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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1209 OF 2016
WITH
WRIT PETITION NO.1210 OF 2016
WITH
WRIT PETITION NO.1211 OF 2016
WITH
WRIT PETITION NO.1212 OF 2016
WITH
WRIT PETITION NO.1213 OF 2016
WITH
WRIT PETITION NO.1324 OF 2016
WITH
WRIT PETITION NO.1326 OF 2016

Yashovardhan Birla ..Petitioner
Versus
Deputy Commissioner of Income Tax, Central Circle-4(1) & 3 Ors. ..Respondents

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Mr. J. D. Mistri, Senior Counsel, a/w Madhur Agarwal i/b. Mint & Conferers for the Petitioner.
Mr. Suresh Kumar a/w Ms. Samiksha Kanani & Ms. Indrayani Deshmukh for the Respondent.

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CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 10th AUGUST, 2016

P.C.:

At the request of the counsel, these petitions are being disposed of at the stage of admission.

2. These petitions under Article 226 of the Constitution of India assail the orders dated 30th March, 2016 passed by the Assessing Officer under Section 143(3) read with Section 153A of the Income Tax Act, 1961 (the Act) relating to assessment orders passed in respect of A.Ys. 2008-09 to 2013-14. So far as Writ Petition No.1213 of 2016 is concerned, the impugned order dated 30th March, 2016 relates to A.Y. 2014-15 has been passed under regular assessment proceedings under Section 143(3) of the Act. The foundation of the challenge to all the impugned orders of assessment is the incorrect rejection of the petitioner's application for settlement by the Income Tax Settlement Commission (Commission) on 12th April, 2016.

2. The petitioner had by a separate Writ Petition No.1208 of 2016 challenged the order of the Commission dated 12th April, 2016 passed under Section 245D(1) of the Act. By the aforesaid order dated 12th April, 2016, the petitioner's application for settlement was dismissed by the Commission on the ground that as the Assessment Orders were also passed on 30th March, 2016 and that on the date when the application for settlement was filed with the Commission the proceedings were not pending before the Assessing Officer and therefore the Commission could not exercise jurisdiction. The petitioner's challenge to the order dated 12th

April, 2016 in Writ Petition No.1208 of 2016 was upheld by this Court by an order dated 3rd August, 2016. This was by following the binding decision of a co-ordinate bench of this Court in ***Commissioner of Income tax v/s. Income Tax Settlement Commission and another 375 IR 483.*** Further the order dated 3rd August, 2016 also restored the petitioner's application for settlement to the Commission at the stage of Section 245D(1) of the Act.

3. In the view which we have taken in Writ Petition No.1208 of 2016 rendered on 3rd August, 2016 the impugned orders in these petitions dated 30th March, 2016 relating to A.Ys. 2008-09 to 2014-15 in these group of petitions cannot survive and they are quashed and set aside.

4. Petitions are disposed of in the above terms. No order as to costs.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**

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