



W.P.No.10688 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	29.08.2025
Pronounced on	28.11.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.10688 of 2020
& W.M.P.Noss.12983 & 12986 of 2020

M/s.Khazana Jewellery Pvt. Ltd.,
represented by its Managing Director,
Mr.Kishore Kumar Jain,
252A, NASA Building, TTK Road,
Alwarpet, Chennai - 600 018.
(Now at No.48, Khazana Square,
Whites Road, Royapettah,
Chennai - 600 014.)

... Petitioner

Vs.

1. Income Tax Settlement Commission
Additional Bench, Chennai,
Satguru Complex, 640, Anna Salai,
Nandanam, Chennai - 600 035.

2. Deputy Commissioner of Income Tax
Income Tax Investigation Wing,
Central Circle 2(2), Chennai,
New No.46, Mahatma Gandhi Road,
Chennai - 600 034.

... Respondents



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Prayer:

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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent contained in its impugned order bearing S.A.No.TN/CN/52/2018-19/17-IT dated 11.06.2020 and to quash the same as arbitrary, unjust and illegal and to consequently direct the first respondent to reconsider the application filed by the petitioner bearing S.A.No.TN/CN/52/2018-19/17-IT and pass a fresh order under section 245D(4) of the Income Tax Act, 1961 after affording the petitioner a sufficient opportunity of being heard, in accordance with law.

For Petitioner : Mr.P.S.Raman, Sr.counsel
for Mr.R.Sivaraman

For Respondent : Mr.A.P.Srinivas, Sr.St.counsel
& Mr.A.N.R.Jayaprathap, Jr.St.counsel

ORDER

This writ petition has been filed against the impugned order dated 11.06.2020 passed by the 1st respondent/Settlement Commission.



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2. The breif facts of the case are as follows:

2.1 The petitioner-Company is engaged in the business of manufacturing and trade of jewels and access in the Income Tax Pan No.AAACK2564Q under the jurisdiction of 2nd respondent.

2.2 The petitioner is a closely held company and it is corporate office, functioning from No.252, TTK Road, Alwarpet, Chennai. Shri Kishore Kumar Jain is the Managing Director of the Company and the other Directors are his family members.

2.3 A search, under Section 132 of the Income Tax Act, 1961 (hereinafter called as “IT Act”), was carried out on 21.04.2016. During the course of search proceedings, Shri Kishore Kumar Jain, Managing Director, has admitted, while answering the Q.No.8, in his sworn statement recorded under Section 132(4) of the IT Act on 23.04.2016, that the company’s inflated refinery loss would come across 3% to 5% and siphoned off the excess gold from the refining process and sold them in the black market. By virtue of inflation of refinery loss, the petitioner



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had generated about a sum of Rs.70.66 Crores from the AY 2011-12 to 2016-17, which was stated by the petitioner in the letter dated 29.06.2016.

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2.4 In the aforesaid petitioner's letter, they offered to an extent of Rs.80 Crores (268.200 kg of gold bullion) towards stock in trade kept with and held by employees, Goldsmiths, Agents, etc., in the year of search, i.e., AY 2017-18.

2.5 Consequent to the search, the notices, under Section 153A and 142(1) of the IT Act, were issued for the AYs 2011-12 to 2017-18. Subsequently, the petitioner filed a settlement application dated 16.10.2018 before the Income Tax Settlement Commission-1st respondent herein.

2.6 The 1st respondent, vide its order dated 11.06.2020, which was passed under Section 245D(4) of the IT Act, held that the settlement application for the AYs 2011-12 to 2017-18 filed by the petitioner is not allowed to be proceeded with and treated it as “invalid” as the petitioner



did not disclose full and true manner of the income in its settlement application.

2.7 Under these circumstances, the petitioner filed this writ petition against the order dated 11.06.2020 passed by the 1st respondent.

3. Petitioner's submission:

3.1 Mr.P.S.Raman, learned Senior counsel, appearing for the petitioner would submit that in this case, based on the joint verification report, the 1st respondent had accepted the inflation of refinery loss, which had been generated about Rs.70.66 Crores from the AYs 2011-2012 to 2016-2017.

