

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writs No. 2050/2018

Bhatia Colonizers P Ltd., A/34, Landmark City, Bundi Road,
Kunhadi, Kota, Rajasthan- 324008 Thro, R/o 49-A, New Colony,
Gurmanpura, Kota Rajasthan

-----Petitioner

Versus

1. The Deputy Commissioner Of Income Tax, Central Revenue Building, Rawat Bhata Road, Kota
2. The Pr. Commissioner Of Income Tax Central, Aayakar Bhawan, Central Revenue Building, Statue Circle, Jaipur.
3. Income Tax Settlement Commission, Principal Bench, Through Secretary, 9Th Floor, Lok Nayak Bhawan Khan Market, New Delhi-110003

-----Respondents

For Petitioner(s)	:	Mr.Prakul Khurana, Advocate.
For Respondent(s)	:	Mr.Siddharth Bapna, Advocate.

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Judgment

Judgment reserved on : 4th December, 2018.

Date of Judgment : 18th December, 2018.

By the Court:-

1. The petitioner-Company has filed the instant writ petition challenging the order dated 03.01.2018 passed by the Income Tax Settlement Commission, Principal Bench, New Delhi wherein the application filed by the petitioner-Company under Section 245C(1) of the Income Tax Act, 1961 (hereinafter shall be referred to as "the Act, 1961") has been held "invalid" as it has not fulfilled the conditions prescribed under Section 245C(1) of the Act, 1961.

2. The petitioner-Company has prayed for a writ of mandamus to direct the respondents-Income Tax Authorities to entertain the settlement application of the petitioner-Company and further to proceed in accordance with law. The prayer has also been made to quash and set aside the proceedings initiated in pursuance of the impugned order dated 03.01.2018 rejecting the application of the petitioner-Company.

3. Brief facts pleaded in the writ petition, are that the petitioner is a company incorporated under the provisions of the Companies Act, 1956 having its registered office at A/34, Landmark City, Bundi Road, Kunhadi, Kota (Rajasthan). The Income Tax authorities carried search and seizure under Section 132 of the Act, 1961 at the premise of the petitioner-Company and its Directors namely Ram Jashandas Bhatia, Deepak Rajwanshi and Arun Mehta and other related Concerns on 03.03.2016.

4. The petitioner-Company has pleaded that on 31.10.2017, the petitioner-Company filed an application under Section 245C(1) of the Act, 1961 seeking settlement with the Income Tax Department for the Assessment Year 2010-11 to 2017-18 declaring additional income of Rs.30,90,929/-. The petitioner-Company declared tax payable on declared income as Rs.10,02,952/-. The Directors of the petitioner-Company namely Ram Jashandas Bhatia, Deepak Rajwanshi and Arun Mehta also declared additional income in personal hands on which tax payable was above Rs.50 Lakhs each and the details, as given in the writ petition, are as follows:-

Applicants name	Additional	Tax payable on Additional
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	Income Declared	Income
Ram Jashandas Bhatia	Rs.21,22,65,084/-	Rs.7,06,93,579/-
Deepak Rajwanshi	Rs.6,85,61,116/-	Rs.2,28,87,964/-
Arun Mehta	Rs.7,19,78,909/-	Rs.2,43,07,779/-

5. The petitioner-Company has pleaded that as per clause (i) to the proviso to Section 245C(1) of the Act, 1961, it is *sine qua non* for a valid application before the Settlement Commission that the income tax payable on the additional income disclosed in the application exceeds the amount of Rs.50 Lakhs and the said applicant is termed as 'specified person' for the other applicants who are related to the 'specified person' for whom the condition of tax payable on additional income disclosed in the application is minimum of Rs.10 Lakhs.

6. The petitioner-Company has pleaded in the petition that it qualifies the definition of relation with the 'specified person' within the meaning of explanation (a) to Section 245C(1) of the Act, 1961 as covered under clause (v) of explanation (a) to Section 245C of the Act, 1961 and was thus, competent to maintain settlement application declaring tax payable at Rs.10,02,952/-.

