2025 LiveLaw (SC) 1111

IN THE SUPREME COURT OF INDIA

PANKAJ MITHAL; J., PRASANNA B. VARALE; J.

SPECIAL LEAVE PETITION (CIVIL) Diary No. 40928/2025; 14-11-2025

THE PRINCIPAL COMMISSIONER OF INCOME TAX-1 SURAT *versus* **M. D. INDUSTRIES PVT LTD.**

Income Tax Act, 1961 – Section 245HA – Revival of Appellate Proceedings – Held, Appellate proceedings will stand revived and Section 245HA of the 1961 Act will be applicable only if the application for settlement is rejected without providing for terms of settlement - The stand of the Revenue that the assessee must give up his right to contest the assessment order on merits, if the settlement application is rejected without providing for terms of settlement, is misconceived and must be rejected - Where an application is pending before the Settlement Commission, the Commissioner of Income Tax (Appeals) should keep the appellate proceedings in abeyance till the disposal of the application by the Settlement Commission in terms of the 1961 Act - Income Tax Appellate Tribunal (ITAT) was Justified in condoning delay and setting aside the order of the Commissioner of Income Tax (Appeals) and restoring the first appeal, considering the peculiar facts of the case - Appeal dismissed. *[Paras 3 - 7]*

[Arising out of impugned final judgment and order dated 02-04-2024 in R/SCA No. 827/2022 passed by the High Court of Gujarat at Ahmedabad]

For Petitioner(s) Mr. S Dwarakanath, A.S.G. Ms. Madhulika Upadhyay, AOR Mr. Aditya Dixit, Adv. Mr. Padmesh Mishra, Adv. Mr. Gopi Chand, Adv. Mr. Rajat Vaishnaw, Adv.

O R D E R

1. Delay condoned.

2. It is stated at the Bar that the application before the Settlement Commission has not been decided, and an order under Section 245D(4) of the Income Tax Act, 1961, on the application is to be passed.

3. It is only if the application for settlement is rejected without providing for terms of settlement that Section 245HA of the 1961 Act will be applicable and the appellate proceedings will stand revived.

4. The stand of the Revenue that the assessee must give up his right to contest the assessment order on merits, if the settlement application is rejected without providing for terms of settlement, is misconceived and must be rejected.

5. In the peculiar facts of the case the Income Tax Appellate Tribunal was justified in condoning the delay, as well as setting aside the order of the Commissioner of Income Tax (Appeals) and restoring the first appeal.

6. Recording the aforesaid, we dismiss the present special leave petition.

7. We, however, clarify that the Commissioner of Income Tax (Appeals) should keep the appellate proceedings in abeyance till the disposal of the application by the Settlement Commission in terms of the 1961 Act.

8. Pending application(s), if any, shall stand disposed of.