IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	05.07.2023
Pronounced On	31.10.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.6482, 6553 & 6497 of 2020
and W.M.P.Nos.7705, 7775 & 7673 of 2020

M.Vedamurthy .. Petitioner in W.P.No.6482 of 2020

M/s.Rsv Skin and Laser Centre,
Rep.by its Partner
M.Vedamurthy ... Petitioner in W.P.No.6553 of 2020

M.Maya Vedamurthy ..... Petitioner in W.P.No.6497 of 2020

vs.

1. Income Tax Settlement Commission,
Additional Bench at Chennai,
Ministry of Finance,
Department of Revenue,
No.640, Anna Salai,
Nandanam, Chennai 600 035.

2.The Principal Commissioner of Income Tax,
Central-1,

Income Tax Department,
108, Nungambakkam High Road,
Chennai 600 034.

3. The Deputy Commissioner of Income Tax,
Central Circle -1(4),
Income Tax Department,
108, Nungambakkam High Road,
Chennai 600 034. ... Respondents in all W.Ps.

Prayer in W.P.No.6482 of 2020 : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent and quash the impugned order bearing TN/CN/51/2019-20/79/IT dated 27.02.2020 for the assessment years 2012-13 to 2018-19 and consequently direct the 1st respondent to pass a fresh order under Section 245D of the Income Tax Act, 1961 in adjudicating the settlement application filed by the petitioner in accordance with law.

Prayer in W.P.No.6553 of 2020 : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent and quash the impugned order bearing TN/CN/51/2019-20/81/IT dated 27.02.2020 for the assessment years 2012-13 to 2018-19 and consequently direct the 1st respondent to pass a fresh order under Section 245D of the Income Tax Act, 1961 in adjudicating the settlement application filed by the petitioner in accordance with law.

Prayer in W.P.No.6497 of 2020 : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent and quash the impugned order bearing TN/CN/51/2019-20/80/IT dated 27.02.2020 for the assessment years 2012-13 to 2018-19 and consequently direct the 1st respondent to pass a fresh order under Section 245D of the Income Tax Act, 1961 in adjudicating the settlement application filed by the petitioner in accordance with law.

In all W.Ps.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel
Mr.A.N.R.Jayaprathap
Junior Standing Counsel

COMMON ORDER

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

2. The petitioner has challenged the impugned Notice dated 29.07.2022 issued in TIN No.33380340401/2014-15/A3 issued by the third respondent.

3. By the impugned order, applications filed by the respective writ petitioners before the first respondent/Income Tax Settlement Commission have been rejected. Operative portion of the impugned order reads as under:-

"Decision:

4. We have given careful consideration to the submissions made by the Ld. A.R. and Ld. CIT (DR) and reports of PCIT and the facts available on record. As regards Department's objection with regard to shortfall of Rs.6,86,103/- in payment of additional taxes due to calculation of interest u/s 234A with a delay of 11 months in filing of return of income in response to notice u/s 153A of the Act issued on 26.11.2018, the argument of the A.R. that a fresh notice with specific time limit was issued on her oral/written request to the Department to enable the e-portal for filing returns is not convincing. During the hearing the A.R. could not produce any evidence to show that after the receipt of the manual notice u/s 153A on 26.11.2018, the applicant had made any attempts to request the Assessing Officer to enable her to file the e-return. The Chartered Accountant of the applicant claims to have orally requested the A.O. but there is no proof of the same. In any case, we fail to understand as to why would the A.O. not enable the e-portal for filing of the return by the applicant. It is clear from the mail sent by the CA of the applicant that he had approached the Department only on 24.09.2019 when the applicant wanted to approach the Settlement Commission. The A.R.'s argument that in the notice issued u/s 153A dated

22.10.2019, there was no mention of any reference to the manual notice issued by the Revenue does not matter because in the e-mail sent by the CA of the applicant to the A.O., he himself has clearly mentioned about the manual notice issued by the Department and requested the Department that the applicant is unable to comply with the manual notice and requested the Revenue to do the needful to enable her to file the return. Thus the applicant tried to shift the blame of not filing the return for almost a year on the Department and is just trying to escape the interest payment. Further and most importantly, the applicant had failed to mention the details of this important aspect in her SOF in the Settlement Application which appears to be deliberate. During the hearing the A.R. of the applicant accepted the lapse on his part in failing to bring this fact in the Settlement Application. We are, therefore, convinced that there is indeed shortage of payment by the applicant when she filed the Settlement Application on 27.12.2019 and by not bringing this fact in the Settlement Application, the applicant has failed to disclose the full facts of her case. It is only when the Department mentioned this in the Rule 6 report, this fact has come to light.

