

## **Topic: Doctrine Of Waiver**

Name of the case: Basheshwar Nath v. IT Commissioner, AIR 1959 SC 149

Bench: Justice Sudhi Ranjan Das, Justice N.H. Bhagwati, Justice S.K. Das, Justice J.L. Kapur and Justice K. Subbarao

Fact of the Case: The petitioner's case was referred to income tax investigation commissioner under Section 5 (1) of the act, after the commission had decided upon the amount of disputed income, the petitioner on 19 May 1954, agreed as a settlement to pay in monthly installments over three lakhs by the way of tax and penalty.

In 1955, the Supreme Court declared Section 5 (1) ultra vires Article 14. The petitioner thereupon challenged the settlement between him and the commissioner.

Ratio:

Justice Sudhi Ranjan Das emphasized that under Article 14 of the Indian Constitution, no individual or state has the authority to waive any breach of the State's obligations.

The SC deemed Section 5 of the act discriminatory and unenforceable. Justice N.H. Bhagwati noted the distinction between statutory, constitutional, and fundamental rights.

While constitutional rights may be waived by citizens as they are granted by the Constitution, fundamental rights are inherently different and immune from legislative interference, thus cannot be waived by citizens.