



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.2042 OF 2024

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44205
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY, DEPARTMENT
OF REVENUE MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN
DEEP BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001
- 2 INTERIM BOARD FOR SETTLEMENT -II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110003
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI, PIN - 110001
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G.ROAD, KOCHI, PIN - 682011

BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA

BY SMT.SUSIE B VARGHESE, STANDING COUNSEL

BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S. AAYANA CHARITABLE TRUST,
REPRESENTED BY ITS MANAGING TRUSTEE MR.SINY
PUNNOOSE, I, MANJADI, THIRUVALLA, PIN - 689101



2025:KER:43582

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025, ALONG WITH W.A.NO.2106 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.2106 OF 2024

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44251
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S) /RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY, DEPARTMENT OF
REVENUE, MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN DEEP
BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001
- 2 INTERIM BOARD FOR SETTLEMENT-II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110001
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI, PIN - 110001
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G. ROAD, KOCHI, PIN - 682011

BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA

BY SMT.SUSIE B VARGHESE, STANDING COUNSEL

BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S) /PETITIONER:

M/S.NEW LIFELINE CHARITABLE MINISTRIES,
REPRESENTED BY ITS MANAGING TRUSTEE MR.MARTIN K E,
H.NO.10991/1, SECTOR 29D, CHANDIGARH, PIN - 160062



2025:KER:43582

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.161 OF 2025

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44252
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 1-4:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY, DEPARTMENT
OF REVENUE - MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN
DEEP BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001
- 2 INTERIM BOARD FOR SETTLEMENT - II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110003
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI, PIN - 110001
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G.ROAD, KOCHI, PIN - 682011

BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA

BY SMT.SUSIE B VARGHESE, STANDING COUNSEL

BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S.NEW HOPE FOUNDATION,
REPRESENTED BY ITS MANAGING TRUSTEE MR.JOHN AUXON,
PUTHUTHOTTAM, KEELPADAPPAL, KANCHIPURAM, CHENNAI,
PIN - 601301



2025:KER:43582

BY ADV.SRI.JEHANGIR D. MISTRI (SR.)
BY ADV.SRI.ANIL D. NAIR (SR.)
BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV.SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.162 OF 2025

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44285
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN DEEP
BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001
- 2 INTERIM BOARD FOR SETTLEMENT -II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110003
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI, PIN - 110001
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G. ROAD, KOCHI, PIN - 682011

BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA

BY SMT.SUSIE B VARGHESE, STANDING COUNSEL

BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S.HOLY SPIRIT MINISTRIES,
REPRESENTED BY ITS MANAGING TRUSTEE MR.RAJU N.,
RR NO.7, WEEH 2779, OPP TO DIYA ACDEMIC SCHOOL,
KODIGEHALLI MAIN ROAD, AYYAPPAN NAGAR,
K.R.PURAM POST, BENGALURU, PIN - 560036



2025:KER:43582

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.180 OF 2025

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44253
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 1-4:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY, DEPARTMENT
OF REVENUE MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN
DEEP BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001
 - 2 INTERIM BOARD FOR SETTLEMENT -II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110003
 - 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF
INDIA, NEW DELHI, PIN - 110001
 - 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G. ROAD, KOCHI, PIN - 682011
- BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA
BY SMT.SUSIE B VARGHESE, STANDING COUNSEL
BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S.REHABOTH INDIAN GYPSY NEW LIFE TRUST,
REPRESENTED BY ITS MANAGING TRUSTEE MR.RAJI JOHN
SIRUMUGAI ROAD, 1ST STREET, ANNUR, COIMBATORE,
PIN - 641653



2025:KER:43582

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.183 OF 2025

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44257
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN
DEEP BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001
- 2 INTERIM BOARD FOR SETTLEMENT - II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR,
LOK NAYAK BHAVAN, KHAN MARKET, NEW DELHI,
PIN - 110003
- 3 THE CENTRAL BOARD OF DIRECT TAXES
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF
INDIA, NEW DELHI, PIN - 110001
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G. ROAD, KOCHI, PIN - 682011

BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA

BY SMT.SUSIE B VARGHESE, STANDING COUNSEL

BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S.SHEKINA PROPHETIC MISSION TRUST,
REPRESENTED BY ITS MANAGING TRUSTEE MR.PRABHUDAS J,
SIRUMUGAI ROAD, 1ST STREET, ANNUR, COIMBATORE,



2025:KER:43582

PIN - 641653

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.184 OF 2025

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44267
OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY MINISTRY OF
FINANCE, 3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD
MARG, NEW DELHI, PIN - 110001
 - 2 INTERIM BOARD FOR SETTLEMENT-II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110003
 - 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE - MINISTRY OF FINANCE, GOVERNMENT OF
INDIA, NEW DELHI, PIN - 110001
 - 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G. ROAD, KOCHI, PIN - 682011
- BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA
BY SMT.SUSIE B VARGHESE, STANDING COUNSEL
BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S.HOLY BERACHAH MINISTRIES,
REPRESENTED BY ITS MANAGING TRUSTEE
MR.JESUPRASAD S.D., DOOR NO.18, G.C.COLONY,
QUEENS ROAD, BANGALORE, PIN - 560051



2025:KER:43582

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV.SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025:KER:43582

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 20TH DAY OF JUNE 2025/30TH JYAISHTA, 1947

W.A.NO.408 OF 2025

AGAINST THE JUDGMENT DATED 22.08.2024 IN W.P(C).NO.44213 OF 2023
OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY THE FINANCE SECRETARY, MINISTRY
OF FINANCE, 3RD FLOOR, JEEVAN DEEP BUILDING,
SANSAD MARG, NEW DELHI, PIN - 110001
- 2 INTERIM BOARD FOR SETTLEMENT-II,
REPRESENTED BY ITS SECRETARY, 9TH FLOOR, LOK NAYAK
BHAVAN, KHAN MARKET, NEW DELHI, PIN - 110003
- 3 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, MINISTRY
OF FINANCE, GOVERNMENT OF INDIA, NEW DELHI,
PIN - 110001
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE - 2, M.G. ROAD, KOCHI, PIN - 682011

BY SRI.JOSE JOSEPH, SR. STANDING COUNSEL, INCOME TAX
DEPARTMENT, KERALA

BY SMT.SUSIE B VARGHESE, STANDING COUNSEL

BY SRI.NAVANEETH.N.NATH, CENTRAL GOVERNMENT COUNSEL

RESPONDENT(S)/PETITIONER:

M/S.GROWTH IN FRATERNITY TRUST,
REPRESENTED BY ITS MANAGING TRUSTEE MR.THOMAS
N.S NO.106, 2ND STREET, 'E' CROSS, OMBR LAYOUT,
CHIKKABANASWADI, BANGALORE, PIN - 560033



2025:KER:43582

BY ADV.SRI.R.SIVARAMAN
BY ADV.SMT.VANDANA VYAS
BY ADV SRI.N.KRISHNA PRASAD

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
16.06.2025 ALONG WITH W.A.NO.2042 OF 2024 AND CONNECTED
CASES, THE COURT ON 20.06.2025 DELIVERED THE FOLLOWING:



2025 : KER : 43582

"C.R."

J U D G M E N T

Dr. A.K. Jayasankaran Nambiar, J.

These Writ Appeals preferred by the Revenue impugn the common judgment dated 22.08.2024 of a learned Single Judge in the writ petitions.

The brief facts:

2. The writ petitions in question were filed by assesseees under the Income Tax Act, 1961 [hereinafter referred to as the "I.T. Act"], aggrieved by the order of the Interim Board for Settlement that rejected the applications preferred by them for settlement of their cases in accordance with the provisions of Chapter XIX-A of the I.T. Act. The reason cited by the Interim Board for Settlement for rejecting the applications was that, although the applications for settlement had been filed on or before 30.09.2021, which was the last date for receipt of valid applications for settlement, there was no case pending in relation to the assessee as on 31.01.2021, within the meaning of the provisions of Section 245C(1), Section 245A of the I.T. Act read with the Central Board of Direct Taxes [CBDT] Instructions F.No.299/22/2021-Dir (Inv-III)/174 dated 28.09.2021, and hence the applications in question



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were not maintainable before the Board. It is the legality of the said stand taken by the Interim Board that was called in question in the writ petitions.

