IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.04.2021

PRONOUNCED ON : 27.05.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.24147, 24179 & 24278 of 2013
and M.P.Nos.1, 1 & 1 of 2013

The Commissioner of Income Tax,
Central – 1,
108, Nungambakkam High Road,
Chennai 600 034. .. Petitioner in all W.Ps.

vs

1.Income Tax Settlement Commission,
Additional Bench,
640, Anna Salai, Nandanam,
Chennai 600 035. ..1st Respondent in all W.Ps.

M/s.Maral Labs
No.18, Dr.Nair Road,
T.Nagar, Chennai 600 017 . .. 2nd respondent in W.P.No.24147 of 2013

The Madras Pharmaceuticals
No.18, Dr.Nair Road,
T.Nagar, Chennai 600 017. .. 2nd respondent in W.P.No.24179 of 2013

M/s.Accent Pharma
No.18, Dr.Nair Road,
T.Nagar, Chennai 600 017. .. .. 2nd respondent in W.P.No.24278 of 2013

Prayer in all W.Ps.: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records on the file of the first respondnet in TN/CN.51/2010-11/11/IT, TN/CN.51/2010-11/10/IT and TN/CN.51/2010-11/8/IT dated 28.03.2012 and quash the same as illegal beyond jurisdiction and authority of the first respondent .

For Petitioner : Mr A.P.Srinivas, (in all W.Ps.)
Senior Standing Counsel

For R2 : Mr.J.Balachander (In all W.Ps.)

COMMON ORDER

By this common order, all the three Writ petitions are being disposed.

2. These present writ petitions have been filed by the petitioner Commissioner of the Income Tax against the impugned orders all dated 28.3.2012 passed by the first respondent, Income Tax Settlement Commission (hereinafter referred to as the "Settlement Commission").

3. By the impugned orders, the first respondent Income Tax Settlement Commission has accepted the applications filed by the 2nd respondent/applicants the respective second respondent in these writ petitions under Section 245C vide impugned orders dated 28.03.2012 under Section 245D(4) of the Income Tax Act, 1961.

4. These orders are sought to be assailed by the Commissioner of Income Tax, the petitioner herein primarily on the ground that there was no true and full disclosure in the application filed by the second respondents in the respective writ petitions, inasmuch as the additional amount of income declared in the returns filed pursuant to notice issued under Section 153A by them was far lesser than the amount of income ultimately arrived by the 1st respondent Settlement Commission in the impugned order.

5. It is further stated that the amount the additional income offered for settling the case was not different from the amount that was of in the revised returns filed on 20.12.2010 pursuant to notice dated 41.2010 issued under Section 153A of the Income Tax Act, 1961. There was no further additional disclosure of income over and above Rs.50,00,000/- .

6. It is further submitted that there there was a huge variance between the additional amount declared in the applications filed under Section 245C and the amount arrived by the first respondent for settling the cases of the respective 2nd respondent/applicant (2nd respondent in the respective writ petitions).

7. It is therefore submitted that the first respondent settlement Commission ought to have dismissed the respective applications in absence of true and full disclosure at the time when reports were filed under Section 245D(3) of the Income Tax Act, 1961.

8. It is further submitted that in any event, the first respondent Settlement Commission ought not to have granted immunity from prosecution and from payment of penalty to the second respondents in the respective writ petitions in absence of true and full disclosure of additional income under Section 245C of the Income Tax Act, 1961.

9. It isfurther submitted that the fact that the first respondent Settlement Commission took upon itself the task of re-assessment to hand over an order of settlement of the cases

under Section 245D (4) of the Income Tax Act, 1961 also makes it clear that there was no true and full disclosure of additional income by the respective 2nd respondent/applicants namely the second respondents in the respective writ petitions before the first respondent Settlement Commission.

10. Learned counsel for the petitioner relied on the following decisions of the Courts :-

i.Haji N.Abdulla vs. Income Tax Settlement Commission, (2008) 169 Taxman 98 (Bombay)
ii.Dix Francis vs. Income Tax Settlement Commission, (2016) 73 taxmann.com 196 (Madras)
iii.V.M.Shaik Mohammed Rowther vs. Settlement Commission, (1999) 102 Taxman 546 (Mad.)
iv.ACE Investments Ltd., vs. Settlement Commission, (2003) 264 ITR 571 (Mad.)
v.Canara Jewellers vs. Settlement Commission, (2009) 184 Taxman 491 (Madras)
vi.Ajmera Housing Corpn. Vs. Commissioner of Income Tax, (2010) 193 Taxman 193 (SC)
vii.G.Jayaraman vs. Settlement Commission (Additional Bench) Chennai, (2011) 196 Taxman 552(Mad.)