3.2 Now, the issue is pertaining to only with regard to Rs.80 Crores (286.200 kg of gold bullion) of stock in trade kept with and held by the employees, goldsmiths and agents, etc., in the year of search, i.e., 2017-2018.



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3.3 He would submit that the petitioner has disclosed the aforesaid

Rs.80 Crores in the returns filed for the AY 2017-18. In this regard, he referred the findings of the Tribunal at paragraph No.5.1, wherein it has been stated as follows:

*“5.1It is also seen that though the applicant company mentioned that the unaccounted stock of 268.200 kgs of gold amounting to Rs.80 Crores was held as stock in trade with employees, goldsmiths, agents, etc., the applicant company has not produced any documentary evidences to substantiate that source of such unaccounted stock. All these shortfalls leads to the fact that the applicant company has not explained the manner in which, the income has been derived. **Though it is not the mandate of law to substantiate the manner of earning additional income but it is obligatory to state the manner of earning income as the disclosure made before the Commission is voluntary in nature.....”***

*[***Emphasis supplied]*

3.4 By referring the above portion, he would submit that it is not mandatory for the petitioner to disclose the manner of earning the income, but it is obligatory. Having recorded the said aspect, the Settlement Commission still insist the petitioner to disclose the manner of earning the income voluntarily, that too when the Act has not mandated for such disclosure.



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3.5 Alternatively, the issue required to be decided in this matter is

as to whether the income earned by the petitioner is a “business income” or not. If it is not “business income”, whether the income should be treated as income earned under Section 69B of the IT Act.

3.6 Further, he would submit that if the income is earned as “business income”, the petitioner is liable to pay 30% of tax, which was already paid by them. On the other hand, if the Settlement Commission is not accepting the income as “business income” and intend to treat it as income under Section 69B, then Section 115BBE would come into picture, in which case, the petitioner is liable to pay 60% of tax, out of total disclosure without any deduction for any expenditure, etc.

3.7 He would also submit that when the matter came up for hearing before this Court on 23.03.2023, the following order came to be passed by Hon’ble Dr.Justice Anitha Sumanth:

“The only issue that arises from the impugned order of the Settlement Commission dated 11.06.2020, both Mr.P.S.Raman, learned Senior Counsel for Mr.R.Sivaraman, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the Income Tax Department would concur, relates to the



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offer of additional income of Rs.80 crores qua assessment year 2017-18.

2.The petitioner's case is that the amount is to be taxed at 30%, whereas the respondent has taken the stand that the provisions of Section 115BBE would apply, as a result that the rate of tax would be 60%.

3.In the course of argument there appears to be convergence of both parties to the effect that, had the Settlement Commission expressed this view even in the course of hearing, the petitioner may well have accepted the same. Hence, this matter is adjourned by three weeks to enable the parties to deliberate upon this aspect and arrive at a consensus.

4.List on 13.04.2023.”

3.8 By referring the above order, he would submit that if intention of the Settlement Commission is to hold that the petitioner is liable to pay 60% of tax in terms of Sub-Section (1) of Section 115BBE, the petitioner would have offered to pay the same before the said Settlement Commission and the matter would have been settled and accordingly, the settlement commission would have passed the order. However, without doing so, the impugned order came to be passed by the Settlement Commission.

3.9 Therefore, he would submit that now, the issue involved in this case has been narrowed down to the extent as to whether the petitioner's



income has to be taxed at the rate of 30% by treating it as “business income” or at the rate of 60% by treating it as the income under Section 69B and applying the provision of Section 115BBE(1) of IT Act. Hence, he would requests this Court to set aside the impugned order and remit this matter to the concerned Authority to decide the aforesaid aspect.

4. Respondents' submissions:

4.1 Per contra, the learned Senior Standing counsel for the respondents would submit that the petitioner's claim that the provision of Section 245C(1) of the IT Act requires the petitioner to disclose the manner, in which the income has been derived only with regard to the additional income of 70.66 Crores (offered for the AY 2011-12 to 2014-15) and not with respect to the unaccounted stock of Rs.80 Crores (offered for the AY 2017-18) is illogical as the unaccounted stock of 268.200 kg of gold amounting to Rs.80 Crores would not have been disclosed by the petitioner if not for the search action under Section 132 of the IT Act by the Income Tax Department.