3. In as much as a resolution of the dispute in these appeals requires us to notice the statutory provisions that were in vogue during the relevant period, we deem it apposite to extract those provisions hereunder:

The statutory provisions:

Section 245A(b):

Definitions:

245A. In this Chapter, unless the context otherwise requires,—

(a) xxxxxxxx

(b) “case” means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made.

Section 245A(eb):

(eb) “pending application” means an application which was filed under section 245C and which fulfils the following conditions, namely: —

- (i) it was not declared invalid under sub-section (2C) of section 245D; and
- (ii) no order under sub-section (4) of section 245D was issued on or before the 31st day of January, 2021 with respect to such application;

Section 245AA:

Interim Boards for Settlement.

245AA. (1) The Central Government shall constitute one or more Interim Boards for Settlement, as may be necessary, for the settlement of pending applications.

(2) Every Interim Board shall consist of three members, each being an officer of the rank of Chief Commissioner, as may be nominated by the Board.

(3) If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of the majority.



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Section 245B(1):

Income-tax Settlement Commission.

245B. (1) The Central Government shall constitute a Commission to be called the Income-tax Settlement Commission for the settlement of cases under this Chapter.

Provided that the Income-tax Settlement Commission so constituted shall cease to operate on or after the 1st day of February, 2021.

Section 245C(1):

Application for settlement of cases

245C.— (1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

Section 245C(5):

(5) No application shall be made under this section on or after the 1st day of February, 2021.

CBDT order dated 28.09.2021

**F.No.299/22/2021-Dir (Inv.III)/174
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)
* * * * ***

Civil Centre, New Delhi
Dated the 28.09.2021

ORDER

Subject: Order under section 119(2)(b) of the Income Tax Act, 1961 for filing applications for settlement before the Interim Board for Settlement - reg.

The Finance Act, 2021 has amended the provisions of the Act to *inter alia* provide that the Income-tax Settlement Commission (ITSC) shall cease to operate with effect from 01.02.2021. Further, it has also been provided that no application for settlement can be filed on or after 01.02.2021, which was the date on which the Finance Bill, 2021 was laid before the Lok Sabha. In order to dispose of the pending settlement applications as on 31.01.2021, the Central Government has constituted Interim Board for Settlement (hereinafter referred to as the "Interim Board"), vide notification No.91 of 2021 dated 10.08.2021.

2. Meanwhile, in order to avoid genuine hardship to number of tax payers who were in the advanced stages of filing their application for settlement before the ITSC as on 01.02.2021 and also due to the hardship faced during the covid pandemic by the tax payers, the Central Board of Direct Taxes (referred to as the "Board") had



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provided relief vide Press Release dated 07.09.2021 thereby allowing assessee eligible to file application for settlement on 31.01.2021 to file such applications till the extended period of 30.09.2021.

3. In view of the above, the Board in exercise of its power under clause (b) of sub-section (2) of section 119 of the Income-tax Act, 1961 (the Act), in order to avoid genuine hardship assessee authorizes the Commissioner of Income-tax, posted as Secretary to the Settlement Commission prior to 01.02.2021, to admit an application for settlement on behalf of the Interim Board filed after 31.01.2021, which is the date mentioned in sub-section (5) of section 245C of the Act for filing such application, and before 30.09.2021 and treat such applications as valid and process them as "pending applications" as defined in clause (eb) of section 245A of the Act.

4. The above relaxation is available to the applications filed:-

- (i) by the assessee who were eligible to file application for settlement on 31.01.2021 for the assessment years for which the application is sought to be filed (relevant assessment years); and
- (ii) where the relevant assessment proceedings of the assessee are pending as on the date of filing the application for settlement.

5. The Hindi version of the order shall follow.

Sd/-
Manish Gupta
Deputy Secretary (Inv.III)
CBDT, New Delhi

4. The respondents assessee in these appeals were all subjected to search proceedings under Section 132 of the I.T. Act on various dates prior to 31.01.2021. However, the notices invoking the provisions of Section 153A/Section 153C were served on them only after 31.03.2021. In the light of the statutory provisions noticed above, and the CBDT order issued in terms of Section 119(2)(b) of the I.T. Act, the Interim Board for Settlement found their applications for settlement to be not maintainable because they didn't satisfy the criteria of having a 'pending case' within the meaning of the term under the Statute, on or before 31.01.2021.



