

Kakadia Builders Pvt. Ltd. & Anr. v. Income Tax Officer Ward 1(3) & Anr.

Civil Appeal No. 2491 of 2019 / Civil Appeal No. 2492 of 2019

[2019] 5 SCR 279 | 2019-03-05

Could the High Court reverse the original settlement's interest waiver by adopting directions in a later section 154 rectification order which it had already quashed, or did the waiver issue require fresh determination under the governing Constitution Bench decisions?

119 | 154 | 234A | 234B | 234C | 245B | 245D | 245-I

Two judges | Abhay Manohar Sapre, J. | Dinesh Maheshwari, J.

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

IMPORTANT: JURISDICTION RULING AND LIMITED REMAND, NOT A WAIVER ENTITLEMENT

Both appeals were allowed because the High Court adopted a previously quashed rectification order. The Supreme Court did not decide whether the assessee qualified for interest relief. Preserve Ghaswala's section 119 circular exception and read the waiver-only paragraph 26 with paragraphs 27-28. Later section 245D(6B), section 234B(2A) and Interim Board provisions prevent treating the historical section 154 discussion or quoted interest terminal date as an unqualified current rule. Comprehensive later treatment, current-law applicability and 2025 mapping remain not_verified.

01 FACTS OF THE CASE

A search and seizure operation took place at the premises of Kakadia Builders and its promoter director on 19 January 1994. During the resulting assessment proceedings, the appellants made settlement applications on 12 March 1996 and 3 September 1996 under Chapter XIX-A. The report gives no assessment years, quantified additions, interest totals or individual application-date pairing. On 11 August 2000 the Settlement Commission passed a section 245D(4) order making additions and waiving interest under sections 234A, 234B and 234C (paragraphs 5–7, physical 4/SCR 282).

Both sides sought rectification. The assessee applied on 29 December 2000; Revenue applied under section 154 on 26 July 2002. On 11 October 2002 the Commission dismissed the assessee's applications and partly allowed Revenue's application by altering the interest waiver. The assessee challenged that order in Gujarat High Court Special Civil Applications 15097 and 15101 of 2004. On 3 March 2014 the High Court quashed it, while permitting Revenue to pursue available remedies against the original 11 August 2000 order (paragraphs 8–10, physical 4).

Revenue then filed Special Civil Applications 7814 and 7820 of 2014 against the original order. On 28 July 2016 the High Court purported to dispose of them, but substantively allowed the challenge by reversing the waiver in accordance with the very directions contained in the quashed 11 October 2002 order. The assessee brought the present two appeals. Their separate SLP origins were 21139/2017 for the company and 21140/2017 for the promoter director (paragraphs 5 and 11–13, physical 4–5).

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

02 DISCUSSION BY THE HON'BLE COURT

Sapre J. treated the controversy as governed by the Constitution Bench decisions in Anjum M.H. Ghaswala, delivered on 18 October 2001, and Brij Lal, delivered on 21 October 2010. Both postdated the Commission's original 2000 settlement order. The Commission therefore had not considered its interest-waiver powers in light of those decisions, although the issue remained pending in the High Court (paragraphs 16 and 21, physical 5 and 7).

The Court reproduced Ghaswala's conclusion that settlement powers under sections 245D(4) and (6) did not permit reduction or waiver of statutory interest under sections 234A, 234B and 234C, except to the extent relief was available through Board circulars under section 119. That qualification matters: the judgment does not impose an absolute prohibition on all circular-based relief, nor does it establish that these appellants satisfied a circular (paragraph 17, physical 5-6).

Brij Lal's three questions concerned the applicability of section 234B to settlement proceedings, the interest terminal date, and reopening concluded proceedings under section 154. The conclusions reproduced here applied sections 234A, 234B and 234C to the extent stated in that precedent; identified the section 245D(1) order, rather than the final section 245D(4) order, as the historical section 234B endpoint; and denied reopening under section 154 to impose such interest, particularly in view of section 245-I. These are incorporated statements of that earlier statutory setting, not a fresh computation of these appellants' interest or a ruling on all later versions of section 234B (paragraphs 18-19, physical 6-7).

The decisive error was the High Court's adoption of the 2002 directions. The High Court had itself already annulled that order for want of section 154 power, applying Brij Lal. It could not then treat that annulled order as a subsisting basis for a writ modifying the original settlement. Paragraphs 23-25 expressly characterize this as a jurisdictional error. In the circumstances, the appropriate course was to set aside the interest-waiver portion of the original settlement and return that issue to the Commission for consideration under Ghaswala and Brij Lal, after hearing the parties (paragraphs 22-26, physical 7-8).

The jurisdiction conclusion and the reserved merits must remain separate. Paragraph 26 expressly limits the setting aside and remand to interest waiver. Paragraph 27 then uses a shorter, unqualified formulation when naming the two settlement applications. Paragraph 28 expressly declines any view on waiver merits and requires the Commission to decide uninfluenced by the Court's observations. Read together, those passages do not authorize a note saying that all additions were deleted or that the original waiver was finally restored.