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4.2 Further, he would submit that it is mandatory for any assessee to offer a full and true disclosure of his income and the manner in which such income has been derived along with the additional amount of income tax payable on such income and such other particulars as may be prescribed before the 1st respondent, which means the complete disclosure is supposed to be made by the petitioner before the Settlement Commission.

4.3 However, in this case, no such disclosure was made by the petitioner. Though the 1st respondent had accepted the petitioner's contention with regard to the income of Rs.70.66 Crore, in the impugned order, it was held that the disclosure of Rs.80 Crore was not in the manner of full and true disclosure since the details of particulars of the earning had not been proved/substantiated with any documentary evidences.

4.4 With regard to treatment of Rs.80 Crore to be taxable at the rate of 60% under Section 69B read with Section 115BBE of IT Act is concerned, he would submit that in the event, if the petitioner disclosed



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said income under the category of Section 69B to the 1st respondent, in such case, the Authority settlement commissioner would have considered the petitioner's submission.

4.5 In this case, the petitioner disclosed the said sum of Rs.80 Crore as “business income” as if it was derived from business and made a claim that they are liable to pay only 30% of income. However, the Settlement Commission had arrived at a conclusion that no documentary evidences would show that the said 80 Crore of income was earned out of business, but it is pertaining to prior to the search period, i.e., AY 2011-12 and thus, it was held that there was no full and true disclosure of income as required under Section 245C of the IT Act.

4.6 Hence, he would contend that in this case, the petitioner had disclosed the aforesaid sum of Rs.80 Crores under the category of “business income” and made an attempt to pay tax at the rate of 30%. Under these circumstances only, impugned order came to be passed by the 1st respondent by holding that there was no full and true disclosure. Having made such a disclosure before the Settlement Commission, now



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the petitioner is coming forward to pay the tax at the rate of 60% and the same cannot be accepted. Once if the Settlement Commission arrived at a conclusion that there is no full and true disclosure, now it is not proper for the petitioner to ask the Settlement Commission to treat the said amount as income under Section 69B. On the other hand, if the petitioner itself disclosed about the income under Section 69B, in such case, the said disclosure would have been considered as full and true disclosure and also the Settlement Commission would have accepted the same. In this case, no such disclosure was made by the petitioner. Therefore, the Settlement Commission has rightly rejected the petitioner's contention vide impugned order dated 11.06.2020.

5. I have considered the submissions made by the learned Senior counsel for the petitioner and the learned Senior Standing counsel appearing for the respondents and also perused the entire materials available on record.

6. Discussions:

6.1 In the case on hand, Mr.P.S.Raman, learned Senior counsel



appearing for the petitioner had heavily relied upon the order passed by this Court on 23.03.2023 (extracted supra), wherein, according to him, the issue was narrowed down as to whether the petitioner's income has to be taxed at the rate of 30% by treating it as “business income” or at the rate of 60% by treating it as the income under Section 69B and applying the provision of Section 115BBE(1) of IT Act. Hence, a request was made by him to set aside the impugned order and remand the matter back for re-consideration.

6.2 In this case, there are two issues, one is pertaining to the inflation of refinery losses, from which the petitioner had generated about Rs.70.66 Crores during the AY 2011-12 to 2016-17. As far as this issue is concerned, the 2nd respondent filed a report stating that there was full and true disclosure and the same was also accepted by the 1st respondent.

6.3 The 2nd issue is pertaining to a sum of Rs.80 Crores, which was offered towards stock in trade and kept with and held by employees, goldsmith, agents etc., during the AY 2017-18. As far as this issue is concerned, the contentions made by the petitioner was not accepted by



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the 1st respondent due to the absence of documentary evidences etc.

Further, the 1st respondent had arrived at a conclusion that there was no full and true disclosure and accordingly, rejected the petitioner's Settlement application in entirety.

6.4 The mandate of the law is, if any settlement application is filed, it should be considered in entirety and it will not be considered in a piece-meal manner. Even if a portion of information furnished by the petitioner is not true, the 1st respondent will not consider the remaining claims but reject the entire claim. The full and true disclosure as referred in Section 245C(1) means full and true disclosure made in the application, for entire settlement.