4.1.The Department has also contended that all the 3 applicants have not offered their full and true income in their respective S.As. In the case of Dr.Maya Vedamurthy and M/s.RSV Skin & Laser Centre, the documents found during the search indicated the applicants were not showing the correct income. During the search, meticulous accounts of the daily collection sheet containing the details of names of patients, date of collection, heads of collection and amount collected were seized from the applicant's business premises which indicated receipts received in cash and through Cards for the A.Ys 2012-2013 to 2018-19. These collection sheets/folders also contained the details of investment made in immovable properties including unaccounted investment thereon. It is important to note that in these sheets as well as in other documents found during the search, no details of any unaccounted expenditure were found.

4.1.1. As per these seized material, the total unaccounted professional receipts was quantified at Rs.25,22,23,809/-. Out of which a sum of Rs.7.25 crores was accepted to be offered in the case of Dr.Maya Vedemurthy, Rs.16.28 crores in the hands of M/s.RSV Skin and Laser Clinic and Rs.1.68 Crores in the hands of Shri M.Vedamurthy. However, while filing the Settlement Applications before us, the applicants have claimed as under:

i) Dr.Maya Vedamurthy: Out of receipt of Rs.7.25 Crores, she has offered just 23% of the income i.e., Rs.1.67 Crores and claimed 77% as expenses despite the fact that no such evidence was found during the search.

ii) M/s.RSV Skin & Laser Clinic: Instead of Rs.16.28 Crores, it has offered unaccounted income of Rs.10.73 Crores and on which it has claimed 82% of expenses. Thus it has offered just Rs.1.93 Crores as its income. Regarding Rs.5.56 Crores not offered by the applicant, it stated that:-

(a) Rs.3.06 Crores has been offered in the return of income filed for the Assessment Year 20182019 for both the applicant as well as Dr.Maya Vedamurthy. This is very strange because all along the applicant has been stating that from the Assessment Year 2015-2016, the income of the clinic has been offered in the applicant Firm and not in the hands of Dr.Maya Vedamurthy. On being questioned during the hearing, the applicant had no answer to justify this claim and thus it is clear that this income of Rs.3.06 Crores clearly evidenced from the impounded documents has not been offered by the applicant.

(b) As regards the balance of Rs.2.50 Crores of discrepancy found in the fee receipts, the applicant has simply stated that it is covered under the total disclosure without justifying how and where. During the hearing, when the A.R. was questioned on the same, he could not justify this exclusion and simply stated that there are expenses against this income without giving any supporting proof or giving any cogent reason.

(iii) Shri M.Vedamurthy:Against the unaccounted income of Rs.1.67 Crores found during the search, the applicant has claimed 30% of expenses. The said income is stated to be unaccounted commission from pathology. The applicant was asked to explain as to how there were expenses against this income and the proof of the same. The applicant has not been able to justify the same.

4.1.2 Thus, against the total unaccounted income of Rs.25.22 Crores unearthed during search, the applicants have offered only Rs.4.49 Crores in all the 3 cases and that too without any proper justification and thus the applicants have failed to offer the full and true income.

4.2. The CIT(DR) also argued that apart from the unaccounted income unearthed during the search, it was also found that the applicant, Dr.Maya Vedamurthy, was in receipt of unaccounted consultancy income from Apollo Hospital Enterprises Limited(AHEL). Notices u/s 148 of the Act had been issued to her for 4 years before the search and in fact in one year, the assessment had been completed adding the unaccounted consultancy income of Rs.6.97 Lakhs. The cases reopened u/s 148 of the Act were abated after issue of notice u/s 153A of the Act and the applicant was duty bound to show this unaccounted consultancy receipts from AHEL also in the offer before the Settlement Commission if the applicant really wanted to come clean and offer full and true income. But the applicant has made no mention of this fact in her Settlement Application and has thus concealed this vital information.

5. Payment of additional taxes with interest thereon is a primary condition which should be satisfied on or before the date of making settlement application. Thus, the primary condition of payment of taxes is not satisfied by the applicant, Dr.Maya Vedamurthy, in the said application. Further, all the 3 applicants have failed to make full and true disclosure of their income. The applicants have failed to do so and not fulfilled the main requirements for admission of an application. Hence, all the Applications are not maintainable and are liable to be rejected on both the counts as in the 1st instance, the applicant, Dr.Maya Vedamurthy being the specified person and the other two applicants, M/s.RSV Skin &

Laser Centre and Shri.M.Vedamurthy being related persons."

