



HIGH COURT OF DELHI

Writ Petition (C) Nos. 4513-14/2004

Date of Decision: November 9, 2004

PRADEEP MISRA AND ANOTHER .. PETITIONERS
through: Mr. O.S. Bajpai,
Advocate. .

-- versus --

COMMISSIONER OF INCOME TAX-II
AND OTHERS ... RESPONDENTS
through : Ms. Prem Lata Bansal,
Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE BADAR DURREZ AHMED

- i) Whether Reporters of local papers may be allowed to see the judgment?
- ii) To be referred to the reporter or not?
- iii) Whether the judgment should be reported in the Digest?

B.C. PATEL, CJ (Oral)

1. In this petition, the petitioners pray:-

- 1) That the Respondents be directed to pay the interest amounting to Rs.27,16,447/- which would have been due to the petitioners u/s 132B(4)/244A as per Annexure A-6.



ii) That alternatively, to pay the interest of Rs.21,13,888/- which the petitioners would have got had the Respondents renewed the IVPs, KVPs & FDRs on their maturity as per Annexure A-7.

iii) Pass such other order or directions in favour of the petitioner as it may deem fit."

2. We note that in this matter there is an order made by the Settlement Commission under Section 245D(4) of the Income Tax Act, 1961. We find that, inter alia, for the very reliefs which were claimed before the Settlement Commission and adjudicated upon, the present petition is filed. With regard to the issues raised in this petition, the Settlement Commission directed as under:-

"21. A detailed chart of interest loss of IVPs, KVPs on maturity between 22.1.97 to date i.e. 1st December, 2003 was filed claiming that in view of the maturity dates having gone by, the interest loss is of Rs. 29,59,848/- (Rs. 26,19,806 in Pradeep Mishra's case and Rs. 3,40,042 in Smt. Gyanwati Mishra's case). Documentary evidence was filed showing that on 20.2.2002 the CIT II, New Delhi had been asked to return the IVPs seized by the authorised officers of the I.T. department or they be encashed or reinvested from the



date of maturity in order to prevent loss of interest to the applicants. Similarly, copy of letter dated 1.9.2003 filed before CCIT-II, New Delhi for return of seized money or its investment as advance tax was shown. Similarly letters written on 4.9.2001, 10.1.02, 20.2.2002, 20.6.02, 2.7.02, 30.8.2002, 16.1.2003 and 25.3.2003 were also shown. It is seen from record that A.C.I.T Circle 6(1) New Delhi and I.T.O Ward 6(4) New Delhi have in their separate letters dated 9.10.2003 and 15.10.2003 informed Shri Pradeep Mishra that their grievances raised in the letter dated 16.1.2003, can be sorted out only after Directions of the Settlement Commission. As the exclusive jurisdiction of the Settlement Commission remains only from the date of admission of the petition i.e. 6.2.2001 in these cases, to the date of D(4) order i.e. 8.12.2003, the assessing authorities may now consider the applicants request as per law."

(underlining added)

3. Therefore, the very issues which are sought to be raised in this petition were agitated before the Settlement Commission which has directed that "the assessing authorities may now consider the applicants request as per law". The Settlement Commission's decision is final and binding on all the parties. There is no prayer made in the writ petition for setting aside the order made by the Settlement Commission. And, as the order passed by the Settlement Commission has been accepted by the parties,

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they are required to follow the same. The writ petitions are required to be rejected. Ordered accordingly.

Bepaer
CHIEF JUSTICE

Badar Durrez Ahmed
BADAR DURREZ AHMED, J.

November 9, 2004.
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