6.5 Now, it would be apposite to extract the relevant portion of the impugned order dated 11.06.2020 passed by the 1st respondent, which reads as follows:

5. On a thoughtful consideration of the information contained in the documents brought on record and after considering the written and oral submissions advanced by both the sides, our findings are given

5.1 Regarding the manner of earning the



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additional income, the version of the applicant company in its SOF (page 20, para 24) of settlement application is reproduced as below:

"The applicant further submits that this modus operandi of inflation of refinery losses was carried on by the applicant even during the period, prior to the year covered in the settlement application (i.e prior to AY 2011-12). Hence, the applicant submits that it had unaccounted stock-in-trade kept with goldsmiths and some of the employees of the Company during the course of search. However, since no proper records were maintained for the undisclosed income earned by the applicant for years prior to A.Y. 2011-12, the additional stock to the tune of Rs. 80 crores (weighing 268.2 kgs) was voluntarily offered to tax in the year of search i.e A. Y. 2017 18 in the return of income filed by the applicant. Further, the applicant has paid purchase tax for the purchase of this stock from unregistered dealers and has recorded the same in the books of accounts, Out of the applicant's total undisclosed stock of 268.2kgs, 3.7kgs was found at the premises of the applicant's employee, Mr. Subash, and was seized by the Department in the applicant's name. In addition to the above undisclosed stock, cash to the extent of Rs. 18 lakhs found at the premises of the applicant's employee, Mr Subash, was offered to tax by the applicant in his return of income for the A.Y. 2017-18."

The above submissions made by the applicant company in its SOF clearly states that the inflation on refinery losses relates to the period prior to the years covered in the settlement application (i.e prior to A.Y. 2011-12). Whereas, it is seen that the applicant company



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has not come out with any further details, as to which years it actually belongs to. The applicant company even after providing sufficient opportunities, has not substantiated with materials and evidence, its claim in respect of Rs.80 crores offered during AY 2017-18 as excess stock. The onus is on the applicant to explain the query raised by the Department and to differentiate the said sum of Rs.80 crores as stock-in-trade / investments made. It is seen that the applicant company has failed on its part to furnish the said information even during the Joint verification proceedings. The AO vide Joint Verification report has clearly mentioned that by including the unaccounted stock of 268.200 kgs of gold amounting to Rs.80 crores in purchase of old gold, the applicant had drastically reduced the total income of Rs.150.66 crores offered for taxation as a result of search action u/s 132 of the IT Act, 1961. It is also seen that though the applicant company mentioned that the unaccounted stock of 268.200 kgs of gold amounting to Rs.80 crores was held as stock in trade with employees, goldsmiths, agents, etc., the applicant company has not produced any documentary evidences to substantiate the source of such unaccounted stock. All these shortfalls leads to the fact that the applicant company has not explained the manner in which the income has been derived. Though it is not the mandate of law to substantiate the manner of earning additional income but it is obligatory to state the manner of earning income as the disclosure made before the Commission is voluntary in nature. The applicant company did not commit anything further but simply stated that the manner is through inflated refinery losses. The argument of the applicant company that it had indulged in inflation of refinery losses by debiting excess refinery loss in the books of accounts, the monies received on account of inflation of refinery losses is represented by on-monies paid for purchase of properties and excess stock kept at the premises of employees, goldsmiths,



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agents, etc. and since such activity forms part of the regular business of the applicant, it is offered under the 'profits and gains of business or profession', is not acceptable keeping in view the absence of materials / evidences to prove the manner in which the income has been the derived. As the applicant company has not stated any other details in the SOF or subsequently, the manner in which the income earned is taken as not stated correctly and the complete picture of manner is not coming out from the SOF or in the further explanations, Further, whatever is stated in the statement of Facts on the manner in which the income has been derived has not been corroborated with any specific evidence by the applicant company. Thus, it is not possible to hold that a full and true disclosure has been made by the applicant company and the manner in which the income has been derived has been explained. Hence the application is not maintainable and liable to be rejected.