7. The petitioner-Company has given shareholding of its Directors namely Ram Jashandas Bhatia, Deepak Rajwanshi and Arun Mehta, as follows:-

Name of the Share Holder	Total Shares	Share Per Centage
Ram Jashandas Bhatia	8850	7.3%
Deepak Rajwanshi	13200	11%
Arun Mehta	13200	11%

8. The petitioner-Company has pleaded in the petition that the application of the petitioner-Company came to be opposed by the

respondent-Department on the ground that it did not qualify the requirement of being related to the 'specified person'.

9. The petitioner-Company has pleaded in the petition that by the impugned order dated 03.01.2018, the Settlement Commission has erroneously dismissed the application by holding that the petitioner is not covered in the definition of 'related person' to the 'specified person' within the meaning of explanation to Section 245C(1) of the Act, 1961. The petitioner-Company has pleaded that the impugned order dated 03.01.2018 is legally not sustainable.

10. The petitioner-Company has pleaded that the impugned order dated 03.01.2018 is patently bad and illegal and suffers from vice of non-application of mind, arbitrariness and apparent contradiction as Settlement Commission omitted to appreciate that in the present case, the Directors of the petitioner-Company and 'specified person' within the meaning of Section 245C of the Act, 1961 are the same. It is pleaded that Director of the petitioner-Company is having 100% interest in the business or profession of the specified person (which fulfills the condition of 'substantial interest', as defined in clause (B) of the explanation (b) to Section 245C(1) of the Act, 1961 and as per the petitioner-Company its case was squarely covered under clause (v) of explanation (a) to Section 245C(1) of the Act, 1961).

11. Counsel for the petitioner has raised following legal submissions before this court:-

(i) The Settlement Commission failed to appreciate that the case of the petitioner-Company was squarely covered under clause (v) of explanation (a) to Section 245C(1) of the Act, 1961 and Director of the petitioner-Company and 'specified person' in the meaning of Section 245C are same. The Director of the petitioner-Company is having 100% interest in the business or profession of the specified person (fulfilling the condition of 'substantial interest', as defined in clause (B) of the explanation (b) to Section 245C(1) of the Act, 1961).

(ii) The Settlement Commission failed to appreciate that the collective stake of all the three 'specified persons' exceeded 20% in the petitioner-Company and, therefore, the petitioner-Company alternatively gets covered under clause (vi)B of explanation (a) to Section 245C(1) of the Act, 1961.

(iii) The interpretation adopted by the Settlement Commission would be contrary to the spirit and legislative intention behind the set-up of the Settlement Commission and the relevant provision needs to be suitably read down to hold that the petitioner-Company being covered under the expression "in relation to the specified person" as per explanation (a) to Section 245C(1) of the Act, 1961.

12. The respondents have filed reply to the writ petition and they have supported the impugned order dated 03.01.2018 passed by the Settlement Commission.

13. The respondents have pleaded in the reply that the petitioner-Company has misinterpreted the provisions of Section

245C(1) of the Act, 1961 and it is seeking benefit under the provision which does not apply to the petitioner-Company.

14. The respondents have pleaded that explanation appended to Section 245C(1) of the Act, 1961 comprehensively and exhaustively elucidates as to who and what can be categorized as 'related person' with respect to a 'specified person', as referred under clause (ia) of Section 245C(1) of the Act, 1961.

15. The respondents have submitted that the petitioner-Company is covered under clause (vi) of explanation (a) of Section 245C(1) of the Act, 1961 rather than being covered under clause (v) of the explanation, as claimed by the petitioner-Company.

16. The respondents have pleaded that although clauses (iv) and (v) of the explanation talk about a Company, firm, an association of persons or a Hindu Undivided Family but these are general provisions in respect of a 'specified person', who can be any juridical person. However, clause (vi) of the explanation is more specific in respect of the 'specified person' being an individual. It is submitted that clause (vi) being a specific provision with reference to 'specified person' being an individual will be applicable to the present case of the petitioner-Company instead of general provisions of clauses (iv) and (v) of the explanation.

