ITR 449. Frozen catalogue identifier 2002INSC545 is metadata, not independently authenticated here as a neutral citation. Judicial text has no native paragraph numbering; physical/SCR page pinpoints are used.

No party-specific assessment year is stated. The 1989 commencement, Express Newspapers' 1985-86 to 1987-88 years and hypothetical income figures are not attributed to these appeals.

Both appeals are expressly printed as Civil Appeal Nos. 7966-67 of 1996 on physical page 9. The report supplies one title and a common disposal, without separately allocating taxpayers, assessment years or monetary relief to the second number. Damani Brothers, Civil Appeal 7428/1999, is a distinct same-day decision, not an additional proceeding disposed of in this original.

STATUTORY SCOPE

No Income-tax Act, 1961 to Income-tax Act, 2025 mapping. Bounded historical and later statutory checks are separately described; commencement, savings and current application are not certified.

LATER TREATMENT

Source checked 2026-10-05. A direct bounded primary check establishes Brij Lal's adverse displacement of the majority section 245D(4) endpoint. This does not represent a comprehensive subsequent-treatment search or blanket citator status.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 37](#)

SHA-256: 3d7d82dc858bf0a71f4e667ef094f5df5878e386ce908ce31bdb9cea394e753b

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

SHA-256: d3412cdd55c53cbcf0a8e753012ce15824cc0cb2c293695169ff865657d46692

[Income-tax Act, 1961, departmental 2024 \(No. 2\) edition, section 234B](#)

[Income-tax Act, 1961, departmental 2025 edition, section 245D](#)

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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