11. Defending the impugned order, learned counsel for the second respondents in the respective writ petitions submitted that the first respondent Settlement Commission is required to pass an order under Section 245D(1) of the Income Tax Act, 1961 within 14 days of the forwarding of the application filed under Section 245 C of the Income Tax Act, 1961 by either allowing or rejecting the application at that stage.

12. It is submitted that after the application were admitted, a report was called for from The Principal Commissioner of Income Tax as to whether there was adequate disclosure by respective 2nd respondent/applicant regarding additional income offered for tax, the tax and interest payable thereon.

13. It is submitted that the Commissioner of Income Tax had filed a report under Section 245D(2B) giving views/objections regarding the adequacy of the additional income disclosed by the 2nd respondent/applicant, payment of additional tax thereon and interest, etcetera and regarding compliance of the proviso to Section 245 C of the Income Tax Act, 1961. It is submitted that there was no procedural irregularity.

14. It is submitted that after receipt of the said report filed the Commissioner of Income Tax in terms of Section 245D

(2B) and after recording satisfaction to proceed the settlement application, the Settlement Commission passed order under Section 245 D(2C) of the Income Tax Act, 1961by allowing the application filed by the 2nd respondent/applicant.

15. It is submitted that only after order under Section 245D (2C) was passed by the first respondent Settlement Commission, a comprehensive report under Rule 9 of the Income Tad Commission (Procedure) Rules, 1997 was called for from the Commissioner of Income Tax.

16. It is only after considering the submissions of the Commissioner of Income tax and the respective 2nd respondent/applicant (2^{nd} respondent in the respective writ petitions) the first respondent Settlement Commission passed the impugned order under Section 245 D (4) of the Income Tax Act, 1961.

17. It is submitted that the 1^{st} respondent Settlement Commission's order had attained finality in terms of Section 245I of the Income Tax Act, 1961 therefore the writ petition filed by the petitioner Commissioner of Income Tax was liable to be dismissed.

18. It is submitted that the power of review under Article 226 of the Constitution of India cannot be invoked unless there was any material irregularity in the procedure followed by the Commission.

19. It is submitted that the scope of judicial review is very limited under Article 226 of the Constitution of India. It is further submitted that this Court is really not concerned with the ultimate decision of the first respondent Settlement Commission. It is only concerned with the decision-making process.

20. Unless the petitioner establishes that the order passed by the Settlement Commission was vitiated on account of fraud, mis-representation or the suffers from arbitrariness or there was a material irregularity in the decision making process, there is no scope for interference.

21. On merits it is submitted that after submitting the report under Section 245(2B) of the Income Tax Act, 1961, it is not open for the petitioner to challenge the validity of the final order passed in the first respondent Settlement Commission.

22. It is further submitted that it would be incorrect to even submit that there was no true and full disclosure by the respective 2nd respondent/applicant (second respondent in the respective writ petitions) on the fact and circumstances of the each of the cases.

23. In this connection the decision of the court in the following cases was drawn:-

i.Sri Budhia Swain & Others vs. Gopinath Deb and Ors. 1996) 4 SCC 396 (SC)

ii.Indian Bank vs. Satyam Fibers India Ltd., (1996)5 SCC 550;

iii.A.R.Antulay Vs. R.S.Nayak & Other, AIR 1988 SC 1531.

24. On merits it is submitted that a search under Section 132 of Income Tax Act, 1961 was conducted between 16.02.2008 and 03.12.2008 in the business premises of the respective 2nd respondent/applicants/second respondents namely Accent Pharama, Maral Labs and Madras Pharmaceuticals which are partnership concerns having few common partners.

25. All the three concerns were issued with notice dated 4.1.2010 under Section 153A of the Income Tax Act, 1961. Under these circumstances, all the three concerns approached the Settlement Commission.