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Proceedings before the Single Judge:

5. The learned Single Judge who considered the writ petitions found that in view of the decision of the Madras High Court in **Jain Metal Rolling Mills v. Union of India & Ors. - [MANU/TN/6417/2023]**, that had since attained finality owing to the dismissal of the SLP, preferred by the Revenue, by the Supreme Court, the cut off date for determining the eligibility to file an application for settlement had to be seen as 31.03.2021 as against the statutory prescription of 31.01.2021, since the Finance Act, 2021 came into force only with effect from 01.04.2021, and could not be seen as taking away the vested right of an assessee to file an application for settlement in respect of notices issued prior to 31.03.2021. The learned Judge then went on to hold that the cut off date of 31.03.2021 was to be reckoned with reference to the search proceedings initiated against the assessees and the mere fact that the notices under Sections 153A/153C of the I.T. Act were issued subsequently was of no consequence to the issue of maintainability of the applications for settlement before the Board. The writ petitions were therefore ordered with the following findings:

“..... Thus upon the interpretation that has been placed on the amended provisions of Chapter XIX-A of the 1961 Act and taking into consideration of the order issued under section 119(2) of the 1961 Act (Order bearing F.No.299/22/2021-Dir (Inv.III)/174 dated 28-09-2021) the position that emerges is this:-

- (i) If in the case of the petitioners herein, the search under Section 132 of the 1961 Act, was prior to or on 31-03-2021 they would be entitled to maintain an application for settlement under Section 245C of the 1961 Act;
- (ii) Such applications could have been filed till 30-9-2021 in view of the Order bearing F.No.299/22/2021 - Dir (Inv.III)/174 dated 28.09.2021 under Section 119(2)(b) of the 1961 Act and such applications will be disposed of in accordance with the law by the Interim Board for Settlement constituted under Section 245AA of the



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1961 Act;

(iii) No application for settlement can be maintained if the search was conducted on or after 01-04-2021 as the Settlement Commission ceased to exist.

In that view of the matter and since it is not disputed before me that the search under Section 132 in the case of all the petitioners in these cases was prior to 31-03-2021, the persons/entities, who were subject matter of the search, will be entitled to maintain an application for settlement before the Interim Settlement Board, provided such application has been filed on or before 30-09-2021. These writ petitions are therefore ordered directing that if the search under Section 132 in respect of the petitioners was prior to 31-03-2021, the petitioners are entitled to maintain applications for settlement before the Interim Board for Settlement, provided such applications were filed on or before 30-09-2021. Orders issued by the Interim Board for Settlement finding the applications for settlement filed by the petitioners as not maintainable will stand set aside. The applications are restored to the files of the Interim Board for Settlement, to be disposed of keeping in mind the declaration of the law contained in this judgment."

The contentions in the appeals:

6. In the appeals before us, the Revenue's contentions, as articulated by Sri.Jose Joseph, the learned Standing Counsel for the Income Tax Department, are three fold viz.

- That the learned Single Judge erred in ignoring the plain words used in the relevant provisions under Chapter XIX-A of the I.T. Act, and reading into the said provisions concepts that were expressly excluded through amendments that had been carried out in the past;
- That when the express provisions of the I.T. Act defined a pending case with reference to the period between the initiation of proceedings and the culmination of those proceedings, and the initiation of proceedings was pegged to the date of issuance of a notice under Sections 153A/153C as the case may be, there was no warrant for holding that a search proceedings under Section 132 of the I.T. Act could also be seen as an initiation of proceedings for the purposes of Chapter XIX-A of the I.T. Act; and



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- That although the last date for preferring applications for settlement had been extended upto 30.09.2021, the assessee concerned had nevertheless to satisfy the eligibility criteria of having received the notices under Sections 153A/153C on or before 31.03.2021.