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

03 JUDICIAL DECISION

The Supreme Court allowed both civil appeals. It set aside the High Court's 28 July 2016 order and the original 11 August 2000 settlement order to the extent of the interest-waiver issue, and remanded that issue to the Settlement Commission for a fresh decision after hearing the concerned parties, applying Ghaswala and Brij Lal. The Commission was directed to decide within six months of the Supreme Court's order. No view was expressed on waiver merits; no costs direction is recorded (paragraphs 26–28, physical 8/SCR 286).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on the jurisdictional challenge; neither side obtains a final interest-waiver merits determination

Both appeals allowed; interest-waiver issue remanded for fresh decision

Reasoned jurisdiction holding, with actual waiver entitlement and amount expressly reserved

Paragraph 26's waiver-only scope controls the reading of paragraph 27's shorter disposal; no quantified refund, interest cancellation or determination of underlying additions is certified.

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

05 AKHB REVIEW POINT

The useful proposition is that an annulled statutory order cannot simply be incorporated into a later writ disposition as though it still supplied operative directions. That conclusion is a necessary reason for reversal, so the decision belongs among reasoned jurisdiction authorities despite ending in a remand. It should not be reduced to a generic remand entry, but neither should the assessee's procedural success be described as an interest exemption.

Keep the distinct routes to relief visible. A challenge to the original settlement order, statutory rectification, and a fresh decision after a judicial remand are different steps. The 2014 liberty to Revenue did not validate the quashed 2002 rectification directions. Equally, paragraph 28's reservation leaves the Commission to apply the controlling law to the facts, including any relevant section 119 circular; this note has not verified which circular, if any, applied.

A bounded official statutory-version check reinforces the need for historical limits. The Department's 2025 edition of the 1961 Act displays an express rectification provision in section 245D(6B) and transitional application to Interim Boards in subsections (9)–(10). Its 2024 (No. 2) section 234B(2A) displays separate rules for settlement applications, increased income at the final settlement stage and adjustment after rectification. Those later displayed provisions were not the question decided in Kakadia. Do not turn the quotation from Brij Lal into a claim that every settlement regime always lacks rectification power or that every settlement-interest period ends under section 245D(1). No full commencement, savings or present-forum analysis has been completed.

Targeted later/adverse searches did not identify a later primary Supreme Court decision reversing this specific jurisdictional holding. The ultimate remand result was not verified. Comprehensive later treatment, current-law applicability and 1961-to-2025 mapping remain not verified.

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

DETAILED DISPOSITION AND CONNECTED GROUPS

Proceeding outcomes

1.

Case number: Civil Appeal No. 2491 of 2019

Outcome: Allowed under the common paragraphs 26–28 disposition; no separately stated party-specific relief

2.

Case number: Civil Appeal No. 2492 of 2019

Outcome: Allowed under the same common disposition; no separately stated party-specific relief

3.

Case number: SLP Nos. 21139 and 21140 of 2017

Outcome: Antecedent company and promoter-director proceedings identified in paragraph 5; leave granted in paragraph 1, not additional independent appeals

4.

Case number: Settlement Application Nos. 10/S/095/95-96/IT and 10/S/029/95-96/IT

Outcome: Original 11 August 2000 order set aside on the interest-waiver issue and that issue remanded; no application-to-party or assessment-year pairing inferred

Costs: No costs direction recorded

Timing and protection: Fresh decision within six months from 5 March 2019; historical case-specific direction, with no verified later compliance or remand outcome

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Source url: [Open cited source](#)

Pdf pages: 1; 3; 4

Paragraphs: Heading, two appeals, judicial opening and distinct SLP parties

Source role: identity and judicial text

2.

Source url: [Open cited source](#)

Pdf pages: 4; 5

Paragraphs: Paragraphs 5-13: search, original settlement, rectifications, first quashing and second High Court decision

Source role: judicial text

3.

Source url: [Open cited source](#)

Pdf pages: 5; 6; 7

Paragraphs: Paragraphs 16-21: materially adopted Ghaswala and Brij Lal rules and chronology

Source role: judicial text

4.

Source url: [Open cited source](#)

Pdf pages: 7; 8

Paragraphs: Paragraphs 22-28: jurisdiction reasoning, limited setting aside, both applications, reservation and time direction

Source role: judicial text

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

Reasoned jurisdiction ruling within the 1961 Act settlement scheme. Ghaswala and Brij Lal are materially adopted to explain why a quashed section 154 order could not supply the High Court's directions. The assessee's actual interest-waiver entitlement is reserved.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Abhay Manohar Sapre, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER TREATMENT CHECKS AND THEIR LIMITS

1.

