IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 92 OF 2016

M/s. Samira Residences Pvt. Ltd. .. Petitioner
v/s.
Income Tax Settlement Commission
Mumbai .. Respondent

WITH
WRIT PETITION NO. 206 OF 2016
WITH
WRIT PETITION NO. 241 OF 2016

Mihir Anil Nerurkar .. Petitioner
v/s.
Income Tax Settlement Commission
Mumbai .. Respondent

WITH
WRIT PETITION NO. 211 OF 2016

M/s. Samira Habitats (India) Ltd. .. Petitioner
v/s.
Income Tax Settlement Commission
Mumbai .. Respondent

WITH
WRIT PETITION NO. 93 OF 2016

M/s. Samira Realty Projects Pvt. Ltd. .. Petitioner
v/s.
Income Tax Settlement Commission
Mumbai .. Respondent

Mr. Deepak Tralshawalla a/w V.S. Hadade for the petitioner
Mr. Suresh Kumar for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.
DATED : 20th APRIL, 2016.

P.C.

1. All these five petitions under Article 226 of the Constitution of Inida challenge the order dated 4th March, 2015 passed by the Income Tax Settlement Commission (the Commission). By the common impugned order dated 4th March, 2015, the petitioner's application for settlement was dismissed under Section 245D(1) of the Income Tax Act, 1961 (the Act). As the petitioners are part of a group in the form of three limited companies and two individual applicants, who are the Directors in the some of the group companies.

2. We find that the impugned order was passed on 4th March, 2015 and the present petitions were filed as on 8th December, 2015 and moved before the Court today. Thus, there is a gross delay on the part of the petitioners in moving this Court. However, no explanation is being offered for the delay. This unexplained delay amounts to acceptance of the impugned order. This unexplained delay itself would result in the Court not exercising its extra-ordinary writ jurisdiction.

3. Moreover, we find that on the impugned order being passed on 4th March, 2015, the proceedings before the Assessing Officer revived under Section 245H of the Act. Consequent thereto, in two of the

petitions assessment order was passed on 26th March, 2015 and in three of the petitions assessment order is passed on 27th March, 2015. We are informed that the petitioners have also filed appeals against those orders before the Commissioner of Income Tax (Appeals). These appeals we are told are kept in abeyance because of these petitions. It is pertinent to note that the petitions are silent about the aforesaid facts. Thus, there is suppression of material facts on the part of the petitioners which by itself dis-entitles the petitioner to be heard on merits.

4. In the above view, not only on the ground of gross delay but also on account of the conduct of the petitioners in not having disclosed all material facts in the petitions filed before us, we see no reason to entertain the present petitions.

5. Therefore, all the petitions are dismissed. No order as to costs.

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