7. The respondents, represented through the learned senior counsel Sri.Jehangir D. Mistri and Sri.Anil D. Nair, Sri.R.Sivaraman and Smt.Vandana Vyas, the learned counsel appearing with them, however supported the impugned judgment and contended that the findings therein did not warrant any interference. The following judgments were also referred to in the course of their submissions:

Tata Iron & Steel Co. Ltd. v. N.C. Upadhyaya - [(1974) 96 ITR 1 (Bombay)]; Reliance Jute & Industries Ltd. v. Commissioner of Income-tax - [(1979) 2 Taxman 417 (SC)]; Commissioner of Income Tax v. Shah Sadiq & Sons - [(1987) 31 Taxman 498 (SC)]; UCO Bank v. Commissioner of Income-tax - [(1999) 104 Taxman 547 (SC)]; Godrej & Boyce Manufacturing Company Limited v. State of Maharashtra & Ors. - [(2009) 5 SCC 24]; Jain Metal Rolling Mills v. Union of India - [MANU/TN/6417/2023]; M/s.Pankaja Kasturi Herbals India Pvt. Ltd. v. ACIT & Ors. [W.P. (C).No.28785 of 2023]; Sar Senapati Santaji Ghorpade Sugar Factory Ltd. v. ACIT - [(2024) 161 Taxmann.com 166 (Bombay)]; ECGC Limited v. Mokul Shriram EPC JV - [(2022) 6 SCC 704]; Vishwakarma Developers v. Central Board of Direct Taxes - [(2024) 165 Taxmann.com 391 (Bombay)]; Vetrivel Infrastructure v. Deputy Commissioner of Income-tax - [(2024) 164 taxmann.com 123 (Gujarat)]; N.T. Veluswami Thevar v. G. Raja Nainar and others - [AIR 1959 SC 422]; Sushil Kumar Goyal and Ors. v. Principal Commissioner of Income-tax and Ors. - [(2023)



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SCC OnLine Del 2921]; ACIT & Ors. v. Hailstone Innovations Pvt. Ltd. & Anr. - [W.A.No.515 of 2024]; Union of India & Ors. v. M/s.Believers Eastern Church - [W.A.No.2052 of 2024] and Union of India & Ors. v. M/s.Love India Ministries - [W.A.No.153 of 2025].

Discussion and Findings:

8. On a consideration of the rival submissions, we find that the grievance of the assesseees was essentially on account of the amendments that were brought about to the I.T. Act through the Finance Act, 2021. Prior to that, the major amendments effected to the provisions of Chapter XIX-A, that governed the eligibility of an assessee to approach the Settlement Commission for a settlement of their cases, and the procedure to be followed for the same, were in 2010, 2014 and 2015 through the respective Finance Acts of those years. Thereafter, the substantive provisions governing eligibility of an assessee to approach the Settlement Commission remained unchanged for over five years when the Finance Act, 2021 was enacted, that provided for the abolition of the Settlement Commission itself, and the settlement of pending cases by an Interim Board for Settlement that was constituted solely for that purpose.

9. On a reading of the statutory provisions as they stood during the relevant time, it is unambiguously clear that in terms of Section 245C, an assessee could, at any stage of a case relating to him,



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approach the Settlement Commission for a settlement of his case. The eligibility condition for approaching the Settlement Commission was the existence of a case relating to him, at the time of preferring the application for settlement before the Commission. 'Case' for the purposes of the Chapter meant any proceedings for assessment under the I.T. Act, of any person, in respect of any assessment year or assessment years, which was pending before an assessing officer on the date on which the application for settlement was made. The word 'pending' had to be seen as referring to the status of a 'case' during the period between its commencement and its conclusion or final resolution. Towards this end, Explanation (iiia) to the definition of 'case' under Section 245A(b) indicated both the termini - the stages of commencement and conclusion - in relation to proceedings under Sections 153A/153C, by clarifying that a proceeding for assessment or re-assessment for any assessment years referred to in Section 153A or Section 153C would be deemed to have commenced only on the date of issuance of the notice initiating such proceedings and concluded on the date on which the assessment was made. Thus, in the case of an assessee who was served with a notice under Section 153A or Section 153C, he could approach the Settlement Commission with an application for settlement, at any time after the receipt of the said notice but before the completion of the assessment. More importantly, such an assessee could not approach the Settlement Commission before the receipt of a notice under Sections 153A/153C for he would not satisfy the criteria of having a 'case' that was 'pending' before an assessing officer on that



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date.

