RAJASTHAN HIGH COURT

REPORTABLE

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 14537/2021
CNR: RJHC020825772021 | URN: CW / 31762U / 2021

Abhay Kumar Godha Son Of Shri Chiranji Lal Godha, Resident Of 750, Aachariyon Ka Rasta, Kishanpole Bazar, Jaipur.

----Petitioner

Versus

Assistant Commissioner Of Income Tax, Circle-1, Jaipur Having Its Office At New Central Revenue Building, Statue Circle, Bhagwan Das Road, C-Scheme, Jaipur.

----Respondent

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Connected With

D.B. Civil Writ Petition No. 14552/2021
CNR: RJHC020825662021 | URN: CW / 31800U / 2021

Sanjay Godha Son Of Shri Chiranji Lal Godha, Resident Of 750, Aachariyon Ka Rasta, Kishanpole Bazar, Jaipur.

----Petitioner

Versus

Assistant Commissioner Of Income Tax, Circle-1, Jaipur Having Its Office At New Central Revenue Building, Statue Circle, Bhagwan Das Road, C-Scheme, Jaipur.

----Respondent

For Petitioner(s)	:	Mr. Siddarth Ranka
For Respondent(s)	:	Mr. Siddharth Bapna with Ms. Tanushka Saxena Mr. Jai Prakash Meena Ms. Yashvi Khandelwal

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HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment

05/11/2026

1. In both the writ petitions, the petitioners have sought the following reliefs:

> *"A. by an appropriate writ, order or direction be issued for annulling, quashing or canceling the impugned reassessment notice dated 28.03.2021 issued u/s. 148 of the Act for the assessment year 2014-2015 and all consequential proceedings in reference thereto;*
> *B. to allow the Writ Petition and award costs of this petition;*

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C. for such further and other reliefs, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

2. Learned counsel for the petitioners submits that once the Settlement Commission has passed an order dated 29.09.2016 under Section 245D(4) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act of 1961'), there was no occasion for the respondent-revenue to issue any notice under Section 148 of the Act of 1961.

3. Learned counsel for the petitioners, therefore, prays that the notice dated 28.03.2021 (Annexure-2) may be quashed and set aside, as the Settlement Commission has already passed its order under Section 245D(4) of the Act of 1961 on 29.09.2016.

4. Learned counsel for the petitioners has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of ***Assistant Commissioner of Income Tax & Another vs. M/s Omaxe Limited*** in ***Civil Appeal No.9190 of 2013*** decided on ***16.09.2026***. The relevant portion of the said judgment is reproduced herein below:–

"23. The Revenue's argument for issuing the Reassessment Notice rests on the words in Section 245C of the Act, 1961, viz., "containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer", but it overlooks the expression in Section 245C, viz., "the manner in which such income has been derived". On a plain construction of both the italicised expressions, what constitutes a case for consideration before the ITSC would be an Assessee making an Application containing a full and true disclosure of the Assessee's income which has not been disclosed before the AO, and the manner in which such income has been derived. Therefore, the additional amount of income-tax payable in the disclosure will depend on the manner in which such income has been derived by the Assessee. In the case on hand, the

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Assessee has disclosed the revenue included in the Assessee's gross total income, and, by claiming deductions under the Act, 1961, the net income liable for tax is set out. Once the ITSC admits the case for settlement, the consideration is the return for the assessment year, including deductions. The Report is called for on the Assessee's Application, and there is no gainsaying that, while participating in the Settlement before ITSC, the Revenue allowed a deduction that is otherwise disallowable. The normal presumption is that the Revenue filed its Report on the Assessee's application. Once the matter is concluded under Section 245D(4), the decision attains finality, and the scope of judicial review, in view of the precedents referred to above, is also limited.

