

Ajmera Housing Corporation & Anr. Etc. Etc. v. Commissioner of Income Tax

Civil Appeal Nos. 6827-6848 of 2010

[2010] 10 SCR 183 | 2010-08-20

Whether successive revised disclosures could satisfy the historical section 245C(1) requirement, and whether the High Court remand for fresh determination of income and penalty should be disturbed in the applicants' appeals.

132(1) | 132(5) | 245C(1) | 245C(1A)-(1D) | 245C(3) | 245D(1) | 245D(3) | 245D(4)

Two-judge bench | D.K. Jain, J. | H.L. Dattu, J.

Assessment years: 1989-90, 1990-91, 1991-92, 1992-93, 1993-94

Historical disclosure rule; limited remand, not rejection of the applications

The Court rejected revision of the original settlement disclosure and found it deficient, but paragraph 31 expressly stopped short of further relief because the Commissioner had not appealed that part. The applicants' appeals were dismissed, preserving the remand for income and penalty determination; no final liability was computed. Later official texts record the 2021 discontinuance/new-application bar and separate pending-case arrangements; this historical settlement regime is not a current filing guide. The source contains chronology, report-period, amount and statutory-reference inconsistencies, and current law and later treatment remain unverified.

01 FACTS OF THE CASE

The Ajmera group, mainly four firms and their partners engaged in land development and construction, underwent searches in January 1989 and December 1992. Seized records included coded accounts kept by the group accountant. The Court narrated the main firm's facts: AY 1989-90 was assessed at Rs.18.93 crore against returned income of Rs.70 lakh, AY 1990-91 at Rs.4.01 crore against Rs.4 lakh, and an addition of Rs.90 lakh was made for AY 1991-92. A section 132(5) order had determined the group's concealed income for AY 1993-94 at Rs.200.60 crore (paragraph 3).

On 30 September 1993, the main firm applied under section 245C(1), disclosing Rs.1,94,33,580 of additional income for AYs 1989-90 to 1993-94. In his 27 January 1994 report, the Commissioner objected that the disclosure was not full and true and suggested a group settlement of no less than Rs.223.55 crore. After the admission hearing concluded on 12 September 1994 and the order was reserved, the applicant filed a revised confidential annexure on 19 September 1994 disclosing Rs.11.41 crore. The Commission allowed the application to proceed on 17 November 1994. A further report dated 30 August 1995 put unaccounted income at Rs.187.09 crore, followed by a reconciliation note dated 20 October 1997 (paragraphs 4-5).

There was a further disclosure of Rs.2.76 crore during the later proceedings, for which the Court recorded no application or letter. On 25 January 1999, after departmental questions about the persons booking flats and advance booking amounts, the applicant offered ad hoc income of Rs.1 crore for AY 1992-93 and Rs.6 crore for AY 1993-94 to cover discrepancies or contingencies. On 29 January 1999 the Commission determined total income for the five years at Rs.42.58 crore, imposed a token penalty of Rs.50 lakh against its own stated minimum of Rs.562.87 lakh, and granted prosecution and other-penalty immunity (paragraphs 6-7).

The Bombay High Court first set aside both the admission and final orders on 28 July 2000 and remitted the entire matter, including maintainability. In 2006 the Supreme Court set that judgment aside for fresh High Court consideration because the later Commissioner report had not been considered, leaving all contentions open. On 8 July 2009 the High Court again set aside the final settlement orders and remanded for fresh determination of income, penalty and related matters. Despite finding the initial disclosure deficient, it did not reopen the settlement application's maintainability. The assessee brought these 22 appeals; the Commissioner did not challenge that latter restriction (paragraphs 8-11 and 30-31).

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

02 DISCUSSION BY THE HON'BLE COURT

Full and true disclosure of previously undisclosed income, its manner of derivation and the additional income-tax payable were foundational to a valid section 245C(1) application. The Commission had to be satisfied about that condition before exercising jurisdiction over the application. Its decision to proceed under section 245D(1) did not prevent later examination of the disclosure in light of Commissioner reports and other evidence (paragraphs 20-26).

Under the historical rules, the confidential annexure was withheld from the Commissioner at the initial reporting stage and supplied after the application was admitted. The final-order power covered the application's matters and other case matters referred to in the Commissioner's reports under section 245D(1) or (3). The Court held that Chapter XIX-A did not contemplate revision of the income disclosed in the application. Permitting that substitution would in substance permit withdrawal and a fresh application, circumventing section 245C(3). Determination had to be with reference to the original prescribed application; this was not an absolute ceiling preventing the Commission from examining report-based matters within section 245D(4) (paragraphs 21-28).

Applying strict construction, the Court rejected an implied power to revise. It also rejected the argument that confidentiality made the undisclosed revision harmless: withholding information that the applicant had replaced its disclosure with Rs.11.41 crore deprived the Commissioner of the opportunity to object that the original application lacked the required full and true disclosure. This did not create a general entitlement to the original confidential annexure before admission (paragraphs 27-28 and 34).