17. The respondents have further reiterated that clauses (iv) and (v) of the explanation govern those relations where there is an indirect link between the specified and related persons for the purpose of clause (ia) of Section 245C(1) of the Act, 1961 contrary to clause (vi) of the explanation, the same governs the

relations where there is a direct link between specified and related persons.

18. The respondents have submitted that the taxing statutes are to be strictly interpreted and there is no intention of the legislature for considering shareholding of one or more Directors cumulatively and if the legislature has not provided clubbing of the shareholding of different persons to determine substantial interest of the person, the same cannot be considered.

19. Counsel for the respondents Mr.Siddharth Bapna has opposed the prayer sought in the writ petition and has submitted that the impugned order, passed by the Settlement Commission, does not require any interference by this Court.

20. I have heard counsel for the parties. It would be appropriate to quote Section 245C of the Act, 1961 to examine the present controversy, which reads as follows:-

“Application for settlement of cases.

245C. (1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided :

Provided that no such application shall be made unless,—

- (i) in a case where proceedings for assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of a person referred to in section 153A or section 153C have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees,

(ia) in a case where—

- (A) the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as "specified person"); and
- (B) the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated,

the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,

- (ii) in any other case, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,

and such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.

Explanation.—For the purposes of clause (ia),—

- (a) the applicant, in relation to the specified person referred to in clause (ia), means,—
 - (i) where the specified person is an individual, any relative of the specified person;
 - (ii) where the specified person is a company, firm, association of persons or Hindu undivided family, any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;
 - (iii) any individual who has a substantial interest in the business or profession of the specified person, or any relative of such individual;
 - (iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the specified person or any director, partner or member of such company, firm, association

or family, or any relative of such director, partner or member;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the specified person; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,—

(A) where the specified person being an individual, or any relative of such specified person, has a substantial interest in the business or profession of that person; or

(B) where the specified person being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person;

(b) a person shall be deemed to have a substantial interest in a business or profession, if—

(A) in a case where the business or profession is carried on by a company, such person is, on the date of search, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power; and

(B) in any other case, such person is, on the date of search, beneficially entitled to not less than twenty per cent of the profits of such business or profession.

(1A) For the purposes of sub-section (1) of this section , the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

(1B) Where the income disclosed in the application relates to only one previous year,—

- (i) if the applicant has not furnished a return in respect of the total income of that year, then, tax shall be calculated on the income disclosed in the application as if such income were the total income;
- (ii) if the applicant has furnished a return in respect of the total income of that year, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income.

(1C) The additional amount of income-tax payable in respect of the income disclosed in the application relating to the previous year referred to in sub-section (1B) shall be,—

- (a) in a case referred to in clause (i) of that subsection, the amount of tax calculated under that clause;
- (b) in a case referred to in clause (ii) of that subsection, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income returned for that year;

(1D) Where the income disclosed in the application relates to more than one previous year, the additional amount of income-tax payable in respect of the income disclosed for each of the years shall first be calculated in accordance with the provisions of sub-sections (1B) and (1C) and the aggregate of the amount so arrived at in respect of each of the years for which the application has been made under subsection (1) shall be the additional amount of income-tax payable in respect of the income disclosed in the application.

(2) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

(4) An assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also intimate the Assessing Officer in the prescribed manner of having made such application to the said Commission.

21. This court finds from the perusal of the impugned order dated 03.01.2018 that there were total 11 applications which were filed under Section 245D(2C) of the Act, 1961 on 31.10.2017. The application No.RJ/JP-51/17-18/39-IT was filed by the petitioner-Company. The impugned order further reflects that the applications No.1 to 4 and 6 were filed by the individuals, application No.5 was filed by the firm and applications No.7 to 11 were filed by the Companies. The present petitioner-Company, assailing the impugned order dated 03.01.2018, was at S.No.11 in the Settlement Application.