5.2 To sum up, the Commission is of the view that the applicant company should have disclosed all the material facts, as it is not open to the applicant company to selectively disclose some facts and suppress some facts. Reliance is placed in the cases of ACE Investments (2003] 264 ITR 571 (Mad). Ajmera Housing [2010] 193 TAXMAN 193 (SC) and Rashmi Infrastructure Developers Ltd. Vs Income Tax Settlement Commission and Others (2017) 396 ITR 210 (Bom). Thus, on the grounds that the application is not maintainable and the disclosure is not full and true and that there is deficiency in corroborating the manner in which the income has been earned, the terms of settlement are not provided for. With regard to all other issues raised, there is no necessity for us to give any findings as it is already held that the applicant did not disclose full and true manner of earning the income in its settlement application and hence the application is not maintainable.



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5.3 The settlement application is thus rejected. Hence the proceedings before the Settlement Commission shall abate in accordance with the provisions of Section 245HA of the I.T Act Department nay take further course of action in accordance with law.

6.6 A perusal of the above portion of the impugned order, wherein, the Statement Of Facts at Page No.20 Paragraph No.24 of the settlement application was reproduced by the 1st respondent, would show that the modus operandi of inflation of refinery losses was carried out by the applicant even during the period prior to the years covered in the settlement application, i.e., prior to AY 2011-12. Though the sufficient opportunity was provided to the petitioner to substantiate the materials and evidences in respect of their claim, pertaining to a sum of Rs.80 Crores offered in the AY 2017-18 as excess stock, the petitioner has not come out with further details. Under these circumstances only, the 1st respondent had arrived at a conclusion that the disclosure made by the petitioner is not full and true disclosure.

6.7 In the sworn statement dated 23.04.2016, the Managing Director has admitted that the company inflated refinery losses up to 3% to 5%. If we take 3% loss into consideration, at least the petitioner should

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have produced the stock/turnover to the extent of 8939 kg of gold, whereas in case of 5%, they are supposed to have produced stock/turnover to the extent of 5364 kg of gold. However, in this case, no documentary evidences have been produced in the above aspect. Hence, it is clear that no full and true disclosure was made by the petitioner in accordance with the provisions of Section 245C(1) of the IT Act.

6.8 Further, while passing the impugned order, the settlement commissioner had stated that “.....*Though it is not the mandate of law to substantiate the manner of earning additional income but it is obligatory to state the manner of earning income as the disclosure made before the Commission is voluntary in nature.....*” However, in terms of Section 245C(1) of IT Act, the applicant is supposed to have make full and true disclosure of income to the extent of disclosure made in the application. Once the Statute says full and true disclosure, a statutory obligation attached to the Assessee to make full and true disclosure of income earned through business at the time of filing the settlement application by treating the income as “business income” for which, he shall pay 30% of tax, to the extent of disclosure made in the application.



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In other words, since the word “full and true disclosure” has been used by the Statute in Section 245C(1), there is a statutory obligation to Assessee to disclose the entire aspect of earned income under the head “business income” at par with the manner, in which, he would have been disclosed the income at the time of original assessment proceedings before the Assessing Officer. If such a disclosure is made by the Assessee, certainly, it will be considered as a full and true disclosure. On the other hand, if any portion of disclosure appears to be untrue, certainly, the settlement application filed by the Assessee will be rejected in entirety.

6.9 In this case, the petitioner made full and true disclosure only for a portion of income of a sum of Rs.70.66 Crores and no such disclosure was made with regard to the remaining portion of income to an extent of a sum of Rs.80 Crores. Under these circumstances, the settlement application was rejected in entirety by the 1st respondent. The 1st respondent will not treat the remaining portion of income under different head, other than the disclosure made by the petitioner. The said exercise will be carried out only by the Assessing Officer in the normal



course of assessment and not by the Settlement Commission after the rejection settlement application.

