IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210 **CWP-7252-2020**
Date of decision: 27.10.2020

ANGELS IMMIGRATION AND EDUCATIONAL CONSULTANTS PVT. LTD. AND OTHERS

..PETITIONERS

V/S

UNION OF INDIA AND ANOTHER **..RESPONDENTS**

CORAM: **HON'BLE MR. JUSTICE S.N. SATYANARAYANA**
HON'BLE MRS. JUSTICE ARCHANA PURI

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Present: Mr. Nitin Kaushal, Advocate
for the petitioners.

Mr. Denesh Goyal, Sr. Standing Counsel,
For respondent-Income Tax Department.

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S.N. SATYANARAYANA, J.(ORAL)

The petitioners herein are seeking quashing of the complaint dated 02.04.2019 (Annexure P-1) filed under Sections 276-B, 276-C and 277 of the Income Tax Act, 1961 read with Section 417 of IPC, 1860 in Financial Year 2016-17 and also seeking stay on all consequential proceedings pursuant to complaint dated 02.04.2019. In support of this, they try to rely upon their attempt to approach the Settlement Commissioner to pay the tax as per the disclosure made by them.

The contention of learned counsel for the petitioners in this proceedings is that since proceedings are already commenced before settlement commissioner with reference to tax payable regarding disclosed income the respondent income tax authority has no right to initiate complaint proceedings on the basis that there is suppression of income and nonpayment of tax thereon.

In this proceedings on service of notice, respondents have entered appearance and filed statement of objections, to which replication has also filed by the petitioners. When we have gone through the pleadings it is observed that the grounds urged by the petitioners in contending that when the petitioner has approached settlement commissioner to resolve the matter regarding payment of tax on escaped income, question of initiating proceedings by filing complaint does not arise is not acceptable in the light of judgment reported in 2004 ITR 450 (P&H) as contended by the counsel for the respondent. After going through the statement of objections with reference to the judgment referred to (*supra)* we noticed that the observations made in this aforesaid judgment is as under:

> "Óffences and prosecution-Complaint filed under Sections 276C and 277-Application filed before Settlement Commission-Application admitted-Commission not seized of matter when prosecution was launched-No bar on Commissioner to order launching or prosecution-No direction given by Commission for stay of criminal proceedings – Mere allowing of proceedings on application of petitioner by Settlement Commission does not operate as bar to prosecution already instituted by Commissioner – Income Tax Act, 1961, ss 276C, 277, 245C, 245D, 245F, 245H.
>
> The Commissioner of Income-tax instituted a complaint under sections 276C and 277 of the Income-tax Act, 1961, against the petitioner-firm on the ground that it had concealed an income of Rs. 3 lakhs while filing its return. The petitioner-firm claimed that they had filed a petition under Section 245C of the Act before the Income-tax Settlement Commission, that the Settlement Commission had admitted the petition and the proceedings before the Commission were allowed to be proceeded with, that all proceedings including the prosecution should be stayed and that the criminal complaint of the Commissioner should be quashed:
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> Held, that, when the complaint was instituted, the Commission had not yet allowed the proceedings on the application of the petitioner to proceed further. In this situation, it could not be said that the Settlement Commission was seized of the matter when the

> prosecution was launched under the orders of the Commissioner. There was no bar on the powers of the Commissioner to order the launching of the prosecution on the day the complaint was filed. While allowing the prayer of the petitioners to proceed with the application, the Settlement Commission did not give a direction for stay of the criminal proceedings. The mere allowing of the proceedings on the application of the petitioner by the Settlement Commission did not operate as a bar to the prosecution already instituted under the orders of the Commissioner".

After giving careful consideration of the pleadings as well as the judgment referred to (*supra)* we are convinced that the grounds raised by the petitioners in this proceedings is already covered by the judgment referred to (*supra)* and in the light of aforesaid factual situation we find that the question of entertaining this writ petition either to quash the complaint registered against the petitioners dated 02.04.2019 vide Annexure P-1 or to interefere with the same at this juncture in any manner does not arise.

Accordingly, this writ petition is dismissed.

(S.N. SATYANARAYANA)
JUDGE

(ARCHANA PURI)
JUDGE

October 27, 2020
Poonam Sharma

Whether speaking/reasoned Yes/No

Whether reportable Yes/No