22. A perusal of the impugned order passed by the Settlement Commission shows that the Settlement Commission has taken a view that explanation (iv) and (v) are not applicable to the case of the petitioner-Company and the case was to be governed by explanation (vi). The Settlement Commission has taken a view that word 'substantial interest' in the business requires that Directors should have such substantial interest, as defined in the Act, 1961 under clause (b).

23. The Settlement Commission has further taken a view that substantial interest was lacking in the instant case and the petitioner-Company cannot take recourse to the provisions of clause (v) of the explanation. The Settlement Commission has further found capping of 20% interest of a Director as substantial interest cannot be permitted to be added or included and adding of interest would defeat the very objective of the legislature of capping 20%, as a requirement.

24. The submission of counsel for the petitioner that petitioner's case would fall under clause (v) of the Explanation (a) to Section 245C of the Act, 1961, this court finds no substance in the said submission. The existence of substantial interest of the Director in the business or profession of the specified person cannot be considered as covering the case falling under clause (v) of the Explanation to Section 245C of the Act, 1961.

25. The submission of counsel that the Director of the Company has 100% interest in the business or profession of the specified person as fulfilling the substantial interest, cannot be accepted.

26. The submission of counsel for the petitioner that collective stake of all three specified persons exceeds 20% in the petitioner-Company and alternatively it gets covered under clause (vi)(B) of Explanation (a) of Section 245C(1) of the Act, 1961, this court finds that the said contention is not to be accepted as capping of 20% is a requirement under the Act.

27. This court has taken into account the averment of the petitioner-Company where share percentage of three share holders is individually is under:-

Ram Jashandas Bhatia	-	7.3%
Deepak Rajwanshi	-	11%
Arun Mehta	-	11%

28. The bare perusal of definition of 'substantial interest, as per clause (a) of clause (vi) of Explanation to Section 245(1) of the Act, 1961 clearly reveals that a share holder should carry not less than 20% of the voting power of a Company. Clubbing of share

holding by different share holders to make it 20% of having substantial interest, is not permissible under the law.

29. The submission of learned counsel for the petitioner that the relevant provisions need to be suitably read down to hold the petitioner-Company being covered under the expression, is wholly without substance.

30. This court also does not agree to the submission of learned counsel for the petitioner that alternatively, the case of the petitioner-Company will fall under clause (vi)(A) of Explanation of clause (1)(a) of Section 245C of the Act, 1961, as the petitioner-Company is covered by the expression of 'any person' who carries on a business or profession in which the specified person i.e. Shri Ram Jashandas Bhatia holds substantial interest, this court finds that the submission is wholly without any substance and even the provisions of Section 13 of the General Clauses Act to read singular as plural for the term 'person' used under clause (B) of Explanation, cannot be construed in the manner, as has been canvassed.

31. This court finds that the Delhi High Court in the case of Rockland Hotels Ltd. Vs. Income Tax Settlement Commission, Principal Bench and Ors. [Writ Petition (Civil) No.3557/2014] and other connected writ petitions by its judgment dated 20.10.2015 has interpreted the entire Section 245C of the Act, 1961 dealing with the applications for settlement of the cases. The Delhi High Court has interpreted the clauses of Section 235C of the Act, 1961

and the portions of the judgment, relevant for the present purpose, are quoted hereunder:-

"5. From a reading of clause (a) (v) of the Explanation to subsection (1) to section 245C, it emerges that the following twelve categories of persons are covered in the definition of related parties for the purposes of clause (ia) of the Proviso to sub-section (1) to section 245C of the Act under that clause.

