(1977) 10 AHC CK 0031

In the Allahabad High Court

Case No : C.M.W. No. 429 of 1977

RAGHUNANDAN RAM RAM ADHAR and ANOTHER	APPELLANT
Vs	
INCOME TAX SETTLEMENT COMMISSION and OTHERS.	RESPONDENT

Date of Decision : 12-10-1977

Acts Referred:

Constitution of India, 1950 — Article 226
Income Tax Act, 1961 — Section 245D

Citation : (1978) 7 CTR 240

Hon'ble Judges : H. N. Seth, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

H. N. Seth, J. - By this petition under Art. 226 of the Constitution the petitioners challenge the validity of an order dated 25-1-1977 passed by the Income Tax Settlements Commission. This application on the face of it is extremely belated and deserves to be rejected on that ground alone. However we have heard learned counsel for the petitioner. He contends that the Income Tax Settlement Commission erred in rejecting the petitioners application for settlement without giving him on opportunity to be heard, in support of Their application as provided in 1st Proviso at S. 245D of the Act. Further Proviso added to S. 245D lays down that the settlement application shall not be proceeded with if the Commissioner of Income Tax objects to the application being proceeded with on any of the grounds enumerated therein. This is an absolute bar and in our opinion if an objection has been raised by the Commissioner Income Tax on the grounds enumerated in the Further Proviso, it is not necessary for the Commission to hear the assessee before deciding not to proceed with the application. The order passed by the Commission clearly indicates that the Income Tax Commissioner had raised on objection of the nature enumerated in the Further Proviso to S. 245D. In our opinion there is no merit in the application. It is accordingly rejected.