26. Eventually, all the applications filed for settling the case under the provisions of the Income Tax Act, 1961 were allowed by the first respondent Settlement Commission by its separate orders dated 28.3.2012.

27. It is submitted that as far as facts are concerned, the finding of facts by the first respondent Settlement Commission and final.

28. It is submitted that the 1st respondent is the ultimate fact finding authority and therefore, it cannot be disturbed. In this connection attention was drawn to the following cases of the Courts:-

i) R.B.Shreeram Durga Prasad and Fatechand Nursing Das vs. Settlement Commission (IT and WT) and another (1989) 176 ITR 169 (SC)

ii) Saurasthra Cement Ltd vs. Commissioner of Customs, (2013) 22 GSTR 460 (Guj.)

iii) Shriyans Prasad Jain vs. Income Tax Officer & Others, (1993) 204 ITR 616 (SC)

iv) Vishwa Nath Gupta vs. Principal Commissioner of Income Tax and Another (2017) 395 IYTR 165 (Del.) (HC)

iv)Commissioner of Income Tax vs. Income Tax Settlement Commission and another, (2017) 390 ITR 306 (Guj)

v) Southern Herbals Ltd vs. Settlement Commission (ITLWT) and another, (2003) 261 ITR 681 (Kar.)

vi) Assistant Commissioner of Income Tax vs. Union of India, through its Secretary,

Income tax Settlement Commission and another (2019) 419 ITR 419 (Pat.)
vii) C.A.Abraham and Others vs. Assistant Commissioner of Income Tax and Others, (2002) 255 ITR 540 (Mad.)

29. I have considered the arguments advanced by the learned counsel for the petitioner, the Commissioner of Income Tax and the counsel for the 2nd respondent, the successful 2nd respondent/applicant in all writ petitions before the 1st respondent Settlement Commission.

30. The larger issue in these writ petitions is whether there was a full and true disclosure by the respective 2nd respondent/applicant (2nd respondent in the respective writ petitions) before the 1st respondent Settlement Commission in proceedings initiated by them under chapter XIX A Of the Income Tax Act, 1961 in the peculiar facts and circumstances of the cases.

31. The supplementary issue to be decided is whether the 2nd respondent/applicant (2nd respondent in the respective writ petitions) had satisfied the requirements of such clause (ii) to first proviso to Section 245 C of the Income Tax Act, 1961?

32. The 2nd respondent-2nd respondent/applicant in W.P.No.24278 of 2013 (M/s.Accent Pharma) and the 2nd respondent-2nd respondent/applicant in W.P.No.24179 of 2013 (The Madras Pharmaceuticals) and W.P.No.24279 of 2013 had earlier filed application for settling the dispute under Section 245C of the Income Tax Act, 1961on 12.11.2010. These applications were dismissed by the 1st respondent Settlement Commission vide these separate orders dated 16.11.2010.

33. The 1st respondent Settlement Commission found that the applications were vague and unreasonable and cannot be decided in the manner in which these 2nd respondent/applicant (2nd respondent in the respective writ petitions) wanted the cases to be settled.

34. These applications were filed even before revised returns were filed by them pursuant to notice dated 4.1. 2010 were issued under Section 153 A of the Income Tax Act, 1961. These 2nd respondent/applicants later filed revised returns on 01.12.2016 and only on 16.12.2010 along with the 2nd applications under Section 245 C of the Income Tax Act, 1961.

35. The earlier applications were dismissed by orders dated 16.11.2010 in the case of these 2nd respondent/applicant (2nd respondent in W.P.No.24179 of 2013(The Madras Pharmaceuticals and W.P.No.24278 of 2013 (The Accent Pharma) & W.P.No.24147 of 2013 (Marlal labs) does not operate as a bar under Section 245 K of the Income Tax Act, 1961 from filing 2nd application.

36. These 2nd respondent/applicants therefore filed fresh application under Section 245C of the Income Tax Act, 1961 on 01.12.201 and 16.12.2020. On the same day, they also filed their revised returns in response to notices dated 4.1.2010 issued under Section 153A of the Income Tax Act, 1961.

37. As far as the 2nd respondent in W.P.No.24147of 2013 is concerned, (M/s.Marlal Labs) both revised returns under Section 153A of the Income Tax Act, 1961 and the application to settle the case under Chapter XIX A of the Income Tax Act, 1961 were filed on the same date i.e. 2.12.2010.