The Court disapproved the High Court's willingness to preserve the proceedings despite finding the initial disclosure deficient. It considered the 19 September 1994 disclosure alone sufficient to show that the original application could not be entertained. Crucially, however, it expressly went no further on that aspect because the Commissioner had not challenged the relevant part of the High Court order. The discussion of Ramsay in paragraph 30 is contextual quoted precedent, not a new independent assessment of a tax-avoidance transaction in this case (paragraphs 30-31).

The applicants' argument that the later Commissioner report effectively accepted the settlement figure failed. The High Court had found that only the on-money component had been highlighted, whereas other receipts, investments and payments remained; it identified inadequately examined expenses, loans and surplus exceeding Rs.14 crore and an unexplained reduction to the token penalty. These deficiencies justified fresh adjudication, rather than reinstatement of the Commission's figures. The Court did not itself recompute the final income or penalty (paragraph 32).

The challenge to the High Court's exercise of judicial review also failed because the applicants had expressly not pressed writ maintainability there and could not revive it in these appeals. The Court additionally criticised the Commission's repeated acceptance of increased disclosures while dismissing the Commissioner's foundational objection. Counsel's cases on limited judicial review were submissions, not authority for an unrestricted immunity from review adopted by this judgment (paragraphs 14 and 33).

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

03 JUDICIAL DECISION

The Supreme Court dismissed all 22 assessee appeals and awarded the Commissioner costs quantified at Rs.50,000. It declined to interfere under Article 136 with the High Court's setting aside of the final settlement orders and remand for fresh adjudication of income, penalty and related matters. Its findings against the validity of the initial disclosure did not become an operative direction to reject the settlement applications: paragraph 31 expressly limited further relief because the Commissioner had not appealed that part. No final taxable-income amount, fresh penalty amount or independent prosecution direction was made by the Supreme Court (paragraphs 10, 31-35).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue, in resisting the applicants' appeals and preserving the High Court remand

Civil Appeal Nos. 6827-6848 of 2010 dismissed; High Court remand sustained; Rs.50,000 costs to the Commissioner

Final appellate rejection of the attempt to restore the settlement orders, with authoritative construction of the historical disclosure requirement; ultimate income and penalty remained for fresh adjudication on remand

Although the Court said the original application could not be entertained, it did not order rejection or enlarge the remand to reopen maintainability because the Commissioner had not challenged the High Court's restriction. No current settlement procedure or present-law rule is certified.

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

05 AKHB REVIEW POINT

For a historical settlement dispute, separate three questions: whether the original application was validly founded on full and true disclosure; whether later reports brought additional matters within the Commission's statutory examination; and what relief the appeal actually permitted. A later voluntary replacement disclosure cannot simply be treated as curing the first requirement. Equally, paragraph 28 should not be isolated to convert the originally disclosed amount into a numerical ceiling on the Commission's inquiry.

The strongest publication safeguard is to retain paragraph 31 beside the holding: the Court's rejection of revision and its adverse view of the original application must not be rewritten as an operative dismissal of the settlement applications. The surviving result was a limited remand, not a fresh Supreme Court tax or penalty computation. This decision concerns the historical statute and rules; check the applicable enactment, procedural regime and later treatment before using it for another matter.

A bounded check of later official texts confirms that the 2021 legislation provided for discontinuance of the Commission and a bar on new section 245C applications from 1 February 2021, with separate arrangements for pending applications. This historical judgment should not be presented as a presently available filing process. The checked legislative text is not a comprehensive audit of transitional relief or later case law.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, appeal range and judicial opening

Source url: [Open cited source](#)

Pdf pages: 1; 10

Paragraphs: Cover; jurisdiction; 1-2

Source role: reported metadata and judicial text

2.

Topic: Search history and staged disclosures

Source url: [Open cited source](#)

Pdf pages: 11; 12; 13; 14

Paragraphs: 3-7

Source role: judicial text

3.

Topic: Earlier proceedings and limited 2009 remand

Source url: [Open cited source](#)

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

Paragraphs: 8-11

Source role: judicial text including quoted prior orders

4.

Topic: Opposing submissions; not adopted findings

Source url: [Open cited source](#)

Pdf pages: 18; 19; 20; 21

Paragraphs: 13-19

Source role: party submissions

5.

Topic: Historical statutory prerequisites and procedural extracts

Source url: [Open cited source](#)

Pdf pages: 21; 22; 23; 24; 25; 26

Paragraphs: 20-25

Source role: judicial text including quoted statute rules and form

6.

Topic: Continuing disclosure inquiry and no revision

Source url: [Open cited source](#)

Pdf pages: 26; 27; 28; 29

Paragraphs: 26-28

Source role: judicial text

7.

Topic: Adverse disclosure finding and Commissioner's unchallenged restriction

Source url: [Open cited source](#)

Pdf pages: 29; 30; 31

Paragraphs: 30-31

Source role: judicial text including quoted precedent

8.

Topic: Reasons sustaining remand; judicial-review objection

Source url: [Open cited source](#)

Pdf pages: 31; 32; 33

Paragraphs: 32-33

Source role: judicial text

9.

Topic: Confidentiality argument and final costs/disposal

Source url: [Open cited source](#)

Pdf pages: 33; 34

Paragraphs: 34-35

Source role: judicial text

10.

