**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

221 **CWP-19467-2019 (O&M)**
Date of Decision : 30.9.2019

Principal Commissioner of Income Tax (Central) Gurugram
...... Petitioner

Versus

Income Tax Settlement Commission and another
...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR. JUSTICE HARNARESH SINGH GILL
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Present : Mr. Tajender K. Joshi, Sr. Standing counsel
for the petitioner.

Mr. Ajay Vohra, Advocate with
Mr. Rohit Jain, Advocate
for the respondent no. 2.

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AJAY TEWARI, J. (Oral)

1. This petition has been filed for quashing the order dated 27.2.2019 passed by respondent No.1-Income Tax Settlement Commission under Section 245D (2C) of the Income Tax Act, 1961 (for short 'the Act') vide which the application filed by respondent No.2/assessee under Section 245C of the Act for settlement was declared to be not invalid.

2. Brief facts of the case are that notices under Section 153 A of the Act were issued to the assessee-respondent No.2. The assessee-respondent No.2 filed returns pursuant thereto. Thereafter, the assessee-respondent No.2 vide form 34BA intimated the Assessing officer of having made an application before the respondent No.1-Commission under Section 245 C of the Act for settlement of his cases. The assessee-

respondent No.2 in its application under Section 245C stated to have made disclosure of additional income of Rs.46,71,40,771/- and net additional income of Rs. 29,80,45,000/- after claiming deduction under Section 80IA at Rs. 16,92,69,825/-. The respondent No.1-Commission passed an order under Section 245D (1) on 14.1.2019 allowing the application for settlement to be proceeded with. Subsequently, when reports under Section 245D (2B) (i) were submitted by the petitioner to the respondent No.1-Commission. The petitioner had raised objections to the admission of the application filed by respondent No.2 and had submitted that since respondent No.-2 had not given the complete and true disclosure of all the facts, such applications were narrated with a outright rejection. The main submission in this behalf was that respondent No.2-namely M/s Gawar Constructions Ltd. was that additional amount of income tax payable on the income disclosed in the application did not exceed Rs. 50 lakhs which is basic requirement as per Section 245(C) of the Act and that after claiming the benefit of Section 80IA the tax liability of the respondent No.1 reduces and rather it becomes entitled to have claim of refund of Rs.53,88,03,810/- and MAT credit of Rs.24,00,53,666/-. This and other objections of the petitioner have been discussed by the Settlement Commission, but were turned down with the observation that the return filed under Section 153A of the Act by the assessee-respondent No.2 are valid returns and so the tax on the additional income shows in the application before the Settlement Commission compared to income shows in the returns under Section 153A of the Act is more than Rs.50 lakhs and that mere by making fresh claims in return under Section 153A, return itself would not become invalid.

3. Accordingly, the objections of the petitioner to the admissibility of the applications are turned down and the Settlement Commission has decided to proceed with the consideration of those applications on merits.

4. Learned counsel for the petitioner has vehemently argued that application itself was not maintainable. We find that the Tribunal has not taken any view about the maintainability of the application, at this stage.

5. We find that the facts of the present case are covered by the decision of this Court passed in ***CWP Nos. 9251-2012*** titled as ***Commissioner of Income Tax (Central), Gurgaon vs. M/s. C&S Constructions and others and CWP No.9369-2012*** titled as ***Commissioner of Income Tax (Central), Gurgaon vs. M/s Bhushan Power and Steel Ltd.*** decided on 18.10.2012.

6. Learned counsel for the petitioner has accepted this fact.

7. Resultantly, the present petition stands disposed of in the same terms as in ***CWP Nos. 9251-2012 and CWP No.9369-2012.***

8. Since the main case has been disposed of, the pending application if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

30.9.2019
anuradha

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No