38. I shall refer to the income declared and the additional income determined by the 1st respondent Settlement Commission in the impugned orders to determine as to whether the 1st respondent Settlement Commission was justified in settling the case of the respective 2nd respondent/applicants who are the 2nd respondent in the respective Writ Petitions.

39. To get proper perspective, the income declared that was originally declared at the time of filing of original return and the amount offered as additional income the application filed under Section 245 C of the Income Tax Act, 1961 and the amount ultimately determined by the 1st respondent Settlement Commission are tabulated in this order:-

M/s.Maral Lab : (W.P.No. 24147 of 2013)

40. I shall 1st deal with the case of M/s.Maral Lab in W.P.No. 24147 of 2013. The case deals the Assessment Years 2003 -2004 to 2008-2009. The following Table will explain the income that was originally disclosed in the returns filed under Section 139 of the Income Tax Act, 1961 the additional income offered by M/s.Maral Lab in its application and the additional income arrived by the 1st respondent Settlement Commission in the impugned order.

Asses-sment Year	Income returned originally (Rs.)	Additional Income offered under Section 245 D of I.T.Act (Rs.)	Total Income filed 16.12.2020 (Rs.)	Additional income determined by the Settlement Commission (Rs.)	Total (Rs.)
2003-04	12,37,140/-	1,05,55,460/-	1,17,92,600/-	50,51,162/-	1,68,43,762/
2004-05	17,79,950/-	1,53,91,120/	1,71,71,070/-	72,83,083/-	2,44,54,153/-
2005-06	31,87,970/-	1,68,78,920/-	2,00,66,890/	94,70,940/-	2,95,37,830/-

Asses-sment Year	Income returned originally (Rs.)	Additional Income offered under Section 245 D of I.T.Act (Rs.)	Total Income filed 16.12.2020 (Rs.)	Additional income determined by the Settlement Commission (Rs.)	Total (Rs.)
2006-07	1,11,68,490	1,06,71,050/-	2,18,39,540/-	1,71,01,991/-	3,89,41,531/-
2007-08	4,57,46,500/-	90,73,850/-	5,48,20,350/-	90,70,587/-	6,38,90,937/-
2008-09	75,05,490/-	59,51,843/-	1,34,57,333/-	74,85,579/-	2,09,40,549/-
Total	7,06,23,537/-	6,85,21,882	3,97,45,419/-	5,54,63,342/-	19,46,08,762

41. The total income for the block assessment years 2003-04 to 2008-09 was Rs 7,06,23,537/- in the original returns. After a search was completed under Section 132 of Income Tax Act, 1961, the 2nd respondent /applicant was issued with a notice dated 4.1.2010 under Section 153A of the Income Tax Act, 1961. The last date for filing returns expired on 3.2.2010 under the aforesaid provision.

42. The 2nd respondent/applicant M/s.Maral Labs [the 2nd respondent in W.P.No.24147 of 2013] filed a belated return on 20.12.2010. On the same day, the 2nd respondent/applicant also filed an application under Section 245C of the Income Tax Act, 1961before the 1st respondent Settlement Commission.

43. In the said application, the additional amount of income offered by the 2nd respondent - 2nd respondent/applicant for these block assessment years was Rs.6,85,21,882/-. In the revised returns, the 2nd respondent/applicant offered a total income of Rs.13,91,45,419/-consisting of the aforesaid additional amount of Rs.6,85,21,882/- and Rs.7,06,23,537/- declared at the time of filing original.

44. Pursuant to reports filed by the petitioner's office, the 1st respondent Settlement Commission arrived at the total income of the 2nd respondent as Rs.19,46,08,786/- by adding another amount of Rs.5,54,63,342/-.

45. The above amount of Rs.19,46,08,786/- finally determined by the 1st respondent over and above the amount Rs.13,91,45,419/- declared by the 2nd respondent/applicant named in the application filed under Section 245 C of the Income Tax Act, 1961. The 1st respondent Settlement Commission took upon itself the task of recasting the income by lowering the income for the assessment years 2003-04 and 2004-05.

Similarly, for some of the Assessment Years in these block assessment years, there have been some increase in the income from the amount declared by the 2nd respondent/applicant.

