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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2668 OF 2015

Pr. Commissioner of Income Tax-12 ..Petitioner
Versus
Income Tax Settlement Commission
(ITSC) Additional Bench-II & Anr. ..Respondents

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Mr. Tejveer Singh for the Petitioner.
Dr. K. Shivram, Senior Counsel, a/w Mr. Rahul Hakani & Ms. Neelam Jadhav for the Respondent.

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

DATE : 18TH MARCH, 2016

P.C.:

1. This Petition by the Revenue challenges the order dated 5th May, 2015 passed under Section 245D(2C) of the Income Tax Act, 1961 (the Act) by the Income Tax Settlement Commission (Commission). By the impugned order the Petitioner's application for settlement has been declared to be “not invalid” at the stage of Section 245D(2C) of the Act and the application for settlement is allowed to proceed further.

2. Mr. Singh the learned counsel for the Revenue at this stage does not seek to challenge the impugned order, if the same would not bar the

Petitioner from urging this issue as and when an order is passed under Section 245D(4) of the Act. In support he placed reliance upon the decision of this Court in Writ Petition(L)No.2096 of 2014 dated 9th October, 2014.

3. Dr. Shivram, learned Senior Counsel appearing for the Respondent-Revenue has no objection to the same. However, it is clarified that the petitioner would urge its grievance, if any, with regard to the issue of true and fair disclosure and the manner in which this income which is being disclosed is derived, at the time of Section 245D(4) hearing before the Commission. This is particularly so as the impugned order holds that at this stage, there is no adverse material to hold that the application is invalid. On the Revenue passing an order thereon, it would be open to the parties to contest the validity of the order so passed.

4. In the above view, the Petition is disposed of in the above terms. No order as to costs.

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

Wadhwa