

Case could not be remanded to AO by SetCom for disposing assessee's case on merits: HC

Summary – The High Court of Madhya Pradesh in a recent case of Samdariya Builders (P.) Ltd., (the Assessee) held that the case could not be remanded to AO by SetCom for disposing assessee's case on merits

Facts

- Pursuant to search proceedings carried and in case of assessee, a return was filed under section 153A and during its assessment proceedings the assessee filed an application under section 245C(1) for settlement before the SetCom which was admitted.
- Thereafter, the SetCom passed an order and remanded the matter to the Assessing Officer.

Held

- As per the Scheme of chapter XIX-A when an application for settlement is filed under section 245-C, it is not automatically admitted. The SetCom after following the prescribed procedure can allow the application to be proceeded with or rejected.
- The object of the legislature, in introducing section 245-C is to see that protracted proceedings before the authorities or in courts are avoided by resorting to settlement of cases.
- In the scheme of thing, the assessee-company is right in contending that the settlement commissioner could have either rejected the application or allowed it to be proceeded further. If the Commission felt that the matter required further inquiry, it could have directed the principal commissioner or commissioner to enquire and submit the report to the commission to take a decision. The Commission could not get round the application for settlement.
- In view of the foregoing discussion, the impugned order is set aside and the writ petition is disposed of with a direction to the settlement commission to proceed to decide the application for settlement afresh in accordance with law.