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24. The Revenue is not without recourse to realise tax on undisclosed income, even in cases filed under Chapter XIX-A of the Act, 1961. The Revenue has the option to move under Section 245D(6) of the Act, 1961 on the grounds of fraud and misrepresentation. The words "fraud and misrepresentation" depend on the circumstances and are to be decided on a case-to-case basis; by making out a case under either head, the ITSC's Order is reopened, which ultimately leads to the Settlement Order being declared void. The normal assessment procedure is restored or enabled, but not otherwise. If the jurisdiction of the AO under Sections 143(2), 148, 154, etc., is made independent and available for exercise again, the finality attached to the Settlement Commission will be defeated. Parliament did not envisage this course. On the contrary, while reopening the issues before the ITSC is provided for, judicial review by the Constitutional Courts under Articles 226 and 32/136 is available, but the AO's power to reassess the Settlement Order passed by the ITSC is unavailable.

25. In fine, through the mechanism under Chapter XIX-A of the Act, 1961, the Assessee and the Revenue avoid the crust and crumb. To wit, the Revenue avoids the crust by realising the crumb of tax on suppressed or undisclosed income through the Assessee's voluntary disclosure. Similarly, through complete and fair disclosure of suppressed income and entries, the Assessee avoids the crust of penal interest, prosecution, etc., and the crumb offered is payment of tax beforehand. The Revenue and the Assessee must take the Crust and the Crumb

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together. By operation of Section 245C(3), the Assessee is precluded from withdrawing the Application filed under Section 245C. The Revenue can oppose continuation before the ITSC based on the material and grounds discovered during the search and seizure against the Assessee. The Revenue participates before the ITSC in the Assessee's Application, including any income further disclosed by the Assessee. Therefore, the argument that, after the proceedings before the ITSC attain finality, the regular assessment/re-assessment is still available to the Revenue is contrary to the defining expressions in Sections 245C, 245D(2), 245D(3), and finally 245D(4) of the Act, 1961. The Revenue has to revisit the procedure under Section 245D(6) by making out a case before the ITSC, but not otherwise. Thus, the Assessee and the Revenue are aware of the crust and the crumb in this settlement procedure before the ITSC. Once the crust is avoided and the crumb is accepted, further crust and crumb are not the intention of Chapter XIX-A of the Act, 1961.

26. The Revenue availed the remedy under Section 245D(6) of the Act, 1961 before the ITSC, resulting in the findings recorded in the Order dated 16.12.2011, which has become final.

27. For the reasons stated above, we find no merit in the Appeal. The Appeal fails and is dismissed.

28. Pending application(s), if any, stand disposed of accordingly."

5. Per contra, learned counsel for the respondent-revenue could not refute the law laid down by the Hon'ble Apex Court in the case of ***Assistant Commissioner of Income Tax (Supra)***. However, he submits that the said judgment also provides that appropriate remedy for the revenue in cases where the Settlement Commission has passed an order is available under Section 245D(6) of the Act of 1961.

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6. Learned counsel for the respondent further submits that the respondent-revenue may be granted liberty to avail the said remedy under the relevant provisions of the Act of 1961.

7. Heard learned counsel for both the parties and perused the material available on record.

8. It is not disputed between the parties that the Settlement Commission passed an order dated 29.09.2016 under Section 245D(4) of the Act of 1961 for the assessment year in respect of which the notice dated 28.03.2021 was issued under Section 148 of the Act of 1961.

9. Relying upon the judgment passed by the Hon'ble Apex Court in case of ***Assistant Commissioner of Income Tax (Supra)***, this Court is of the considered view that the notice dated 28.03.2021 in respect of the assessment year 2014-15 could not have been issued by the respondent-revenue, once the order of settlement dated 29.09.2016 had already been passed.

10. The respondent-revenue is right in submitting that the remedy available to it, as recognized by the Hon’ble Apex Court in cases where the Settlement Commission has passed an order, is to proceed under Section 245D(6) of the Act of 1961.

11. Accordingly, the present writ petition filed by the petitioner is partly allowed. The impugned notice dated 28.03.2021 (Annexure-2) is hereby quashed and set aside. The respondent-revenue will be at liberty to proceed in accordance with law under section 245D(6) of the Act of 1961, if they wish to do so.

12. Pending application(s), if any, stand disposed of.

(BIPIN GUPTA),J (SANJAY K. AGRAWAL),CJ

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