10. The only change that occurred in 2021 was the proposal to abolish the Settlement Commission, which fructified through the enactment of the Finance Act, 2021, whereby Section 245C was amended to insert sub-section (5) thereof, to clarify that no application for settlement could be made under Section 245C on or after 1st February, 2021. A simultaneous amendment to the I.T. Act, inserted Section 245AA that constituted the Interim Board for Settlement for the settlement of pending applications. Thus, the Finance Act, 2021 brought to an end, the option that was hitherto available to an assessee under the I.T. Act to settle cases thereunder. The Interim Board for Settlement was constituted solely to 'tie up any loose ends' by completing the exercise of settlement in cases that were pending as on the date of abolition of the Settlement Commission.

11. For the sake of completion, it needs to be noticed that there was litigation that ensued at the instance of assessees, who found that their vested right to opt for settlement under the I.T. Act had been taken away with effect from a date that was anterior to the date of coming into force of the Finance Act, 2021 viz. 01.04.2021. The said issue was resolved through the judgment of the Madras High Court in **Jain Metal Rolling Mills (supra)** that held that those amendments to the I.T. Act could take effect only from 01.04.2021, and hence the assessees could



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file applications for settlement upto 31.03.2021. The above declaration of law has since attained finality through the dismissal of further proceedings carried by the Revenue before the Supreme Court.

12. While so, through an order passed under Section 119(2)(b) of the I.T. Act, the CBDT clarified that applications for settlement could be filed upto 30.09.2021. However, the said relaxation was hedged in with a condition that the eligibility requirement of having a 'case' that was 'pending' before an assessing officer, had to be satisfied as on 31.01.2021 (postponed to 31.03.2021 on account of the ruling in *Jain Metal Rolling Mills* (supra)). In the context of the present litigation, it is the above CBDT Circular that is really the cause for concern for the assessees before us, all of whom have been served with notices under Sections 153A/153C before 30.09.2021, but after 31.03.2021 - the cut-off date prescribed in the CBDT order - for satisfying the eligibility conditions for approaching the Interim Board for Settlement.

13. As already noticed, the real issue faced by the assessees is with regard to the cut-off date prescribed in the CBDT order for satisfying the eligibility conditions for preferring applications for settlement under the I.T. Act. As for the eligibility conditions prescribed by the Statute, such as the requirement of having a pending case as on the date of filing the application for settlement, and as to what constitutes a 'case' for the purposes of Chapter XIX-A, they had



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remained unchanged, and unchallenged, for over five years prior to the enactment of the Finance Act, 2021. The said provisions were therefore not the reason for the prejudice perceived by the assesseees. We feel, therefore, that it was wholly unnecessary for the learned Single Judge to have undertaken the interpretative exercise that he did, to hold that so long as the search proceedings under Section 132 of the I.T. Act were initiated against the assesseees prior to 31.03.2021, their applications for settlement, if filed before the Interim Board for Settlement on or before 30.09.2021, would be maintainable. In the light of the clear and unambiguous provisions of the Statute that defined what a pending case was, in the case of assesseees who were served with notices under Sections 153A/153C of the I.T. Act, and in the absence of any challenge to the validity of those provisions, there was no need to read in an artificial definition that would take in even search proceedings under Section 132 of the I.T. Act within the ambit of the term 'case' in such situations.

14. In our view, the only question that arises for consideration in these cases is whether the assesseees who received their notices under Sections 153A/153C after 31.03.2021, but before 30.09.2021, can maintain their applications for settlement of cases before the Interim Board for Settlement ? Although this aspect was raised by the assesseees in the writ petitions, it was not considered by the learned Single Judge in the impugned judgment. To resolve that issue, we need



