

Kotak Mahindra Bank Limited v. Commissioner of Income Tax Bangalore and Anr.

Civil Appeal No. 9720 of 2014

[2023] 14 S.C.R. 1 : 2023 INSC 855 | 2023-09-25

Was the High Court justified in remanding the question of immunity under section 245H when the Settlement Commission had found full and true disclosure and cooperation, considered the relevant material, and granted immunity on a reasoned record?

245C(1) | 245D(1) | 245D(4) | 245H(1) | 271(1)(c)

Two-judge bench | B. V. Nagarathna, J. | Ujjal Bhuyan, J.

Assessment years: 1994-95, 1995-96, 1996-97, 1997-98, 1998-99, 1999-2000

01 FACTS OF THE CASE

Kotak Mahindra Bank, described in the judgment as formerly ING Vysya Bank, carried on banking and leasing activities. For AYs 1994-95 through 1999-2000, it treated lease receipts as financing transactions and offered the interest component to tax. The Assessing Officer disputed this treatment, made additions for AY 1997-98, levied a section 271(1)(c) penalty and initiated reopening of earlier assessments. With assessment and appellate proceedings pending, the bank filed a settlement application on 10 July 2000. It covered lease income and depreciation, specified deductions/exemptions and investment-related issues.

After litigation over maintainability, the Settlement Commission made its order on 4 March 2008, determining additional income of Rs 196,36,06,201 and granting immunity from penalty and prosecution. It recorded cooperation, full and true disclosure, and the bank's explanation that it had followed RBI lease-accounting guidelines before recognizing the income-tax omission; it also annulled the AY 1997-98 lease-rental penalty. The Single Judge upheld the settlement jurisdiction and tax determination but remanded immunity for reconsideration. The Division Bench affirmed that remand on 6 July 2012. The bank appealed to the Supreme Court.

Source: [official signed judgment / paragraphs 1-2.3 / PDF pages 1, 2, 3, 4 / judgment](#); [official signed judgment / paragraphs 2.5-2.10 / PDF pages 4, 5, 6, 7, 8, 9, 10 / judgment](#); [official signed judgment / paragraphs 2.12-2.14 / PDF pages 12, 13, 14, 15 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court identified the essential section 245H conditions as full and true disclosure of income and the manner of its derivation before the Commission, and cooperation in the settlement proceedings. Immunity remained discretionary. Even if section 245C's requirements were read into section 245H, disclosure need not invariably concern income different from that already discovered by the Assessing Officer. The relevant additional income was income beyond that recorded in the return; an assessment determination remained appealable, and an assessee could accept liability and disclose that income in settlement. The Court rejected the Revenue's proposed categorical discovered-versus-disclosed barrier.

The Commission still had to direct itself correctly in law and consider the Commissioner's report, the disclosure and other relevant evidence. Here, it had considered the explanation for lease-accounting non-disclosure, additional income under several heads and the bank's cooperation. The Court found repeated references to the Commissioner's report in the admission order, contrary to the Revenue's contention that the report had not been obtained or considered. It held that the Commission had applied its mind, including to the issue of wilful concealment, and had lawfully exercised its discretion.

The High Court could not act as an appellate forum reassessing the sufficiency of the settlement material. Following *Jyotendrasinhji*, review was confined to limited grounds such as statutory contravention, prejudice, fraud, bias or malice. *Express Newspapers* was distinguished because it concerned a partial disclosure against extensive evidence of concealment. The Court reaffirmed that the settlement regime was not a refuge for tax evasion while finding the exercise of discretion justified on this bank's record.

Source: [official signed judgment / paragraphs 5.1-7.3 / PDF pages 22, 23, 24, 25, 26, 27, 28, 29 / judgment](#); [official signed judgment / paragraphs 7.4-10 / PDF pages 29, 30, 31, 32, 33, 34, 35 / judgment](#); [official signed judgment / paragraphs 11-13 / PDF pages 35, 36 / judgment](#)

03 JUDICIAL DECISION

The appeal was allowed. Both the Karnataka High Court Division Bench judgment dated 6 July 2012 and the Single Judge order dated 20 May 2010 were set aside. The Settlement Commission's order dated 4 March 2008, including its conditional immunity and annulment of the specified penalty, was restored. Pending applications were disposed of; no order as to costs was made.

Source: [official signed judgment / paragraphs 14 and unnumbered concluding directions / PDF pages 36, 37 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee bank

Appeal allowed; High Court orders set aside; Settlement Commission order restored; pending applications disposed of; no costs

Restoration of settlement immunity on the facts and statutory conditions of this historical application

Immunity was not made automatic upon filing or disclosure, and the statutory conditions for withdrawal remain. The Supreme Court did not independently allow each underlying tax deduction/exemption, hold that RBI accounting rules govern taxable income, or decide present-day eligibility to file a fresh settlement application.

Source: [official signed judgment / paragraphs 14 and unnumbered concluding directions / PDF pages 36, 37 / judgment](#)

05 AKHB REVIEW POINT

For an existing legacy settlement dispute, distinguish the return, the Assessing Officer's discoveries and the full disclosure actually made in the settlement application. Preserve evidence of derivation, cooperation, the Commissioner's report and the Commission's reasons. Earlier discovery of income does not by itself defeat immunity, but partial disclosure, false evidence and unmet settlement conditions remain material. Any judicial-review challenge must identify a recognised legal defect rather than merely invite a fresh assessment of evidentiary sufficiency. Check the application date and applicable transitional regime before relying on the historical immunity provisions; this 2000 application does not establish that fresh settlement applications, or the same scope of IPC immunity, are available today. No automatic 2025 Act mapping is supplied.