Topic: Bounded later forum and pending-application texts

Source url: [Open cited source](#)

Paragraphs: Finance Act 2021 section 64, year heading and complete amendment

Source role: bounded later statutory comparison

11.

Topic: Bounded later forum and pending-application texts

Source url: [Open cited source](#)

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

Source role: bounded later statutory comparison

12.

Topic: Bounded later forum and pending-application texts

Source url: [Open cited source](#)

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

Source role: bounded later statutory comparison

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

132(1) / 132(5): Search and provisional concealed-income determination in the factual history; no standalone ruling on search validity.

245c(1): Foundational disclosure of undisclosed income, its manner of derivation and the additional tax payable under the historical settlement scheme.

245c(1a)–(1d): Referenced in quoted Form 34B instructions for computing additional income-tax; no independent computation ruling.

245c(3): Prohibition on withdrawal used to explain why the scheme did not permit substitution through revision of the disclosed income.

245d(1) / 245d(3) / 245d(4): Historical admission, report/investigation and final-order provisions; admission did not exhaust the full-and-true-disclosure inquiry.

OTHER PROVISIONS CONSIDERED

Income Tax Settlement Commission (Procedure) Rules, 1987, rules 6 and 8; Form 34B, including its reference to rules 44C and 44CA; Constitution of India, Articles 136 and 226

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

D.K. Jain, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED STATUTORY COMPARISONS AND TEMPORAL LIMITS

1.

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 record the Commission ceasing to operate and a statutory new-application bar from 1 February 2021, with a separate Interim Board mechanism for pending applications.

Limit: No comprehensive audit of transitional relief, subsequent litigation or the Income-tax Act, 2025. The case must not be presented as permission to make a new settlement application.

SOURCE & VERIFICATION

Hon'ble Supreme Court source PDF (reported judgment)

Identified source rendition: 34 PDF pages; SHA-256

e5895371b0fb4e1b66a3b99be4060576b5e671974b2897cd836d0e24a54c72bc. Original bytes preserved.

Complete judicial paragraphs 1-35 on physical pages 10-34 (SCR 192-216). Physical pages 1-9 and the upper part of page 10 contain report/editorial material and the jurisdiction/appearance entries. The judgment begins with D.K. Jain, J., paragraph 1, near the foot of page 10 and ends with paragraph 35 on page 34. No adjacent judgment.

Open cited source rendition

Paragraphs 3-7 narrate the main firm, Ajmera Housing Corporation, as representative of the group litigation and identify its settlement years as 1989-90 to 1993-94. No appeal-by-appeal or other applicant-by-year mapping is supplied.

The PDF cover and jurisdiction line state the complete 22-appeal range; the ingestion metadata names only Civil Appeal No. 6827/2010.

The first nine pages are editorial headnote/report material. The headnote omits the critical qualification at the end of judicial paragraph 31 concerning the Commissioner's failure to challenge the maintainability ruling; use the judicial text for the disposition.; Paragraph 6 on SCR 195 gives a further disclosure sometime in 1999 while also stating that hearings concluded on 14 October 1998. This chronology is visibly printed and has not been silently repaired.; The quoted rule 6 on SCR 206 says thirty days for the initial report, while paragraph 26 on SCR 209 says 45 days. No filing/report deadline is derived from this internally inconsistent rendition.; The settlement order is described as Rs.42.58 crore in paragraph 7; the discussion of the 2006 proceedings uses Rs.42.5 crore, while the applicant's submission in paragraph 32 prints Rs.42.52 crore. These are not silently harmonised. Rs.187.09 crore in the 1995 report and Rs.187.20 crore in the later reconciliation discussion are kept in their distinct contexts.; Paragraph 32 prints Rs.911.51 lakh and Rs.488.98 lakh alongside an omitted-total statement of Rs.14.49 crore; those two displayed component figures sum to Rs.14.0049 crore. The note uses the judgment's independently stated aggregate exceeding Rs.14 crore and does not invent a corrected component or assessment.; Paragraph 14 visibly attributes counsel's conclusivity argument to section 245D(1). That recital is not adopted as a verified statutory cross-reference; the note does not silently substitute another provision.; OCR repeatedly renders 245D as 2450 and Form 34B as 348; source images confirm the lettered statutory/form references used in this note. The headnote's reporter pinpoints for paragraphs 34-35 do not replace physical page 34 / SCR 216.; The metadata citation 2010INSC535 is not printed on the inspected cover; the publication citation used here is the verified [2010] 10 SCR 183. No source PDF has been corrected or rebranded.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial treatment and current-law applicability remain unverified. A separately identified bounded check of the 2021 discontinuance/new-application provisions and the published 2025 pending-application text is included; no general statutory audit or Income-tax Act, 2025 crosswalk is claimed.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 34](#)

SHA-256: e5895371b0fb4e1b66a3b99be4060576b5e671974b2897cd836d0e24a54c72bc

[official statutory html](#)

SHA-256: a5b129f53579039494df30669d1821b98f8225def247566eeae5b347dcd13999

[official statutory html](#)

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