

Ashirwad Enterprises and Others v. State of Bihar and Another

Criminal Appeal Nos. 736-737 of 1998

[2004] 3 SCR 300 | 2004-03-22

Settlement Commission immunity and pending income-tax prosecution

Income-tax Act, 1961: sections 245C, 245H and 276C | Code of Criminal Procedure, 1973: section 482

Two-judge bench; judgment delivered by Arijit Pasayat, J. | Doraiswamy Raju, J. | Arijit Pasayat, J.

Assessment years: 1988-89

Conditional immunity

The quashing followed an actual immunity order. Non-compliance or withdrawal could revive liability under the statutory provisions considered by the Court.

Historical mechanism

The decision applies the settlement provisions as they stood in the relevant period; it is not a statement of current procedural availability.

01 FACTS OF THE CASE

Income-tax authorities prosecuted the assessee-firm and a partner for alleged concealment, wilful tax evasion and false verification for assessment year 1988-89. Their applications under section 245C had been filed on 27 May 1991; prosecution began on 27 February 1992. The Patna High Court declined to quash while the settlement applications were still pending. During the Supreme Court proceedings, the Settlement Commission made its 20 September 1999 order granting immunity from penalty and prosecution (SCR pp.300-303; PDF pp.1-4).

Source: [Primary judgment: facts and procedural chronology](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 245H permitted immunity where the applicant made full and true disclosure and cooperated, but its proviso barred immunity when prosecution had already been instituted before receipt of the section 245C application. The prohibition discouraged belated settlement applications after prosecution. Here the settlement application preceded prosecution, the Commission granted immunity, and Revenue had not challenged that order. A merely pending settlement application would not itself justify quashing, but the later final immunity order changed the position. The Court also preserved the consequences of non-compliance and the Commission's power to withdraw immunity (SCR pp.303-305; PDF pp.4-6).

Source: [Primary judgment: section 245H reasoning](#)

03 JUDICIAL DECISION

The prosecution before the Special Court was quashed because a final immunity order had been made on an application filed before prosecution. The Court clarified that the tax authorities could seek restoration if the settlement order was not complied with or immunity was withdrawn (SCR p.305; PDF p.6).

Source: [Primary judgment: operative order](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee-appellants at that stage: the criminal proceedings were quashed. The relief remained conditional because statutory consequences could follow non-compliance with the settlement or withdrawal of immunity.

Source: [Primary judgment: qualified outcome](#)

05 AKHB REVIEW POINT

AKHB analysis: distinguish three procedural states - a settlement application merely pending, a final immunity order in force, and immunity later withdrawn or lost for non-compliance. The first did not itself terminate prosecution; the second justified relief here; the third could restore exposure. For present matters, verify the exact statutory regime and transition provisions rather than assuming the former settlement route remains available.

Source: [Primary judgment: review-point basis](#)

SOURCE & VERIFICATION

[Supreme Court Reports scan - public eSCR mirror](#)

Complete six-page SCR report read in page-preserving text and every page image inspected.

[Open cited source rendition](#)

Exact catalogue SHA-256 and six-page count verified; every page was read and visually inspected.

The report verifies the title, connected criminal appeals, bench, decision date, assessment year, settlement chronology and operative quashing.

No exact asset, source-hash, citation, docket or same-judgment match was found in the published corpus, reviewed archive or disposition register.

STATUTORY SCOPE

The note records the historical section 245H framework applied in 2004. It does not represent the present statutory position or continuing availability of the former settlement mechanism.

LATER TREATMENT

Source checked 2026-10-11. Later judicial treatment, amendments and current statutory applicability were not comprehensively checked; no current-law or citator clearance is represented.

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