

SUPREME COURT OF INDIA

Sandeep Singh

Vs.

Union of India & Ors.

C.A.No.418 of 2017

(Kurian Joseph and A.M.Khanwilkar,JJ.,)

13.01.2017

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.5366/2016

1. Leave granted.

2.The surviving grievance is only with regard to the immunity from prosecution under Section 245H (1A) of the Income Tax Act, 1961 (for short, ' the said Act'), which reads as follows:

"245H (1A) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of settlement passed under sub-section (4) of Section 245D within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted."

3. In case the payments are not made within the time granted by the Settlement Commissioner or in case the person fails to comply with any other conditions, subject to which the immunity was granted, the immunity shall stand withdrawn. In the case of the appellant it is not in dispute that the payments have not been made within the time originally granted by the Settlement Commissioner. But at the same time, it is not in dispute that all payments have been made before the appellant approached this Court and filed this appeal by way of special leave petition on 20.01.2016, though the time originally granted by the Settlement Commissioner was only up to 31.07.2015.

4. However, we find from the provision that the Settlement Commissioner is free to grant further time for payment, under Section 245H(1A) of the said Act.

5. Having heard the learned senior counsel for the appellant and learned Additional Solicitor General appearing for the respondents, we are of the view that in the facts and circumstances of this case, it is not necessary to relegate the appellant to the Settlement Commissioner for enlargement of time, since the payments have already been made.

6. Therefore, for all intents and purposes it shall be taken that the appellant has made the payments within the time granted under Section 245H(1A) of the said Act.

7. The appeal is allowed, as above.

8. There shall be no order as to costs.

9. Pending application(s), if any, shall stand disposed of.