4. In the above background, application were filed by these petitioners before the first respondent, Income Tax Settlement Commission on 27.12.2019 under Section 245D(1) of Income Tax Act, 1961. By the impugned common order dated 27.02.2020 passed under Section 245D(2C) of the Income Tax Act, 1961, the application filed by these petitioners under Section 245D of the IT Act on 27.12.2019 have been dismissed.

5. It appears that the petitioner in W.P.No.6497 of 2020 was earlier consulting in Apollo Hospital Enterprises Limited in Chennai. Later, the petitioner in W.P.No.6553 of 2020 was conceived along with her husband, the writ petitioner in W.P.No.6482 of 2020 on 09.02.2013. It appears that after the petitioner in W.P.No.6553 of 2020 was conceived, the petitioner in W.P.No.6497 of 2020, confined herself to consulting in the hospital run by these two petitioners in W.P.Nos.6482 and 6497 of 2020, the petitioner firm in W.P.No.6553 of 2020.

6. By an order dated 09.01.2020 passed under Section 245D(1) of Income Tax Act, 1961, the applications filed by these petitioners were allowed to be proceeded further for the Assessment Years involved i.e., 2012-2013 to 2018-2019. A report dated 12.02.2020 was filed under Rule 6 of the Income Tax Settlement Commission Rules, (Procedure) Rules, 1997 by the Department. After scrutinizing with the same, the impugned order came to be passed on 27.02.2020 under Section 245D(2C) of the IT Act. The impugned order is primarily challenged by the petitioners on the ground that there cannot be an adjudication of case at Section 245D(2C) stage.

7. It is submitted by the learned counsel for the petitioners that the issue is now covered by the decision of the learned Single Judge of this Court in **M/s.Hitachi Power Europe GmbH, Represented by its Authorised Signatory** Vs. **Income Tax Settlement Commission and others** vide its order dated 17.02.2020 in W.P.No.3706 of 2019, which decision has been upheld by the Hon'ble Division bench of this Court in **Deputy Commissioner of Income Tax and others** Vs **M/s.Hitachi**

Power Europe GmbH, Represented by its Authorised Signatory vide its order dated 04.09.2020 in W.A.No.581 of 2020.

8. The learned counsel for the petitioners would draw attention of this Court to Paragraphs 17, 18 and 20, from the decision of the Division Bench of this Court, which reads as under:-

> *"17. The plain reading of Sub-Section (2C) of Section 245D of the Act does not spell out an adjudicatory process. Therefore, if in the opinion of the Commission, based upon the report the issue needs to adjudicated, the application cannot be declared as invalid. Therefore, each case, which comes before the Commission has to be decided on its own facts.*
>
> *18. In several cases, where search and seizure operations are conducted, where contraband is involved, where there is fraudulent practice adopted, the assessees approach the Commission. Even in those cases, if the Commission allows an application to be proceeded with under Section 245D(1), yet upon receipt of the report, the application can be declared invalid under Sub-Section (2C) of Section 245D. In fact, the decision in Abdul Rahim (supra) is one such case.*
>
> *19. ......*
>
> *20. To decide whether a contract is a composite contract or separate contracts, a deeper probe*

> *in to the factual scenario as well as the legal position is required. If such is the fact situation in the case on hand, the application of the 1st respondent/writ petitioner could not have been declared as invalid on account of failure to fully and truly disclose its income. Thus, what was required to be done in the instant case was to allow the application to be proceeded with under Section 245D(2C) and take up the matter for consideration under Section 245D(4) and take a decision after adjudicating the claim."*

9. It is submitted that there is no scope for dismissing the application based on the report filed under Section 245D(2B) read with Rule 6 of the Income Tax Settlement Commission (Procedure) Rules, 1997. It is submitted that whether the petitioners are indeed to settle their cases eventually or not has to be adjudicated by the first respondent Settlement Commission under Sub-Section 4 of Section 245D (4) of the Income Tax Act, 1961.

10. It is therefore submitted that the impugned order is liable to be set aside and the case is remitted back to the Interim Board for Settlement, which has been constituted, pursuant to the abolition of the

Settlement Commission vide Finance Act, 2021, by way of insertion of Section 245A(a) of the IT Act, with effect from 01.02.2021.

11. Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents on the other hand would submit that there is no dispute regarding unaccounted professional receipts of Rs.25,22,23,809/-. However, the same has been split between three petitioners by claiming disproportionate expenses and thereby, offering additional amount of tax to only 23% by the petitioner in W.P.No.6497 of 2020.

12. It is submitted that there are no documents that were available to substantiate the huge amount of expenses that was claimed for filing the application for settling the case before the Settlement Commission.

13. That apart, it is submitted that the petitioner in W.P.No.6497 of 2020 was served with the manual copy of the notice under Section 153(A) of the IT Act on 26.11.2018 and the electronic copy of the same was served on 22.10.2019 at the request of the petitioner in W.P.No.6497 of 2020. However, the petitioner failed to ever pay the admitted tax amount.

14. It is therefore submitted that the petitioner in W.P.No.6497 of 2020 has offered interest under Section 234A only from 22.10.2019 when indeed, the petitioners should have offered interest from 26.11.2018. Thus, the application, which has been rejected under Section 245D(2C) does not warrant any interference.

15. That apart, it is submitted that the petitioners are also left with no remedy at this distant point of time as Section 245A(a) of the IT Act, which was inserted by Finance Act, 2021, with effect from 01.02.2021 will apply only to "pending cases" and since, the petitioners had already been dismissed on 27.02.2020 by the first respondent Settlement Commission, the question of the petitioners cases being relegated to the Interim Board for Settlement under Section 245A of the IT Act cannot be countenanced. Hence, he prays for dismissal of the writ petitions.

16. The learned Senior Standing Counsel further adds that the consultation charges, which were received by the petitioners from Apollo Hospitals Enterprises Limited were also not added in the application filed for settling the cases before the Settlement Commission.

17. By way of rejoinder, the learned counsel for the petitioners would submit that in case this Court is inclined to allow the writ petition, it may fix the time for as the Interim Board for Settlement will cease to operate at the end of the year.

18. I have considered the arguments advanced by the learned counsel for the petitioners and the learned Senior Standing counsel for the respondents.

19. The petitioners in W.P.Nos.6482 and 6497 of 2020 are husband and wife respectively. They are partners of the writ petitioner in W.P.No.6553 of 2020 which appears to have been started during Financial Year 2014-15. The petitioner in W.P.No.6482 of 2020 is the Managing Partner of the petitioner in W.P.No.6553 of 2020.

20. The petitioner in W.P.No.6497 of 2020 is a medical professional, a specialist in Dermatology, Laser Treatment and Aesthetic Medicines. The petitioner in W.P.No.6497 of 2020 was earlier consulting in Apollo Hospital Enterprises Limited.

21. The petitioner in W.P.No.6482 of 2020 who is the Managing Partner of the petitioner in W.P.No.6553 of 2020 does not appear to be a medical professional. Therefore, the Juristic relationship between the petitioners in W.P.Nos.6482 and 6497 of 2020 as partners of the petitioner in W.P.No.6553 of 2020 is inconceivable in law.

22. In **Commissioner Of Income-Tax, .vs.Dr.K.K.Shah**, (1982) 28 CTR Guj 126, 1982 135 ITR 146 Guj, the Court rightly observed as follows:-

> "It must also be realised that a doctor-husband cannot form a partnership with a wife who is not a doctor in order to carry on his profession. **The rules of professional ethics would not permit this. It would be unethical to do so and he would run the risk of being debarred from practice. It would not also be recognised by law".**

23. In the same Judgment, the Court has extracted Finance Minister's speech on the eve of introduction of Income Tax Bill of 1961. It reads as follows:-

Thus, the *raison detre* for clubbing together the incomes of non-professionals does not exist in the case of professionals. It is this aspect which was presumably realised and that is why in the new Act a change was introduced by providing that the provision would be attracted only in the case of spouses carrying on business in partnership and not in the case of spouses who do not carry on business (but carry on profession) in partnership. And it is now worthwhile to reproduce an extract from the speech of the Finance Minister made on the floor of the House at the time of introducing the I.T. Bill of 1961. We will refer to that part of the speech which pertains to the clubbing provision under the old Act and the change sought to be introduced in this sphere by the new Act. The speech has been reproduced on page 33 of the Treatise on the Income-tax Act, 1961, by S. C. Manchanda, K. Srinivasan & B. Malik in Volume I of the 1st Edn. of 1962. The relevant extract from p. 37 may be quoted :

> "A provision which will be of interest to persons engaged in the professions is that in clause 64. Under the existing law if a husband and wife are partners in the same firm, the share income of the wife is clubbed with that of the husband, who has to pay tax on the income so aggregated The Law Commission has expressed itself against this provision as applied to partnerships between husband and wife engaged in professions as doctors, lawyers, etc. The Commission has recommended that such cases should be exempt from the operation of the provision. The Government has accepted

this suggestion and the provision has been suitably modified.".

