

\$~56 & 57

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

+ W.P.(C) 2168/2015

COMMISSIONER OF INCOME TAX-II

..... Petitioner

versus

MURARI LAL HARISH CHANDRA JAISWAL (P)
LTD. & ANR.

..... Respondents

+ W.P.(C) 2169/2015

COMMISSIONER OF INCOME TAX-X

..... Petitioner

versus

LATE SHRI HARISH CHAND JAISWAL & ANR.

..... Respondents

Through: Mr Kamal Sawhney and Mr Sanjay Kumar for
petitioner
Ms Vibha Dutta Makhija, Sr Advocate with Ms
Vanshiya Shukla for respondents

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **09.03.2015**

CM No. 3903/2015 in W.P.(C) 2168/2015 and CM No. 3904/2015 in W.P.(C) 2169/2015

The exemptions are allowed subject to all just exceptions.

W.P.(C) 2168/2015 and W.P.(C) 2169/2015

These petitions are directed against the orders passed by the Income Tax Settlement Commission dated 01.11.2013 and 19.12.2013. The main point urged by Mr Kamal Sawhney, the learned counsel appearing on behalf of the petitioner / revenue, is that no explanation had been offered by the respondents / applicants / assessee with regard to the huge amount of cash amounting to approximately 20.42 crores. We have heard the learned counsel for the parties at length. We have been taken through the orders passed by the Income Tax Settlement Commission as also the earlier order passed by the Customs and Central Excise Settlement Commission dated 15.02.2007. That order was the subject matter of challenge before this court in a writ petition being W.P.(C) No. 4410/2007 which was

Signature Not Verified

Digitally Signed

By:AMULYA

✓

ultimately dismissed by this court on 17.09.2010. The cash which was seized from the petitioners was, in the earlier round, permitted to be paid towards excise duty in respect of clandestine removal of manufactured goods. The learned counsel for the petitioner submits that the use of the said cash of payment of excise duty did not absolve the respondent from explaining the source of the said cash.

We find that in the application which was made by the respondents before the Income Tax Settlement Commission, the explanation offered for the cash was that it represented the revenue generated out of unaccounted sales in respect of clandestine removal of chewing tobacco. That explanation has been accepted by the Income Tax Settlement Commission. It was sought to be argued by the learned counsel for the petitioner that the respondents had not made a full and true disclosure but we find from the applications which were placed before us by the learned counsel for the respondents that this fact had been clearly disclosed in the said applications. We must point that this court in exercising jurisdiction under Article 226 of the Constitution of India does not sit in appeal over the order passed by the Settlement Commission and, therefore, we are not going into the merits of the matter. We see no reason to interfere with the orders passed by the Settlement Commission. The writ petitions are dismissed.


BADAR DURREZ AHMED, J


VIBHU BAKHRU, J

MARCH 09, 2015 / SU