



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 30TH DAY OF JUNE 2025 / 9TH ASHADHA, 1947

WA NO. 188 OF 2025

**AGAINST THE JUDGMENT DATED 22.08.2024 IN WP(C) NO.44271 OF
2023 OF HIGH COURT OF KERALA**

APPELLANTS/RESPONDENTS 1,2,3,4:

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF
REVENUE, MINISTRY OF FINANCE DEPARTMENT OF
REVENUE, 3RD FLOOR, JEEVAN DEEP BUILDING,
SANSADMARG, NEW DELHI, PIN - 110001**
- 2 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE-MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI, PIN - 110001**
- 3 INTERIM BOARD FOR SETTLEMENT,
REPRESENTED BY ITS SECRETARY, (REPLACING THE INCOME
TAX SETTLEMENT COMMISSION), ADDITIONAL BENCH,
CHENNAI), REPRESENTED BY ITS SECRETARY, SATGURU
COMPLEX, 640, ANNA SALAI, NANDANAM, CHENNAI,
PIN - 600035**
- 4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE-2, M.G. ROAD,KOCHI, PIN - 682011**

BY ADVS.

SHRI.NAVANEETH.N.NATH, CGC

SMT.SUSIE B VARGHESE

SHRI.JOSE JOSEPH, SC, INCOME TAX DEPARTMENT, KERALA

RESPONDENT/PETITIONER:

MR.THOMAS JOSEPH,

AGED 58 YEARS

**S/O.M.C.JOSEPH, MALIYEKAL HOUSE, KIZHATHADIYOOR P.O,
KOTTAYAM, PIN - 686601**

SRI.JEHANGIR D MISTRI (SR.)

SRI.R.SIVARAMAN



WA NOs. 188 & 430 OF 2025

:2:

2025:KER:47350

**SHRI.ANIL D. NAIR (SR.)
SMT.VANDANA VYAS
SMT.B.R.VARSHINI**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30.06.2025,
ALONG WITH WA.430/2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

MONDAY, THE 30TH DAY OF JUNE 2025 / 9TH ASHADHA, 1947

WA NO. 430 OF 2025

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APPELLANT/PETITIONER:

**MR.THOMAS JOSEPH,
AGED 58 YEARS
S/O.M.C.JOSEPH, MALIYEKAL HOUSE, KIZHATHADIYOOR P.O,
KOTTAYAM, PIN - 686601**

**BY ADVS.
SHRI. ADITYA UNNIKRISHNAN
SRI.JEHANGIR D MISTRI (SR.)
SRI.R.SIVARAMAN
SHRI.ANIL D. NAIR (SR.)
SMT.VANDANA VYAS
SMT.B.R.VARSHINI
SMT.NIVEDITA A.KAMATH
SMT.BINISHA BABY
SHRI.HARIKRISHNAN K.U.
SHRI.ARAVIND RAJAGOPALAN MENON**

RESPONDENTS/RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF
REVENUE, MINISTRY OF FINANCE DEPARTMENT OF
REVENUE, 3RD FLOOR, JEEVAN DEEP BUILDING,
SANSADMARG, NEW DELHI, PIN - 110001**
- 2 THE CENTRAL BOARD OF DIRECT TAXES,
REPRESENTED BY ITS CHAIRPERSON, DEPARTMENT OF
REVENUE-MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI, PIN - 110001**
- 3 INTERIM BOARD FOR SETTLEMENT,
REPRESENTED BY ITS SECRETARY, (REPLACING THE INCOME**



**TAX SETTLEMENT COMMISSION), ADDITIONAL BENCH,
CHENNAI), REPRESENTED BY ITS SECRETARY, SATGURU
COMPLEX, 640, ANNA SALAI, NANDANAM, CHENNAI, PIN -
600035**

**4 DEPUTY COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE-2, M.G. ROAD, KOCHI, PIN - 682011**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30.06.2025,
ALONG WITH WA.188/2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**



JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

WA No.188 of 2025 is filed by the Union of India impugning the judgment dated 22.08.2024 of a learned Single Judge in WP(C).No.44271 of 2023. WA No.430 of 2025 is preferred by the assessee, who was the writ petitioner in the aforementioned Writ Petition, and was also aggrieved by the same impugned judgment of the learned Single Judge. As these Writ Appeals involve a common issue they are taken up together for consideration and disposed by this common judgment.

2. Inasmuch as WA No.188 of 2025 preferred by the Union of India is concerned, the challenge in the said Writ Appeal has in fact been considered by this Court in a batch of Writ Appeals (judgment dated 20.06.2025 in WA No.2042 of 2024 and connected cases) that were disposed with the following directions:

1. We set aside the impugned judgment of the learned Single Judge to the extent it holds that search proceedings under Section 132 would also fall within the ambit of 'case' in relation to the respondent assesseees for the purposes of Chapter XIX-A of the I.T. Act. The writ appeals preferred by the Revenue are allowed to that limited extent.