24. Therefore, to begin with, splitting and fragmenting of unaccounted amounts between the petitioners was in conceivable as the petitioners in W.P.Nos.6482 and 6497 of 2020 although are husband and wife, they are not capable of entering into a partnership arrangement for medical services. Therefore, there is no scope for settling the case on the facts of the case.

25. Facts further indicate that a search is said to have been taken place on 01.03.2018 at Maya Foundation. Pursuant to the search, the Department concluded that the petitioner in W.P.No.6497 of 2020 had an undisclosed income for a sum of Rs.25,22,23,809/-, which was not accounted for while filing returns. A parallel search is also said to have taken place at the premises of Apollo Hospital Enterprises Limited.

26. It appears that the petitioner in W.P.No.6497 of 2020 was earlier facing a proceeding under Section 148 of the IT Act for the Assessment Year 2011-2012 to 2014-2015 for unaccounted income

received from Apollo Hospital for the consulting there. The said petitioner was therefore issued with the following notices/show cause notice under Section 148 of the Income Tax Act, 196 for Assessment Year 2012-13 to 2018-19 : -

Sl.No	**Assessment Year**	**Date of Notice under Section 148**	**Show Cause Notice**
1	2011-12	21.03.2018	-
2	2012-13	21.03.2018	10.12.2019
3	2013-14	09.03.2018	10.12.2019
4	2014-15	09.03.2018	10.12.2019
5	2018-19	-	11.12.2019

27. The facts also indicate that the statement were also recorded from Mr.M.Vedamurthy, the petitioner in W.P.No.6482 of 2020, the husband of the petitioner in W.P.No.6497 of 2020, the Managing Partner of the petitioner in W.P.No.6553 of 2020. In his statement, on behalf of the petitioner in W.P.No.6497 of 2020, Dr.Maya Vedamurthy, he admitted gross receipts during the course of such operation.

28. The petitioners have thus admitted to un-accounted gross

receipt of Rs.25,22,809/-. The aforesaid receipt of gross amount by the petitioner in W.P.No.6497 of 2020 (Dr.Maya Vedamurthy) has been split between the three petitioners as detailed below:-

	W.P.No.6497 of 2020	W.P.No.6553 of 2020	W.P.No.6482 of 2020	
F.Y.	**Dr.Maya Vedamurthy**	**M/s.RSV Skin & Laser Centre**	**M.Vedamurthy**	**Total**
2011-12	1,65,71,416	-	20,96,000	1,86,67,416
2012-13	2,87,95,002	-	20,17,000	3,08,12,002
2013-14	2,72,12,371	-	24,07,000	2,96,19,371
2014-15	-	3,52,85,937	27,34,000	3,80,19,937
2015-16	-	3,70,84,659	25,00,000	3,95,84,659
2016-17	-	3,48,88,613	25,00,000	3,73,88,613
2017-18	-	5,56,31,811	25,00,000	5,81,31,811
Total	**7,25,78,789**	**16,28,91,020**	**1,67,54,000**	**25,22,23,809**

29. From and out of the aforesaid amount, the respective petitioners have offered only 22.99%, 11.85% and 52% towards additional income before the first respondent, Income Tax Settlement Commission, as detailed below:-

W.P.No.6497 of 2020		W.P.No.6553 of 2020	W.P.no.6482 of 2020	
F.Y.	Dr.Maya	M/s.RSV Skin & Laser	M.Vedamurthy	Total

	Vedamurthy	Centre		
2011-12	1,65,71,416	-	20,96,000	1,86,67,416
2012-13	2,87,95,002	-	20,17,000	3,08,12,002
2013-14	2,72,12,371	-	24,07,000	2,96,19,371
2014-15	-	3,52,85,937	27,34,000	3,80,19,937
2015-16	-	3,70,84,659	25,00,000	3,95,84,659
2016-17	-	3,48,88,613	25,00,000	3,73,88,613
2017-18	-	5,56,31,811	25,00,000	5,81,31,811
Additional income offered before the 1st respondent, Settlement Commission	1,66,93,121	1,93,06,658	88,77,800	25,22,23,809
Total	7,25,78,789	16,28,91,020	1,67,54,000	4,48,77,579
percentage	22.99%	11.85%	52.98%	17.79%