Source: [official signed judgment / paragraphs 5.3-5.4 / PDF pages 24, 25 / judgment](#); [official signed judgment / paragraphs 7.1-7.5 / PDF pages 27, 28, 29, 30, 31, 32, 33 / judgment](#); [official signed judgment / paragraphs 8-13 / PDF pages 33, 34, 35, 36 / judgment](#)

PROVISION-SPECIFIC SCOPE

1.

Provisions: 245H(1)

Role: controlling_immunity_issue

Description: Discretion to grant immunity upon full and true disclosure of income and its derivation, and cooperation with the Commission. The Court reviewed the exercise of that discretion on the existing settlement record.

Paragraphs: 5.3-10, 12-14

2.

Provisions: 245C(1)

Role: settlement_application_and_disclosure_requirement

Description: Relationship between income not disclosed in returns and material earlier discovered by the Assessing Officer; such discovery did not impose a categorical bar to settlement immunity.

Paragraphs: 2.3-2.9, 5.1, 7-7.2

3.

Provisions: 245D(1); 245D(4)

Role: historical_settlement_procedure

Description: Commissioner's report, hearing and settlement order. The Court found the report had been considered, rejecting the Revenue's contrary procedural objection.

Paragraphs: 2.6-2.9, 5.2, 7.3, 7.4(iii)

4.

Provisions: 271(1)(c)

Role: underlying_penalty_annulled_in_restored_settlement

Description: AY 1997-98 penalty for lease-rental non-disclosure was annulled by the restored settlement order. This is not an independent general construction of concealment penalties.

Paragraphs: 2.2, 2.9, 7.4(i)

5.

Provisions: 245H(1A); 245H(2)

Role: conditions_and_withdrawal_safeguards

Description: Withdrawal upon non-payment/non-compliance or concealment/false evidence is quoted, and the restored order expressly preserves statutory withdrawal conditions.

Paragraphs: 5.4, 7.4(i)

6.

Provisions: 245H(3)

Role: later_statutory_text_quoted_only

Description: The quoted provision refers to Interim Board powers from 1 February 2021. The case itself concerns an application filed on 10 July 2000 and an order passed on 4 March 2008; the quotation is not a holding that fresh settlement applications remain available.

Paragraphs: 2.3, 2.9, 5.4

7.

Provisions: 148; 32; 80M; 10(15); 10(23G)

Role: assessment_and_settlement_subjects_background_only

Description: Reopening, leasing depreciation, dividend deduction and exemptions form the historical assessment/settlement background. The appeal does not separately decide their substantive tax treatment.

Paragraphs: 2.1-2.4

SOURCE & VERIFICATION

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

Identified source rendition: 37 PDF pages; SHA-256

0a6c61d94c0fde01c105e4adc4695456692ee2b9f92693977619ac2ce0f80671. Original bytes preserved.

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The complete bounded judicial text in reported PDF pp. 4-27 was read, including the rival submissions and paragraphs 6-14. The official body was compared to that text; official cover and signature/disposition page were visually checked.

Official and reported renditions retain different hashes and pagination: 37 and 27 pages respectively. The official first paragraph is unnumbered; the SCR rendition labels it paragraph 1.

Paragraph 2.11 prints Writ Appeal No. 2458 of 2018, whereas the opening, procedural sequence and operative paragraph 14 identify No. 2458 of 2010. The note uses the operative identification and does not reproduce the inconsistent year as a separate docket.

Paragraphs 3.2 and 3.4 print the Division Bench date as 6 July 2013; paragraphs 1, 2.13-2.14 and operative paragraph 14 consistently give 6 July 2012. The latter is retained.

Paragraph 5.2 first identifies section 245D as the procedure provision but then refers to section 245C(1) for calling the Commissioner's report. Paragraphs 7.3(i) and 7.4(iii) expressly identify section 245D(1); this discrepancy is not silently turned into a separate legal proposition.

The lengthy extracted section 245H includes later amendments, including the 1 June 2007 limitation on non-tax-law immunity and the 2021 Interim Board provision. The application here was filed in 2000. Do not present every quoted clause as the statutory version applicable on that filing date or as proof of present-day filing availability.

The Commission's factual explanation involving RBI accounting guidelines supports the case-specific exercise of immunity discretion. It is not a ruling that RBI accounting directions override the Income-tax Act.

The restored immunity is subject to the withdrawal conditions recorded in section 245H(1A)/(2) and the settlement terms; it is not unconditional or a general amnesty.

Neutral citation and Civil Appeal No. 9720 of 2014 appear on the official cover. SCR citation, decision date and bench are also printed on reported PDF p. 1; the official signature page confirms the date and both judges.

These are the years covered by the 10 July 2000 settlement application (paragraphs 2.1-2.3). The original section 271(1)(c) penalty specifically concerned AY 1997-98 (paragraphs 2.2, 2.9 and 7.4).

STATUTORY SCOPE

Historical Chapter XIX-A settlement application dated 10 July 2000 and order dated 4 March 2008, with the statutory text quoted in the judgment; no 2025 Act crosswalk performed

Application-date restrictions, the post-2021 transitional/Interim Board regime, repeal-and-savings provisions and subsequent treatment require independent verification before applying this decision to another proceeding.

LATER TREATMENT

Source checked 2026-10-04. Subsequent review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 37](#)

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