

Petitioner cannot be penalised for the inability of the Settlement Commission -Bombay HC

16 August 2022



Summary

In the present case, the petitioner had approached the Bombay High Court (HC) in respect to the order passed by the Settlement Commission abating the application, since it could not be disposed before the cut-off date. In this respect, the HC stated that the petitioner should be permitted to file a fresh application before the Settlement Commission. Further, the provisions cannot be construed as punishing the petitioner due to failure of the Settlement Commission to dispose the application in prescribed¹ time limit, for matters completely beyond his control, where such delay is not attributable to the petitioner. The HC requested the Settlement Commission to dispose the application in the first hearing itself since it had already been admitted.

Facts of the case

- The petitioner² had approached the HC for the order passed by the Settlement Commission. The Settlement Commission concluded the application³ filed by petitioner as abated since it did not get disposed before the cut-off date. The settlement commission gave liberty to the petitioner to file fresh application.
- The petitioner contended that it had diligently pursued its application, however, the department created an impediment in the progress of the proceedings before the Settlement Commission by challenging the interim order passed.
- The petitioner submitted that the department caused inordinate delay as it created a situation of simultaneously pursuing the case before multiple forums. This caused an obstruction for petitioner's application to be considered by the Settlement Commission.

Bombay HC observations and ruling⁴

- **Petitioner cannot be punished due to inability of the Settlement Commission:** The petitioner should be permitted to file a fresh application before the Settlement Commission, which will consider the case on the merits in accordance with the law. Further, the provisions cannot be construed as punishing the petitioner for the inability of the Settlement Commission to dispose the application within the specified time.
- **Disposal of application:** The time lost from the date of the impugned order till the filing of application shall be excluded. Further, since the application had already been admitted earlier, hence the HC requested the Settlement Commission to try to dispose the applicant in the first hearing itself.

¹ Section 127(c)(6) of Custom Act 2015.

² Gurjeet Singh

³ Section 127b of Custom Act 2015.

⁴ Writ Petition No. 563 Of 2009, dated 14 July 2022

Our comments

Earlier, the Bombay HC in case of Star television News Limited had also held that the petitioner cannot be punished for the inability of the Settlement Commission to dispose the application in prescribed time limit, where such delay is not attributable to the petitioner. This decision was upheld by the Hon'ble Apex Court.

This is a welcoming ruling, protecting the right of the taxpayers and will set precedence in similar matters.

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