30. Thus, against the total unaccounted gross receipt of Rs.25,22,23,809/- unearthed during search, is to be offered to tax. Instead, these petitioners have offered only Rs.4,48,77,579 out of the aforesaid gross receipt of Rs.25,22,23,809/-. It shows that the petitioners have failed to pay tax on the unaccounted income and are recalcitrant and have shown no remorse after indulging in evasion tax.

31. Cumulatively, these petitioners have offered only 17.79% of the gross receipt for tax before the first respondent Settlement Commission. Thus, it is clear that the petitioners have not made and full and true

disclosure of the income before the first respondent, Income tax Settlement Commission .

32. The impugned order records that during the search, meticulous accounts of the daily collection sheet containing the details of names of patients, date of collection, heads of collection and amount collected were seized from the applicant's business premises which indicated receipts received in cash and through cards for the Assessment Years 2012-13 to 2018-19.

33. These collection sheets/folders also contain the details of investment made in immovable properties including unaccounted investment thereon. In these sheets as well as in other documents found during the search, no details of any unaccounted expenditure were found.

34. The application before the first respondent, Settlement Commission is expected to be made in good faith with full true and disclosure. Merely because, a portion is offered without proper disclosure does not mean, the first respondent, Settlement Commission has to

continue with the proceedings after it was brought to its knowledge of attempt of the petitioners to still evade tax before the Settlement Commission.

35. The purpose for which Chapter XIX A of Income Tax Act, 1961 has been provided is to allow assesses to settle the dispute with the department by giving an opportunity to a defaulting assessee to make a clean breast of all the past lies and misdeeds by giving an opportunity to pay tax that was not paid earlier together with interest.

36. The facts also indicate that the petitioner in W.P.No.6497 of 2020, Dr.Maya Vedamurthy was a consultant with Apollo Hospital Enterprises Limited and had been issued with notices under Section 148 of the Income Tax Act, 1961 as detailed above and has admitted to the default committed by her.

37. Merely because, an order dated 27.12.2019 under Section 145D(i) of the Income Tax Act, 1961 was passed and the application was allowed to be proceeded, i*pso facto* would not mean the Settlement

Commission has to proceed by ignoring the report filed under Rule 6 of the Income Tax Settlement Rules by the Income Tax Department in response to order under Section 245D(2B) of the Income Tax Act, 1961 .

38. That apart, as mentioned above, there was no scope for fragmenting the gross receipts in the hands of three petitioners, as the petitioners in W.P.Nos.6482 and 6497 of 2020 cannot be partners in medical service although they are husband and wife as the petitioner in W.P.Nos.6482 of 2020 is not a medical professional.

39. Once there is a clear finding recorded that there was a failure on the part of the petitioners to make proper declaration as is contemplated Section 245D of the Income Tax Act, 1961, question of the first respondent, Settlement Commission proceeding further cannot be countenanced.

40. Thus, there is no scope for allowing an application to be proceeded where a party refuses to make a correct declaration viz ., true and full disclosure of income before the Settlement Commission.

41. In view of the above observation, the order of the Income Tax

Settlement Commission does not require any interference. These writ petitions are liable to be dismissed and they are accordingly dismissed. No costs. Consequently, connected miscellaneous petitions closed.

31.10.2023

Index : Yes / No
Neutral Citation : Yes/No
arb/kkd

To

1. Income Tax Settlement Commission,
   Additional Bench at Chennai,
   Ministry of Finance,
   Department of Revenue,
   No.640, Anna Salai,
   Nandanam, Chennai 600 035.

2.The Principal Commissioner of Income Tax,
   Central-1,
   Income Tax Department,
   108, Nungambakkam High Road,
   Chennai 600 034.

3. The Deputy Commissioner of Income Tax,
   Central Circle -1(4),
   Income Tax Department,
   108, Nungambakkam High Road,
   Chennai 600 034.

C.SARAVANAN,J.

kkd

Pre-Delivery Common Order
in
W.P.Nos.6482, 6553 & 6497 of 2020

31.10.2023