6.10 At this juncture, it would be apposite to extract the provisions of Section 245C(1) of IT Act, which reads as follows:

245C. Application for settlement of cases.—

(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer; the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

[Provided that no such application shall be made unless,

(i) in a case where proceedings for assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of a person referred to in section 153A or section 153C have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees,

(ia) in a case where— (A) the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as “specified person”); and

(B) the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-



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section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees

(ii) in any other case, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees, and such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application”

6.11 A reading of the above would show that the Assessee is supposed to have made an application, by disclosing the income in a full and true manner and also they have to disclose the manner, in which the income was derived. In other words, the disclosure of income before the Settlement Commission must be more accurate than the manner, in which he would have been disclosed the income before the Assessing Officer in the normal course of assessment.

6.12 It was contended by the petitioner that in the impugned order, the 1st respondent had held that the disclosure of income is “voluntary in nature” and hence, there is no necessity to disclose the manner, in which

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the income was earned by the petitioner. As far as this contention is concerned, though the disclosure is voluntary in nature as stated by the 1st respondent, such voluntary disclosure to the extent disclosed in the application, required to be made in a full and true manner and hence, this Court is not inclined to agree with the above contention made by the petitioner.

6.13 Therefore, the applicant is supposed to make full and true disclosure of income, which have not been made in the Settlement application, along with the manner in which such income has been derived. In other words, there is a statutory Mandate on the part of the applicant to substantiate the manner of earning the additional income to the extent of such voluntary disclosure. The petitioner is supposed to have to fulfil the requirement of full and true disclosure of income while filing the settlement application and the said disclosure has to be substantiated with sufficient proof/evidences, then only the aspect of full and true disclosure can be satisfied. In this case, the voluntarily disclosure was made to the extent of Rs.80 Crores (gold worth 268.200 kg of gold bullion) by stating that the said amount was earned out of



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business, however, no documentary evidence was produced to prove the said disclosure. Under these circumstances, the petitioner's settlement application was rightly rejected by the 1st respondent in entirety by holding that there is no full and true disclosure of income. As stated above, the question of treating the said sum of Rs.80 Crore as the income earned under Section 69B by the Settlement Commission, so as to impose tax under Section 115BBE, would not at all arise. Once the 1st respondent arrived at a decision that the disclosure made by the petitioner is not full and true disclosure, certainly, the next step will be the rejection of the entire settlement application. On the other hand, in the course of normal assessment, under Section 153A, before the Assessing Officer, the petitioner can very well treat the said sum of Rs.80 Crore as income under Section 69B and pay the tax along with interest and penalty, etc., accordingly. The said alteration cannot be made in the application before the Settlement Commission and hence, the 1st respondent had rightly rejected the petitioner's application vide the impugned order.

6.14 In this case, the petitioner filed a settlement application by disclosing their income under the category of "business income" and paid



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tax at the rate of 30%. Upon considering the said application, it was confirmed by the 1st respondent that a sum of Rs.80 Crores would not fall under the category of “business income” and hence, it was held that the disclosure made by the petitioner is not full and true disclosure. After arriving at such a decision, the 1st respondent will not have any power to treat the said sum of Rs.80 Crores as the income under Section 69B, so as to levy tax at the rate of 60% as prescribed under Section 115BBE of IT Act. When such being the case, once if it was held that no full and true disclosure was made, the settlement application has to be rejected in entirety. Hence, the petitioner's application was rightly rejected by the 1st respondent vide impugned order.

6.15 It was also submitted by the petitioner that he would have paid the tax at the rate of 60% for the disputed amount, i.e., Rs.80 Crores. However, this Court is of the view that the said submission would apply in the course of making the original assessment, subsequent to Section 153A notice, and not in the application filed before the Settlement Commission.



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6.16 Therefore, the question of narrowed down of the issue to the

extent as to whether the petitioner's income has to be taxed at the rate of 30% by treating it as “business income” or at the rate of 60% by treating it as the income under Section 69B and applying the provision of Section 115BBE(1) of IT Act, by the Settlement Commission would not at all arise in this case, but before the Assessing Officer in the normal course of assessment.

6.17 The settlement commission have to admit the application filed by the applicant without any change, i.e., they will not have any jurisdiction to change the declaration made by the applicant. In other words, if any proposal was made for payment of tax at the rate of 30% by considering the income as “business income, the 1st respondent will only consider the aspect as to whether full and true disclosure was made or not. If they arrived at conclusion that there was no full and true disclosure, the said proposal has to be rejected. There is no question of treating the said amount as income under Section 69A and directing the applicant to pay tax at the rate of 60%. The said exercise will be carried out by the concerned Assessing Officer after the rejection of application.



