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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4900/2015

MOIN A. QURESHI ..... Petitioner

Through : Mr M. S. Syali, Sr Advocate with Mr Satyen Sethi, Mr A. T. Panda and Mr Mayank Nagi

versus

COMMISSIONER OF INCOME TAX (CENTRAL)-II, & ANR ..... Respondents

Through : Ms Suruchi Aggarwal

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% 18.05.2015

CM 8869/2015

Allowed subject to all just exceptions.

WP(C) 4900/2015 & CM 8868/2015

This writ petition is directed against the order dated 24.02.2015 passed by the Income Tax Settlement Commission. The said order was passed under Section 245D (2C), whereby the application of the petitioner under Section 245C of the Income Tax Act, 1961, was rejected.

The only grievance raised by the petitioner before this Court is that an additional report was submitted by the Commissioner on 19.02.2015 in the course of the hearing being granted to the petitioner under Section 245D (2C) proviso and no opportunity was granted to the petitioner to respond to the same.

Consequently, it was submitted, the order passed on 24.02.2015 was violative of the principles of natural justice which have been enshrined in the said proviso to Section 245D (2C) of the said Act.

The facts are that after an application under Section 245C was made on 26.12.2014, the matter proceeded before the Settlement Commission up to the filing of the Commissioner's report on 10.02.2015. The Settlement Commission gave an opportunity of hearing to the petitioner on 19.02.2015. On that date itself, in the course of the hearing, an additional set of documents was placed by the Commissioner before the Settlement Commission. Those documents ran into 260 pages. The order was passed on 24.02.2015 without any further hearing, apart from a hearing conducted on the very next day on 20.02.2015, which included hearing in respect of other group cases.

We are of the view that the documents which were filed on 19.02.2015 constituted part of the report which the Commissioner had initially filed on 10.02.2015. We also note that the Settlement Commission had relied upon the documents which were filed on 19.02.2015. In this backdrop, we are of the view that adequate opportunity was not given to the petitioner to respond to the said documents.

For this reason, we are setting aside the impugned order dated 24.02.2015. We are remitting the matter to the Settlement Commission to the stage of consideration of the Commissioner's report and of giving an opportunity of hearing to the petitioner. Mr Syali, the learned senior counsel appearing on behalf of the petitioner, states that he shall not take the plea of limitation with regard to the additional documents dated

19.02.2015 and they shall be construed and deemed to be part of the original report dated 10.02.2015 submitted by the Commissioner.

Consequently, we direct the Settlement Commission to render its decision at the stage of Section 245D (2C) of the said Act within 10 days from the first date of hearing before the Settlement Commission. The hearing shall be granted to the petitioner by the Settlement Commission, in the first instance, on 25.05.2015. Before that date, the petitioner shall submit its response to the documents which were filed on 19.02.2015.

The writ petition stands allowed to the aforesaid extent.

We are making it clear that we have not expressed any opinion on the merits of the matter and that the setting aside of the order dated 24.02.2015 shall not come in the way of the Settlement Commission on taking a view on the matter.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

MAY 18, 2015 **SANJEEV SACHDEVA, J**
SR