- (i) **a company, a director of which, has a substantial interest in the business or profession of the specified person; or**
- (ii) a firm, a partner of which, has a substantial interest in the business or profession of the specified person; or
- (iii) an association of persons, a member of which, has a substantial interest in the business or profession of the specified person; or
- (iv) a Hindu undivided family, a member of which, has a substantial interest in the business or profession of the specified person; or
- (v) **any director, of such a company or**
- (vi) any partner, of such a firm or
- (vii) any member, of such an association of persons; or
- (viii) any member, of such a Hindu undivided family; or
- (ix) **any relative of such a director of such company; or**
- (x) any relative of such a partner of such firm; or
- (xi) any relative of such a member of such association of persons; or
- (xii) any relative of such a member of such Hindu undivided family.

(highlight & underlining supplied)

6. From a reading of clause (a) (vi) of the Explanation to subsection (1) to section 245C, it emerges that, if,

- (i) **the specified person (being a company), that company; or**
- (ii) the specified person (being a firm), that firm; or
- (iii) the specified person (being an association of persons), that association; or
- (iv) the specified person (being a Hindu undivided family), that family; or
- (v) **any director of such specified person (company); or**
- (vi) any partner of such specified person (firm); or
- (vii) any member of such specified person (association of persons); or
- (viii) any member of such specified person (Hindu undivided family); or

- (ix) any relative of such director of such a specified person (company); or
- (x) any relative of such partner, of such a specified person (firm); or
- (xi) any relative of such member, of such specified person (association of persons); or
- (xii) any relative of such member, of such specified person (Hindu undivided family),
(highlight & underlining supplied)

has a substantial interest, in the business and profession of any person, who carries on a business or profession, then, such person is also covered in the definition of related parties for the purposes of clause (ia) of the Proviso to sub-section 1 to section 245C of the Act.

7. So, under clause (a)(v), only if a director of the applicant company has a substantial interest in the specified person (company), then, the applicant company, its directors and relatives of its directors qualify as related parties. A company would not qualify as a related party merely because any relative of one of its directors has a substantial interest in the specified person. However, under clause (a)(vi), the applicant would qualify as a related party, if a specified person (company) or any of its directors or any relative of any of its directors have a substantial interest in the applicant.

8. The following flow chart would explain the provision graphically:

Clause (a)(v)

Specified Person (SP)	←	Related Party (RP)	Qualified
Director of SP	→	Director of RP	Qualified
Relative of Director of SP	→	Relative of Director of RP	Qualified

Clause (a)(vi)

Specified Person (SP), or	→	Related Party (RP)	Qualified
Director of SP, or	→	Director of RP	-----
Relative of Director of SP	→	Relative of Director of RP	-----

(where → signifies having a substantial interest)

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18. Applying the parameters of clauses (a)(v) and (a)(vi), only if a director of the petitioner companies has a substantial interest in the specified person (company), then,

the petitioner companies, their directors and relatives of their directors qualify as related parties. The Petitioner companies would not qualify as a related party merely because any relative of one of its directors has a substantial interest in the specified person. Further, the petitioner companies would qualify as a related party, if a specified person (company) or any of its directors or any relative of any of its directors have a substantial interest in the petitioner companies.

19. In the case of the abovementioned 9 petitioners clause (a)(vi) is stated to be applicable and they are stated to be related parties to M/s Rockland Hospitals Ltd. Therefore the specified person (i.e. M/s Rockland Hospitals Ltd.) or any of its directors or any relative of any of its directors should have a substantial interest in the petitioner companies. Admittedly, neither M/s. Rockland Hospitals Ltd. nor any of its directors or their relatives hold any substantial interest in the applicant companies. In all the 9 petitioners, M/s. Rockland Pvt. Ltd and not the specified person (M/s Rockland Hospitals Ltd.) is the only shareholder having substantial interest. Though, 3 directors of the specified person (M/s Rockland Hospitals Ltd.) claim to have substantial interest in Rockland Pvt. Ltd. Individually, however, these 3 Directors either do not have shareholdings in the 9 petitioners or their shareholding is less than 9%. Consequently, these Directors do not have a substantial interest in either of the 9 petitioners. The plea that the directors of the specified person (M/s Rockland Hospitals Ltd.) hold an indirect share in the Petitioner company, i.e. through M/s Rockland Pvt. Ltd. and is thus qualified, in our view, is not sustainable in as much as we have held that the use of the word "means" signifies the intention of the legislature to make the definition "hard and fast". If the intention of the legislature had been to permit scope of the same to be enlarged to include having substantial interest indirectly through another entity, the legislature would have specified so as has been done in the case of Explanation (b)(A).