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only consider the legality of the conditions imposed by the CBDT while extending the last date for filing applications for settlement to 30.09.2021. It is significant, in this context, that a Division Bench of the Bombay High Court in **Sar Senapati Santaji Ghorpade Sugar Factory Ltd. v. Asst. Commissioner of Income Tax - [(2024) 161 Taxmann.com 166 (Bombay)]** held as follows in a writ petition that was filed challenging the provisions of the said CBDT order, to the extent it laid down an additional condition that the assessee should satisfy the eligibility requirements as on 31.01.2021, as ultra vires its power under Section 119(2)(b) of the I.T. Act;

“24. As regards the notification dated 28th September 2021 issued by the CBDT under Section 119(2)(b) of the Act, the date for making application has been extended by the said notification to 30th September 2021, which is clearly within the scope of the powers of the CBDT under Section 119 of the Act. Section 119 of the Act provides that the Board may from time to time, issue such orders, instructions and directions to other Income Tax Authorities as it may be deemed fit for proper administration of this Act. The provisions of the section have been interpreted by the Hon'ble Apex Court in *UCO Bank (supra)* to mean that the Board is entitled to tone down the rigours of law by issuing circulars under Section 119 of the Act and such circulars would be binding on Income Tax Authorities. A circular, however, cannot impose on a taxpayer a burden higher than what the Act itself, on a true interpretation, envisages. Therefore, the Board had power to extend the time limit for making an application to 30th September 2021.

However, to the extent it lays down an additional condition, i.e., assessee should be eligible to file an application for settlement on 31st January 2021 in paragraphs 2 and 4(i) of the impugned notification, in our view, is beyond the scope of the power of CBDT as per Section 119 of the Act. There is no provision in the Act providing a cut off date with respect to an assessee being eligible to make an application under Section 245C of the Act. Hence, such a condition in the impugned notification is clearly invalid and bad in law.

The date on which an assessee becomes eligible to make an application and the date on which the assessee makes an application are two different things and the Act only provides a cut off date for the latter and not the former. Section 245C of the Act as amended by the Finance Act, 2021, provides that an application shall not be made after 1st February 2021, i.e., cut off date for making an application. However, there is no provision in the Act with respect to the cut off date for an assessee to be eligible to make an application. Further, there is no amendment to the definition of "case" in Section 245A(b) read with the Explanation, which would affect the eligibility of petitioner to file an application before the Settlement Commission between the period 1st February 2021 and 31st March 2021. Hence, the impugned notification, to that extent, is invalid and bad in law.”

15. We find ourselves in complete agreement with the said view taken by the Bombay High Court. When Section 245C does not



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prescribe any prior cut-off date for an assessee to satisfy the requirements for filing an application before the Interim Board for Settlement, and the only statutory requirement is that the assessee should have a pending 'case' at the time of filing the application for settlement, then so long as the assessee had a 'live and un-adjudicated' notice under Sections 153A/153C as on the date of filing the application, the application had to be considered on merits by the Board. The CBDT order issued under Section 119(2)(b), purportedly to relax the rigours of a statutory provision, could not have merely extended the time limit for filing an application while, simultaneously, denying the benefit of such extension to a class of assesseees. The said clause in the CBDT order has to be seen as invalid, and bad in law, as declared by the Bombay High Court in the decision referred above.

The upshot of the above discussions, therefore, is that:

1. We set aside the impugned judgment of the learned Single Judge to the extent it holds that search proceedings under Section 132 would also fall within the ambit of 'case' in relation to the respondent assesseees for the purposes of Chapter XIX-A of the I.T. Act. The writ appeals preferred by the Revenue are allowed to that limited extent.
2. We find that the provisions of the CBDT order dated 28.09.2021, to the extent it lays down an additional condition that the assesseees should satisfy the eligibility requirements as on 31.01.2021 (to be read as '31.03.2021'), is ultra vires the power



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conferred on the CBDT under Section 119(2)(b) of the I.T. Act.

3. We, accordingly, direct that the applications for settlement filed by respondent assesseees before the Interim Board for Settlement on or before 30.09.2021, taking note of notices under Sections 153A/153C of the I.T. Act issued to them between 31.03.2021 and 30.09.2021, be considered on merits by the Board. To that extent, the directions in the impugned judgment, that require the Board to consider the applications preferred by the respondent assesseees, are sustained and the Writ Appeals preferred by the Revenue, dismissed.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
P.M.MANOJ
JUDGE

prp/