

## Interim admission order couldn't be challenged even if SetCom had considered small portion of concealed income

**Summary – The High Court of Madhya Pradesh in a recent case of Maa Vaishno Real Estate., (the Assessee) held that where Settlement Commission passed an interim order holding that application for settlement filed by assessee was maintainable, revenue could not challenge said order on ground that assessee's estimated income was huge whereas Settlement Commission was proceeding ahead in matter by taking into account only small portion of said amount**

### Facts

- The assessee-group was subjected to search and seizure operations conducted by the Investigating Wing under section 132. The assessee voluntarily admitted additional income of Rs. 30 crores.
- Subsequently, assessee submitted an application before the Settlement Commission and the matter was processed by the Settlement Commission.
- The Principal Chief Commissioner submitted a detailed report in the matter under section 245D(2B) and a prayer was made to reject the application submitted for settlement. The Settlement Commission *vide* its order passed under section 245D(2C) held the applications for settlement as maintainable and to be processed with further.
- The revenue filed instant petition contending that there was huge tax evasion and the assessee's total estimated income came to Rs. 289.16 crores whereas Settlement Commission was proceeding ahead in the matter by taking into account a meager amount of Rs. 19.08 crores.

### Held

- As the matter is still pending before the Settlement Commission, the Settlement Commission has to decide whether the full disclosure is made or not. The revenue is certainly at a liberty to raise all issues and grounds before the Commission. The Settlement Commission has to proceed the matter in accordance with section 245D(2B), 245D(3), 245D(4), 245D(4A), 245D(5), 245D(6), 245D(6A). Thereafter, after examination of record, after considering report of the Commissioner and the materials brought on record before the Settlement Commission, it has to pass a final order.
- The Settlement Commission has the jurisdiction to provide for the terms of settlement including demanding any tax, penalty or interest. The Settlement Commission is also having jurisdiction to examine as to whether any order has been obtained by fraud or misrepresentation of facts. Thus, in short, a complete mechanism has been provided for dealing with settlement applications and the said mechanism is a complete code in itself and merely because of the fact that an interim admission order had been passed under section 245D(2C), it did not mean that any irreparable loss had been caused to department.

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- As the matter is pending before the Settlement Commission and no final order has been passed and as the Commission is now seized with the matter, all the grounds raised by the revenue shall be looked into and shall be considered by the Settlement Commission while passing a final order.
- Resultantly, no case for interference is made out in the matter.
- Accordingly, the writ petition is dismissed.