20. Beneficial owner of the share as referred to in Explanation (b)(A) refers to shares held in a company by a person either in his own name or in the name of other, persons. A corporate entity is a separate legal entity. Merely because a director of the specified person holds shares in a company which in turn holds shares in the Petitioner would not make the director the beneficial holder of the shares of the Petitioner and thus qualify the petitioner as a related party. We do not find any infirmity with the reasoning of the Settlement Commission. Since the conditions of Explanation (a)(vi)(B) are not satisfied, these writ petitions are thus liable to be dismissed.

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23. The finding of the Settlement Commission is that there is no shareholder having substantial interest in this company i.e. there is no shareholder having more than 20% shares in the Petitioner companies. As there is no person holding substantial interest in these 3 companies, conditions mentioned in Explanation (a)(vi)(B) are not satisfied. The words used are "any director of such company" and "any relative of such director". If the intention of the legislature had been to cumulatively consider the shareholding of more than one directors or more than one relative of such directors to constitute substantial interest, then it would have specified so. Since the legislature has not provided for clubbing of the shareholding of different persons to determine substantial interest, the same cannot be considered. The fact that the legislature has catered for a situation of beneficial ownership of shares shows that the omission of clubbing of shareholding is not unintentional.

24. The alleged fact that four directors of the specified person (M/s Rockland Hospitals Ltd.) hold 50% shares of the petitioner companies does not satisfy the condition. The requirement is that an individual director must hold more than 20% shares, which apparently is not the case. The further plea that the family members of Srivastava family and the Bhandari Family hold more than 20% of the shares of the specified person (M/s Rockland Hospitals Ltd.) and the petitioner companies and further that the petitioner companies have invested 100% share capital in the specified person (M/s Rockland Hospitals Ltd.) is of no avail. As elucidated hereinabove, under clause (a)(v), only if a director of the Petitioner companies had a substantial interest in the specified person (M/s Rockland Hospitals Ltd.), then, the petitioner companies, their directors and relatives of their directors qualify as related parties. Under clause (a)(vi), the petitioner companies would qualify as related parties, if the specified person (M/s Rockland Hospitals Ltd.) or any of its directors or any relative of any of its directors had a substantial interest in the petitioner companies. This is clearly not the case. Thus, we do not find any infirmity with the reasoning of the Settlement Commission. These writ petitions are also liable to be dismissed."

32. So far as the reliance placed by the learned counsel for the petitioner on the judgment of the High Court of Karnataka in the case of **Commissioner of Income-tax Vs. Khoobchand M. Makhija** reported in **(2014) 43 Taxmann.com 143 (Karnataka)** is concerned, the perusal of the said judgment reveals that Section 54 of the Act, 1961 read with Section 13 of

the General Clauses Act for the purpose of capital gain was under consideration. The High Court of Karnataka considered the definition of residential house and if by selling one residential house, the assessee invested the sale consideration in purchasing of two residential houses, the acquisition of two residential houses by assessee out of capital gain was to fall within the phrase 'a residential house' and accordingly the assessee was entitled to benefit conferred under Section 54(1) of the Act, 1961.

33. This court finds that the case cited by the learned counsel for the petitioner, has no application in the instant case.

34. This court does not find any illegality in the impugned order dated 03.01.2018 passed by the Income Tax Settlement Commission, Principal Bench, New Delhi and as such the present writ petition is dismissed. No costs.

(ASHOK KUMAR GAUR),J

Solanki DS, PS