46. However, what is evident is that as against a total income of Rs.13,91,45,419/-declared by the 2nd respondent/applicant in the application filed under Section 245C of the Income Tax Act, 1961, consisting of additional income of Rs. 6,85,21,882/- the additional income determined by the 1st respondent Settlement Commission under Section 245D (4) of the Income Tax Act, 1961 comes to Rs.5,54,63,342/-. This amount is almost 81% of the additional income declared under Section 245C of the Income Tax Act, 1961.

47. From a reading of the above table it is evident that there a sea of difference between the amount disclosed in the application filed under Section 245C of the Income Tax Act, 1961 and the amount finally determined by the 1st respondent Settlement Commission.

48. Thus, what emerges is that there was no true and full disclosure of additional income in the applications filed under Section 245 C of the Income Tax Act, 1961 by the 2nd respondent in W.P.No.24147 of 2013.

49. The 1st respondent Settlement Commission has not only taken upon the task of an adjudicating authority but also failed to note that the 2nd respondent/applicant had not made a true and full disclosure of the income which had not been disclosed before the assessing officer.

50. The Hon'ble Supreme Court in para 35 in Ajmera Housing Corporation and another vs. Commissioner of Income Tax (2010) 8 SCC 739 held as under :-

> " 35. It is plain from the language of sub-Section (4) of Section 245-D of the Act that the jurisdiction of the Settlement Commission to pass such orders as it may think fit is confined to the matters covered by the application and it can extend only to such matters which are referred to in the report of the Commissioner under sub-Section (1) or sub-Section (3) of the said Section. A "full and true" disclosure of income, which had not been previously disclosed by the assessee, being a precondition for a valid application under Section 245-C(1) of the Act, the scheme of Chapter XIX-A does not contemplate revision of the income so disclosed in the application against Item

11 of the form. Moreover, if an assessee is permitted to revise his disclosure, in essence, he would be making a fresh application in relation to the same case by withdrawing the earlier application. In this regard, Section 245-C(3) of the Act which prohibits the withdrawal of an application once made under sub-Section (1) of the said Section is instructive inasmuch as it manifests that an assessee cannot be permitted to resile from his stand at any stage during the proceedings. Therefore, by revising the application, the 2nd respondent/applicant would be achieving something indirectly which he cannot otherwise achieve directly and in the process rendering the provision of sub-Section (3) of Section 245-C of the Act otiose and meaningless. In our opinion, the scheme of said Chapter is clear and admits no ambiguity.”

51. The Hon'ble Supreme Court refused to interfere with the order of the High Court as is evident from a reading of Para 39 of the said Judgment which is reproduced below .

“ 39. Before addressing the other issues, at the outset, we record our disapproval with the view of the High Court that it would not be proper to set aside the proceedings before the Settlement Commission even though it was convinced that the assessee had not made full and true disclosure of their income while making application under Section 245-C of the Act. As stated above, in its earlier order dated 28-7-2000 while declaring the order dated 17-11-1994 as ab initio void and setting aside the order dated 29-1-1999, the High Court had remitted the case to the Settlement Commission to decide the entire matter afresh, including the question of maintainability of the application under Section 245-C(1) of the Act. The said order of the High Court was put in issue before this Court and was set aside vide order dated 11-7-2006 and the case was remanded back to the High Court for fresh consideration. Nevertheless, all points raised by the parties, including the plea of the Revenue that the application filed by the assessee before the Settlement Commission was not maintainable as the assessee had not made a full and true disclosure of their undisclosed income were kept open. The High Court addressed itself on the said issue and found that the assessee had not made a full and true disclosure of their income while making the application under Section 245-C(1) of the Act, yet did not find it proper to set aside the proceedings on that ground. Having recorded the said adverse finding on the very basic requirement of a valid application under Section 245-C(1) of the Act, the High Court's opinion that it would not be proper to set aside the proceedings is clearly erroneous. The High Court appears to have not appreciated the object and scope of the scheme of settlement under Chapter XIX-A of the Act."

52. There is considerable difference in the additional amount of income as disclosed in the application filed under Section 245 C of the Income Tax Act, 1961 and the additional amount determined by the 1st respondent Settlement Commission. It shows that the amount determined was double the amount that was declared in the application filed by the said 2nd respondent/applicants. Therefore, W.P.No.24147 of 2013 deserves to be allowed.

