IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.2357 of 2024 and W.M.P.Nos.2545 & 2551 of 2024

Shri Anbuchezhian ... Petitioner

Versus

1.Interim Board for Settlement – II,
Rep.by its Secretary,
(Replacing the Income Tax Settlement Commission),
Additional Bench, Chennai),
9th Floor, Lok Nayak Bhavan,
Khan Market,
New Delhi – 110 003.

2.The Central Board of Direct Taxes,
Represented by its Corporation,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.

3.Principal Commissioner of Income Tax,
Central 2,
Chennai – 600 0034.

4.Assistant Commissioner of Income Tax,
Central Circle – 2(2),
No.46, Mahatma Gandhi Road,
Chennai – 600 034. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, calling for the records on the file of the first respondent in PAN. AFBPA6478G and quash the impugned order u/s. 245D(4) of the Income Tax Act, 1961 in so far as it pertains to AY 2020-21 in Settlement Application No. TN/CN 52/2020-21/73/IT dated 27.12.2023 passed by the first respondent.

For Petitioner : Mr. R. Sivaraman

For Respondents : Mr. A.N.R. Jayaprathap,
Junior standing counsel.

ORDER

An order dated 27.12.2023 of the Interim Board for Settlement is challenged in this writ petition on the ground that such order was issued without taking notice of the judgment of the Division Bench of this Court in a batch of writ petitions, where the lead case is *M/s. Jain Metal Rolling Mills v. Union of India (Jain Metal Rolling Mills),* W.P.No.13455 of 202, dated 17.11.2023.

2. The petitioner had applied to the Interim Board for Settlement in respect of multiple assessment years running from assessment year 2014-

15 to 2020-21. As regards the assessment year 2014-15 to 2019-20, the application was accepted. As regards assessment years 2020-21, the application was considered as invalid on the ground that the assessee had not filed the return of income as on 31.01.2021. The present writ petition arises in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that the Interim Board for Settlement concluded that there is no deemed pendency as per clause (iv) of the Explanation to Section 245A of the Income Tax Act, 1961 (*I-T Act).* By referring to the Division Bench judgment of this Court, learned counsel pointed out that the Division Bench concluded that all applications in respect of cases arising between 01.02.2021 and 31.03.2021 shall be deemed to be pending applications. He also pointed out that this result was arrived at by reading down Section 245C(5) of the I-T Act by substituting 01.02.2021 with 31.03.2021. He also referred to a later judgment of the Division Bench of this Court in *Ashwini Fisheries Pvt. Ltd. v. Principal Commissioner of Income Tax and Ors.,* order dated

26.03.2024, wherein the Division Bench directed the Settlement Commissioner to act on the basis of the earlier judgment of the Division Bench of this Court.

4. Mr. A.N.R. Jayaprathap, learned junior standing counsel appears on behalf of the respondent. He submits that the judgment of the Division Bench may not have been brought to the notice of the Interim Board for Settlement.

5. The operative portion of the judgment of the Division Bench of this Court reads as under:-

> *" 42.In the result, these writ petitions are partly allowed and are disposed off on the following terms :-*
>
> *(i) Section 245C(5) of the Income Tax Act, 1961 (as amended by the Finance Act, 2021) is read down by removing the retrospective last date of 1st date of February, 2021 as 31st day of March, 2021;*
>
> *(ii) Consequently the last date of eligibility mentioned paragraph 4(i) of the impugned circular dated 28.09.2021 shall also be read as 31.03.2021;*
>
> *(iii) All the applications in respect of the*

petitioners even in respect of the cases arising between 01.02.2021 to 31.03.2021 shall be deemed be pending applications and shall be deemed to be pending applications for the purposes of consideration by the Interim Board;

(iv) Wherever they are rejected on the ground that they did not have a case pending as on 31.01.2021, such orders shall stand set aside and the applications shall be deemed to be pending applications for the consideration by the Interim Board, if otherwise in order and eligible, and shall be dealt with in accordance with law on merits in accordance with the scheme that may be framed by the Central Government as in respect of the other cases which arose prior to 31.01.2021;"

6. The said judgment is squarely applicable to the facts of this case since proceedings are deemed to have commenced prior to 31.03.2021. By following the judgment of the Division Bench, I set aside the impugned order insofar as the application for assessment year 2020-21 is concerned. As a corollary, the matter is remanded to the Interim Board for Settlement for reconsideration in the light of the judgment of the Division Bench. The Interim Board for Settlement shall dispose of these

proceedings as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

7. W.P.No.2357 of 2024 is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25.04.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: No

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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