

SetCom scheme doesn't contemplate revision of income; assessee cannot resile from his stand during proceedings: HC

INCOME TAX : Where assessee surrendered Rs. 8.00 crores during search but before Settlement Commission she had disclosed an amount of Rs. 1.93 crores, which was substantially less than disclosure made during search and she filed rectification application wherein she further revealed undisclosed receipts amounting to Rs. 1.20 crores for first time, application before Settlement Commission deserved to be rejected as assessee had not made true and full disclosure of her undisclosed income

INCOME TAX : Scheme of Chapter XIX-A does not contemplate revision of income so disclosed in settlement application and assessee cannot be permitted to resile from his stand at any stage of proceedings

I. Section [245C](#), read with section [245D](#), of the Income-tax Act, 1961 - Settlement Commission - Application for settlement of cases (General) - A search and seizure was conducted on different premises of assessee and cash was seized - Out of 5 assesses, three of them made separate applications before Settlement Commission under section 245C disclosing their unaccounted income - Settlement Commission finally settled matter rejecting objections raised by Department - Further Settlement Commission proceeded at behest of only two of assesseees to rectify order - It was found that during search one assessee (Richa) had surrendered Rs. 8.00 crores but before Commission she had disclosed an amount of Rs. 1.93 crores, which was substantially less than disclosure made during search - Further at stage of filing rectification application, she further revealed undisclosed receipts amounting to Rs. 1.20 crores for first time - Whether since there was a huge variation in amounts disclosed by assessee while filling application before Settlement Commission and since fact that assessee had sought to revise her income by means of rectification application was demonstrative of fact that she had not made a full and true disclosure of income, application before Settlement Commission filed by assessee was bound to be rejected - Held, yes [Paras 22-26] [In favour of revenue]

II. Section [245D](#), read with section [234C](#), of the Income-tax Act, 1961 - Settlement Commission - Procedure on application under section 245C (General) - Whether scheme of Chapter XIX-A does not contemplate revision of income so disclosed in settlement application and an assessee cannot be permitted to resile from his stand at any stage during proceedings - Held, yes - Whether once income had already been assessed at hands of assessee during assessment proceedings, it no longer remained undisclosed income and in that regard to such an issue Settlement Commission could not have passed any order as it was beyond its jurisdiction as per clear provisions of section 245C - Held, yes - Whether where settlement Commission, in a mechanical manner, waived off interest without considering whether matter of assessee was covered by circulars of Board, waiving off interest in such a manner, is clearly beyond competence and jurisdiction of Commission - Held, yes [Paras 35 to 39] [In favour of revenue]

Click below link for the Judgment:

<https://www.taxmann.com/research/direct-tax-laws/top-story/101010000000331090/setcom-scheme-doesnt-contemplate-revision-of-income-assessee-cannot-resile-from-his-stand-during-proceedings-hc-caselaws>

(Source: Taxmann)