Madras Pharmaceuticals :W.P.No.24179 of 2013.

53. This case pertains to Black Assessment year 2003-2004 to 2008-2009. The following table explains the income that was originally disclosed in the returns filed under Section 139 of the Income Tax Act, 1961, the additional income offered under Section 245 C and the amount of income determined by the first respondent Settlement Commission in the impugned order.

Assessment Year	Income returned originally (Rs.)	Additional Income offered under Section 245 D of I.T.Act (Rs.)	Revised Income filed 16.12.2020 (Rs.)	Total Additional income determined by the Settlement Commission (Rs.)	Additional Income determined by the Settlement Commission (Rs.)	Difference between additional income offered under Section 245 D of I.T.Act as in 3 and additional income determined by the Settlement Commission (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2003-04	19.56.160/-	1,40,670/-	20,96,830/-	19,56,160/-	20,96,830/-	NIl
2004-05	25,13,170/-	2,10,92,110/-	2,36,05,280/-	2,84,67,182/-	4,95,59,292/-	2,59,54,012/-
2005-06	58,64,860/-	2,66,64,730/-	3,25,29,590/-	3,12,53,745/-	5,79,18,475/-	2,53,88,885/-
2006-07	1,73,45,670/-	2,66,92,900/-	4,40,38,570/-	46,59,677/-	3,13,52,577/-	1,26,85,993/-
2007-08	1,92,34,020/-	2,32,32,330/-	4,24,66,350/-	1,61,26,772/-	3,93,59,446/-	31,06,904/-
2008-09	2,24,88,192/-	1,76,95,768/-	4,01,83,960/-	4,64,38,334/-	6,41,34,102/-	2,39,50,142/
Total	6,94,02,072/-	11,55,18,508/-	18,49,20,580/-	12,89,01,870/-	*24,44,20,722/-	5,95,00142/-

(* The amount has been wrongly shown as Rs.24,44,20,378/- in the impugned order.)

54. The total income for the block assessment years 2003-04 to 2008-09 in the returns filed by the said 2nd respondent/ 2nd respondent/applicant herein was Rs. 6,94,02,072/-. After the search was completed under Section 132 of the Income Tax Act, 1961, the 2nd

respondent/2nd respondent/applicant was issued with a notice dated 4.1.2010 under Section 153 A of the Income Tax Act, 1961. The last date for filing returns expired on 3.2.2010.

55. The 2nd respondent/2nd respondent/applicant initially filed an application under Section 245C of the Income Tax Act, 1961on 12.11.2010. As mentioned elsewhere in the beginning, the said application was dismissed by the 1st respondent Settlement Commission by its order dated 16.11.2010. Thereafter, the 2nd respondent/2nd respondent/applicant filed a return on 16.12.2010 and a revised application under Section 245C of the Income Tax Act, 1961 on 14.12.2010 before the 1st respondent Settlement Commission.

56. In the application filed before the 1st respondent Settlement Commission, the 2nd respondent/applicant offered a total income of Rs.18,49,20,580/- for these assessment years consisting of Rs.11,55,18,508/- as the additional income over and above the amount of Rs.6,94,02,072.- for the purpose of settling the case under chapter XIX-A of theIncome Tax Act, 1961.

57. The 1st respondent Settlement Commission after considering the reports of the petitioner Income Tax Department further added another sum Rs.5,95,00,142/-. This amount is almost an addition of 51.5% to the additional amount offered by the 2nd respondent/applicant in the application filed under Section 245C of theIncome Tax Act, 1961 for a sum of Rs.11,55,18,508/-. Therefore, it cannot be said that there was full and true disclosure of the additional income in the application filed under Section 245C of the Income Tax Act, 1961. Therefore, the 1st respondent should have dismissed the application. Further, for the Assessment Year 2006-07 and 2007-08, the 1st respondent Settlement Commission has reduced the additional amount of income from Rs.4,40,38,570/- to Rs.1,26,85,993/- and for the Assessment Year 2007-08 from Rs.4,24,66,350/- to Rs.31,06,904/- which was unwarranted.