Type: primary judgment internal relationships

Status: verified within primary

Scope: Ghaswala and Brij Lal as incorporated in paragraphs 16-25, not independent complete readings.

2.

Type: targeted later adverse search

Status: bounded search only

Checked at: 2026-10-05T19:14:37.036258+00:00

Queries: "Kakadia Builders" "Supreme Court" overruled; "Kakadia Builders" site:api.sci.gov.in -2019-03-05 -05-Mar-2019; "Kakadia Builders" site:api.sci.gov.in "2021"; "Kakadia Builders" site:api.sci.gov.in "2022"

Result: No later adverse primary Supreme Court authority identified in returned results. Secondary High Court applications surfaced but were not independently authenticated and do not establish exhaustive later history.

3.

Type: later statutory version warning

Status: bounded official html read

Checked at: 2026-10-05T19:14:37.036258+00:00

Urls: <https://www.incometaxindia.gov.in/w/section-245d-49>;
<https://www.incometaxindia.gov.in/hi/w/section-234b-36>

Finding: Separate section 245D(6B) rectification text, section 234B(2A) settlement-interest text and Interim Board transitional provisions exist in the specified later displayed editions. No applicability or full amendment-chain conclusion for the old proceedings.

OTHER STATUTORY PROVISIONS AND THEIR SEPARATE SCOPE

Chapter XIX-A, historical settlement scheme; Sections 245D(1), 245D(4) and (6), and 245-I in the adopted Constitution Bench discussion

DATED OFFICIAL STATUTORY HTML COMPARISONS AND READING LIMITS

1.

Kind: bounded later statutory html

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

Url: [Open cited source](#)

Source format: HTML

Version: Displayed year 2025; expressly Income-tax Act, 1961, not Income-tax Act, 2025

Accessed at: 2026-10-05T19:03:30Z

Full document read: False

Full judgment text read: False

All document text read: False

All document images read: False

Read bounds: Displayed section and edition identity read; reliance confined to subsection (6B), both provisos, and subsections (9)–(10), web lines 109–125. The displayed 2023 amendment footnote was also read; no whole Act review.

Retained capture: recovery/245D_read.json

Provenance: Official departmental HTML retrieved successfully through web read. Capture is a tool-response record, not original PDF bytes. No Gazette authentication, complete amendment-chain audit or current-law certification.

2.

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 year 2024 (No. 2), Hindi interface with English statutory text

Accessed at: 2026-10-05T19:03:17Z

Full document read: False

Full judgment text read: False

All document text read: False

All document images read: False

Read bounds: Displayed section and edition identity read; reliance confined to subsection (2A)(a)–(c), web lines 89–91. No complete amendment history or determination of application to these old settlements.

Retained capture: recovery/234B_read.json

Provenance: Official departmental HTML retrieved successfully through web read. Capture is a tool-response record, not original PDF bytes. No Gazette authentication, complete amendment-chain audit or current-law certification.

SOURCE & VERIFICATION

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

Identified source rendition: 8 PDF pages; SHA-256
a224d6b9cefeffd1996e835cddb7dd067688bc8c1f85829d1153597d0a66d34b. 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; comprehensive later treatment verified: False; current law verified: False; mapping 2025 verified: False; independent QA complete: True; parent full prose approval: True

Printed SCR heading, date, bench, proceedings and all primary images checked. Catalogue INSC identifier not independently authenticated. Pinpoints follow retained SCR physical pages and judicial paragraph numbering.

Headnote propositions are editorial; judicial paragraphs 23-28 supply the holding and disposal.; No individual assessment year, addition amount, interest computation or director name is given. Settlement-application year suffixes are not assessment-year evidence.; Paragraph 27 names both settlement applications but is shorter than paragraph 26; retain the waiver-only limitation and paragraph 28 reservation.; Ghaswala and Brij Lal are read only as quoted/adopted here; no independent full-source review of those precedents or applicable Board circulars is claimed.; No costs direction is recorded; that is not an express no-costs order.; Later HTML editions identify the 1961 Act even where the display year is 2025; this is not verification of the Income-tax Act, 2025.

No assessment year is identified in the primary report. Procedural dates, settlement-application suffixes and figures from quoted authorities are not substituted for the parties' actual assessment years.

The heading and appellate recital list Civil Appeals 2491-2492/2019. Paragraph 5 distinguishes company SLP 21139/2017 and promoter-director SLP 21140/2017. The report does not separately pair each converted civil-appeal number with an individual party or identify the director by name. Both receive the common disposal.

STATUTORY SCOPE

No Income-tax Act, 1961 to Income-tax Act, 2025 crosswalk or automatic carryover. Complete amendment history, commencement, savings and present applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-05. Only specified bounded checks were performed. Failure to locate an adverse or corrective authority does not prove none exists.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 8](#)

SHA-256: a224d6b9cefeffd1996e835cddb7dd067688bc8c1f85829d1153597d0a66d34b

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

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

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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