

IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:18.05.2023

+ **W.P.(C) 2693/2019**

BISHAN DAS GOYAL HUF

..... Petitioner

versus

**THE PR. COMMISSIONER OF INCOME
TAX-14**

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Suruchi Aggarwal, Mr. Vineet Garg &
Mr. Abhishek Garg, Advs.

For the Respondent : Mr. Shailendera Singh, Sr. SC with Ms.
Dacchita Shahi, Mr. Viplav Acharya & Mr.
Akash Saxena,Advs.

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**HON'BLE MR JUSTICE VIBHU BAKHRU
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning an order dated 19.12.2017 passed by the Income Tax Settlement Commission (hereafter '**the Commission**') under Section 245D(1) of the Income Tax Act, 1961 (hereafter '**the Act**') to the limited extent that the settlement application under Section 245C(1) of the Act was held to be invalid for the Assessment Years 2012-13, 2013-14 and 2014-15.

2. The Commission had concluded that there were no proceedings for assessment, relating to the petitioner, pending under the Act in respect of the said assessment years and thus, there was no case relating to the petitioner in respect of the said assessment years. Therefore, the application under Section 245C(1) of the Act would not be maintainable in respect of the said assessment years.

3. Thus, the question that falls for consideration of this Court is whether the Commission had erred in rejecting the petitioner's application under Section 245C(1) of the Act in respect of the Assessment Years 2012-13, 2013-14 and 2014-15. Admittedly, the time for the Assessing Officer to make an assessment pursuant to the returns filed by the petitioner under Section 139 of the Act in respect of the Assessment Years 2012-13, 2013-14 & 2014-15 had expired and no notice was issued under Section 148 of the Act for assessment, reassessment or re-computation of the petitioner's income for the said years.

4. The controversy involved in the present case is covered by the decision of this Court in the case of *Sushil Kumar Goyal & Ors. v. Principal Commissioner of Income Tax-1 & Ors.: WP(C) No. 3928/2017*.

5. Clause (b) of Section 245A of the Act, as applicable at the time of making the application, reads as under:-

“245A. In this Chapter, unless the context otherwise requires,-

(a) xxx xxx xxx

(b) "case" means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made.

Explanation.-For the purposes of this clause-

(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced-

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142;

(ii) ***

(iii) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment shall be deemed to have commenced from the date on which such order, setting aside or cancelling an assessment was passed;

(iiia) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (b) of sub-section (1) of section 153A in case of a person referred to in section 153A or section 153C, shall be deemed to have commenced on the date of issue of notice initiating such proceeding and concluded on the date on which the assessment is made;

(iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia)", shall be deemed to have commenced from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on which the assessment is made; or on

the expiry of two years from the end of relevant assessment year, in case where no assessment is made;”

6. A plain reading of Explanation (i) to Clause (b) of Section 245A of the Act clearly indicates that the proceedings in relation to assessment or reassessment or re-computation under Section 147 of the Act had not commenced in respect of the Assessment Years 2012-13, 2013-14 and 2014-15 and therefore, we find no infirmity with the decision of the Commission that the petitioner’s application under Section 245C of the Act in respect of the said assessment years, was not maintainable.

7. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

MAY 18, 2023
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