58. Thus, the decision of the Honourable Supreme Court in Ajmera Housing Corporation and another vs. Commissioner of Income Tax (2010) 8 SCC 739 cited above squarely applies to the facts of the present case. Therefore, the writ petition deserves to be allowed.

M/s.Accent Pharma:W.P.No.24278 of 2013

59. This case pertains to Block Assessment year 2006-2007 to 2008-2009. The following table will explain the income that was originally disclosed in the returns filed under Section 139 of the Income Tax Act, 1961, the additional income offered in the application and the additional income arrived by the first respondent Settlement Commission in the impugned order.

Assessnment Year	Income returned originally (Rs.)	Additional Income offered under Section 245 C of I.T.Act (Rs.)	Total Income filed 20.12.2010 (Rs.)	Total (Rs.)	Additional amount determined in the impugned order by the 1st respondent (Rs.)
2006-07	23,23,960/-	1,55,710/-	24,79,670/-	NIL	24,79,670/-
2007-08	1,09,33,180/-	90,79,590/-	2,00,12,770/-	NIL	2,00,12,770/-
2008-09	77,48,920/-	2,03,28,450/-	2,80,77,370/-	2,93,16,704/-	5,73,94,074/-
Total	2,10,06,060/	2,95,65,750/-	5,05,69,810/-	2,93,16,704/	7,98,86,514/-

60. The total income for the block assessment years 2006-07 to 2008-09 in the returns filed by the said 2nd respondent/applicant/2nd respondent herein was Rs.2,10,06,060/-. After the search was completed under Section 132 of theIncome Tax Act, 1961,the said 2nd respondent/applicant was issued with the notice dated 4.1.2010 under Section 153 of the Income Tax Act, 1961. The last date for filing returns expired on 03.02.2010.

61. The 2nd respondent/applicant initially filed an application under Section 245C of the Income Tax Act, 1961on 12.11.2010. As mentioned elsewhere in the order, the said application was also dismissed by the 1st respondent Settlement Commission by its order dated 16.11.2010. Thereafter, the 2nd respondent/applicant filed a return on 01.12. 2010 under Section 153 A of the Act and a fresh application under Section 245C of the Income Tax Act, 1961 on 01.12.2010 before the 1st respondent Settlement Commission.

62. The application filed before the 1st respondent Settlement Commission, the 2nd respondent/applicant offered a total income of Rs.5,05,69,810/- for these assessment years consisting of Rs.2,95,63,750/ - as the additional income for the purpose of settling the case under chapter XIX-A of theIncome Tax Act, 1961.

63. The 1st respondent Settlement Commission after considering the reports of the petitioner Income Tax Department added another sum Rs.2,93,16,704/- . This amount is double the additional amount offered by the 2nd respondent/applicant in the application filed under Section

245C of the Income Tax Act, 1961 for sum of Rs.2,95,63,750/-. The amount of income enhanced is almost 100% of the additional income offered by the 2nd respondent/applicant. Therefore, it cannot be said that there was full and true disclosure of the additional income in the application filed under Section 245C of the Income Tax Act, 1961.

64. The decision of the Honourable Supreme Court in Ajmera Housing Corporation and another vs. Commissioner of Income Tax (2010) 8 SCC 739 cited above also squarely applies to the facts of the present case. Therefore, the writ petition deserves to be allowed.

65. The 1st respondent Settlement Commission therefore ought to have rejected the application for by these 2nd respondent/applicants as the intention of the 2nd respondent/applicant was only to take a chance by not disclosing truly and fully the correct additional income which was not disclosed at the time of filing of original returns under Section 139 of the Income Tax Act, 1961. It was intended take advantage of limited scope of enquiry in the proceeding before the 1st respondent Settlement Commission. The impugned order of the 1st respondent Settlement Commission is liable to be quashed.

66. Therefore, the above writ petitions filed by the petitioner Commissioner of Income Tax deserves to be allowed and are accordingly allowed.

67. In the result, all the three writ petitions filed by the Commissioner of Income Tax are allowed with consequential relief. No cost. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kkd
To
The Income Tax Settlement Commission,
Additional Bench,
640, Anna Salai, Nandanam,
Chennai 600 035.

Pre-delivery Common Order in
W.P.Nos.24147, 24179 & 24278 of 2013
and M.P.Nos.1, 1 & 1 of 2013

GPL(CO)
B.VC(19.07.2021)