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6.18 Therefore, as stated above, 1st respondent cannot make any change in the proposals made by the petitioner and that is the reason why, the 1st respondent had rightly rejected the petitioner's application vide impugned order dated 11.06.2020.

7. Conclusion:

In view of the above discussions, this Court held as follows:

i) The “full and true disclosure” referred in Section 245C(1) means the full and true disclosure of income by the Assessee at the time of filing the settlement application. The disclosure in entire application should be made in a full and true manner. Even if the settlement Commission arrived at a decision that a portion of disclosure of income is “not true”, they will reject such application in entirety. The question of treating the said portion of income under different head by the Settlement Commission, so as to impose tax, will not at all arise.

ii) When the Statute mandates to make full and true disclosure in a settlement application filed under Section 245C(1), it is a statutory obligation on the part of the Assessee to furnish all the details with regard



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to the manner, in which the income has been earned/derived at par with the way, in which the Assessee would have been disclosed his income before the Assessing Officer in the ordinary course of assessment. Thus, the disclosure before the Settlement Commission has to be 100% accurate than the disclosure made before the Assessing Officer.

iii) Once the Settlement Commission arrived at a conclusion that there was no full and true disclosure, the application filed by the assessee will be rejected in entirety. The question of changing the stand, by converting the undisclosed portion of income into the income under Section 69B, by the Settlement Commission would be beyond the scope of its power and also it is impermissible and against the spirit of the provisions of Law. Only in the normal course of assessment, if the Assessing Officer had arrived at a conclusion that the income disclosed in the returns is not satisfactory, he can treat the said income as “undisclosed income” under Section 69B and impose tax, interest, penalty, etc., under Section 115BBE. However, the 1st respondent will not have any power to take such view, while considering the settlement application.



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iv) In a Settlement Application, filed under Section 245C(1), if any particular income is disclosed under Section 69B, then certainly, the settlement commission will have power to consider the said income under Section 69B, but not to treat the income disclosed in one head to other head, and impose the tax in terms of Section 115BBE. Therefore, while filing the application, the truthfulness of the disclosure is a serious matter to consider the said application, otherwise, the application will be rejected in entirety.

v) In this case, this Court has already arrived at a decision that there was no full and true disclosure in the settlement application filed by the petitioner. The settlement commission had arrived at a conclusion that a portion of income to the extent of a sum of Rs.70.66 crores alone was disclosed with full and true disclosure and remaining portion of disclosure to the extent of a sum of Rs.80 crores, the settlement commission found there was no full and true disclosure. Hence, the settlement commission had rightly rejected the petitioner's application for settlement.



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vi) While the settlement commission had arrived at a conclusion

that the income disclosed under the business income head, to the extent of a sum of Rs.80 crores is not a "full and true disclosure", it will not have any power to treat the said business income as income earned under Section 69B. Thus, it has rightly rejected the settlement application.

vii) Therefore, it is clear that the Settlement Commission has rightly rejected the petitioner's application, vide impugned order dated 11.06.2020, by directing the Department to tax further action, in terms of Section 245HA of the Act, in accordance with law.

8. Result:

For all the reasons stated above, this Court is of the view that there are no merits in this petition and hence, the same is liable to be dismissed as devoid of merits. Accordingly, this writ petition is dismissed. No cost. Consequently, the connected miscellaneous petitions are also closed.

28.11.2025

Speaking/Non-speaking order

Index: Yes / No

Neutral Citation: Yes / No

nsa

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To

1. Income Tax Settlement Commission
Additional Bench, Chennai,
Satguru Complex, 640, Anna Salai,
Nandanam, Chennai - 600 035.

2. Deputy Commissioner of Income Tax
Income Tax Investigation Wing,
Central Circle 2(2), Chennai,
New No.46, Mahatma Gandhi Road,
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KRISHNAN RAMASAMY.J.,

nsa

W.P.No.10688 of 2020
and W.M.P.Nos.12983 & 12986 of 2020

28.11.2025