2. We find that the provisions of the CBDT order dated 28.09.2021, to the extent it lays down an additional condition that the assesseees should satisfy the eligibility requirements as on 31.01.2021 (to be read as '31.03.2021'), is ultra vires the power conferred on the CBDT under Section 119(2)(b) of the I.T. Act.

3. We, accordingly, direct that the applications for settlement filed by respondent assesseees before the Interim Board for Settlement on or before 30.09.2021, taking note of notices under Sections 153A/153C of the I.T. Act issued to them between 31.03.2021 and 30.09.2021, be considered on merits by the Board. To that extent, the directions in the impugned judgment, that require the Board to consider the



applications preferred by the respondent assesseees, are sustained and the Writ Appeals preferred by the Revenue, dismissed.

3. The only distinction that is sought to be made by the appellant in WA. No.430 of 2025 is with regard to the last date for preferring the application before the Interim Board for Settlement, so as to obtain the benefit of the directions in our earlier judgment. It is the case of the appellant therein that although they had received the notices under Section 153A between 31.03.2021 and 30.09.2021, the application for settlement under Section 245A of the Income Tax Act could be preferred by them only on 17.03.2022. The learned Senior Counsel Sri.Jahangir D Mistri and Sri.Anil D.Nair, assisted by Adv.R.Sivaraman and Adv.Vandana Vyas, appearing on behalf of the appellant, would point out that although the applications for settlement were ready before 30.09.2021, they were granted permission to take copies of seized materials and digital devices only on 04.10.2021 and it is only thereafter that they could file the application fees to support the settlement applications that were filed. When the application for settlement was not entertained by the Interim Board for Settlement, they had approached this Court through WP(C) No.23567 of 2021, in which by an interim order dated 11.03.2022, a learned Single Judge of this Court permitted them to provisionally file their settlement application within seven days from the date of the order. It is not in dispute that the appellant subsequently filed its settlement application under Section 245C on 17.03.2022. The said application was, however, rejected by the Interim Board for Settlement on 14.12.2023 stating that no proceedings were pending as on 31.01.2021.

4. In our judgment in WA 2042 of 2024 and connected cases, the



directions issued in which we have extracted above, we had clarified the issue as regards the cut-off date on which the proceedings have to be pending for supporting an application for settlement before the Interim Board for Settlement under Section 245C of the Income Tax Act. In the light of the said directions, the stand of the Interim Board for Settlement that the proceedings had to be pending as on 31.01.2021 cannot now be legally sustained. That apart, we find that as far as the appellant herein is concerned, the notices under Section 153A had all been received before the cut-off date on 30.09.2021 and the only objection that was raised against the appellant in maintaining the application for settlement before the Interim Board for Settlement was that the application was actually filed only on 17.03.2022.

5. In this connection, we find that while considering the limitation period specified under the provisions of Chapter XIX of the Income Tax Act dealing with settlement cases, the orders passed by the Supreme Court in MA. Nos.665 of 2021 and 21 & 29 of 2022 (Suo Motu Writ Petitions extending the period of limitation), especially the order dated 10.01.2022, clearly states, *inter alia*, that "*in cases where the limitation would have expired during the period between 15.03.2020 and 28.02.2022, then notwithstanding the actual balance period of limitation remaining, and all persons shall have a limitation period of 90 days from 01.03.2024. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.*" Extending the benefit of the aforesaid direction of the Supreme Court to the case at hand, we find that inasmuch as the appellant herein had filed the application for settlement on 17.03.2022, which is well within the time granted by the Supreme Court taking note of the Covid pandemic situation



that had arisen in the country, the appellant herein can be permitted to pursue his application that was filed before the Interim Board for Settlement on 17.03.2022.

6. Resultantly, we allow WA No. 430 of 2025 by setting aside the impugned judgment of the learned Single Judge to the above extent. The appellant shall also be entitled to pursue his application for settlement before the Interim Board for Settlement as directed by us in our earlier judgment dated 20.06.2025 in WA.No.2042 of 2024 and connected cases. The Interim Board for Settlement shall consider the application for settlement preferred by the appellant for the assessment years 2015-2016 to 2020-2021 for the purpose of settlement. We make it clear that none of the directions above shall apply in relation to the assessment year 2021-2022, which is also the subject matter of WA.No.430 of 2025 since the appellant assessee does not satisfy the pre-condition for availing the benefit of settlement during that year.

Thus, WA No.188 of 2025 and WA No.430 of 2025 are disposed by following our judgment dated 20.06.2025 in WA.No.2042 of 2024 and connected cases, as modified by the directions in this judgment.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

P.M.MANOJ
JUDGE