

SYNOPSIS

245A. Definitions

245AA. Interim Boards for Settlement

245B. Income-tax Settlement Commission

245BA. Jurisdiction and powers of Settlement Commission

245BB. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances

245BC. Power of Chairman to transfer cases from one Bench to another

245BD. Decision to be by majority

245C. Application for settlement of cases

245D. Procedure on receipt of an application under section 245C

245DD. Power of Settlement Commission to order provisional attachment to protect revenue

245E. Power of Settlement Commission to reopen completed proceedings

245F. Powers and procedure of Settlement Commission

245G. Inspection, etc., of reports

245H. Power of Settlement Commission to grant immunity from prosecution and penalty

245HA. Abatement of proceeding before Settlement Commission

245HAA. Credit for tax paid in case of abatement of proceedings

245-I. Order of settlement to be conclusive

245J. Recovery of sums due under order of settlement

245K. Bar on subsequent application for settlement in certain cases

245L. Proceedings before Settlement Commission to be judicial proceedings

245M. Option to withdraw pending application

245A. Definitions

In this Chapter, unless the context otherwise requires, –

(a) “Bench” means a Bench of the Settlement Commission;

(b) “case” means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made:

~~~~~  
Explanation: For the purposes of this clause-

(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced--

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142;

(iii) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment shall be deemed to have commenced from the date on which such order, setting aside or cancelling an assessment was passed;

(iiia) a proceeding for assessment or reassessment for any of the assessment years, referred to in clause (b) of sub-section (1) of section 153A in case of a person referred to in section 153A or section 153C, shall be deemed to have commenced on the date of issue of notice initiating such proceedings and concluded on the date on which the assessment is made;

(iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia), shall be deemed to have commenced from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on

~~~~~

~~~~~

which the assessment is made; or on the expiry of the time specified for making assessment under sub-section (1) of section 153, in case where no assessment is made;

(c) “Chairman” means the Chairman of the Settlement Commission;

(d) “Income-tax authority” means an income-tax authority specified in section 116;

(da) “Interim Board” means the Interim Board for Settlement constituted under section 245AA;

(e) “Member” means a Member of the Settlement Commission, and includes the Chairman and a Vice-Chairman;

(ea) “Member of the Interim Board” means a Member of the Interim Board;

(eb) “pending application” means an application which was filed under section 245C and which fulfils the following conditions, namely:--

(i) it was not declared invalid under sub-section (2C) of section 245D; and

(ii) no order under sub-section (4) of section 245D was issued on or before the 31st day of January, 2021 with respect to such application;

(f) “Settlement Commission” means the Income-tax Settlement Commission constituted under section 245B;

(g) “Vice-Chairman” means a Vice-Chairman of the Settlement Commission and include a Member who is senior amongst the Members of a Bench.

### **245AA. Interim Boards for Settlement**

~~~~~

~~~~~

(1) The Central Government shall constitute one or more Interim Boards for Settlement, as may be necessary, for the settlement of pending applications.

(2) Every Interim Board shall consist of three members, each being an officer of the rank of Chief Commissioner, as may be nominated by the Board.

(3) If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of the majority.

**245B. Income-tax Settlement Commission**

(1) The Central Government shall constitute a Commission to be called the Income-tax Settlement Commission for the settlement of cases under this Chapter.

(2) The Settlement Commission shall consist of a Chairman and as many Vice Chairmen and other Members as the Central Government thinks fit and shall function within the Department of the Central Government dealing with direct taxes.

(3) The Chairman, Vice-Chairman and other Members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and, experience in, problems relating to direct taxes and business accounts:

Provided that, where a Member of the Board is appointed as the Chairman, Vice-Chairman or as a Member of the Settlement Commission, he shall cease to be a Member of the Board.

Provided that the Income-tax Settlement Commission so constituted shall cease to operate on or after the 1st day of February, 2021.

~~~~~

245BA. Jurisdiction and powers of Settlement Commission

(1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Settlement Commission may be exercised by Benches thereof.

(2) Subject to the other provisions of this section, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of two other Members.

(3) The Bench for which the Chairman is the Presiding Officer shall be the principal Bench and the other Benches shall be known as additional Benches.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the Chairman may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench.

(5) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be the Presiding Officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the Presiding Officer or in the office of one or the other Members of the Bench, the remaining two persons may function as the Bench and if the Presiding Officer of the Bench is not one of the remaining two persons, the senior among the remaining persons shall act as the Presiding Officer of the Bench:

Provided that if at any stage of the hearing of any such case or matter, it appears to the Presiding Officer that the case or matter

~~~~~

is of such a nature that it ought to be heard of by a Bench consisting of three Members, the case or matter may be referred by the Presiding Officer of such Bench to the Chairman for transfer to such Bench as the Chairman may deem fit.

(5A) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a Special Bench consisting of more than three Members.

(6) Subject to the other provisions of this Chapter, the places at which the principal Bench and the additional Benches shall ordinarily sit shall be such as the Central Government may, by notification in the Official Gazette, specify and the Special Bench shall sit at a place to be fixed by the Chairman.

**245BB. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances**

(1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the

~~~~~

~~~~~

Chairman until the date on which the Chairman resumes his duties.

**245BC. Power of Chairman to transfer cases from one Bench to another**

On the application of the assessee or the Principal Chief Commissioner or Commissioner Principal Commissioner or Commissioner and after notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.

Provided that the provisions of this section shall not apply on or after the 1st day of February, 2021

**245BD. Decision to be by majority**

If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.

Provided that the provisions of this section shall not apply on or after the 1st day of February, 2021

**245C. Application for settlement of cases**

~~~~~

~~~~~

(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 year, 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 year, 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 subsection (1B) shall be,—

(a) in a case referred to in clause (i) of that sub-section, the amount of tax calculated under that clause;

(b) in a case referred to in clause (ii) of that sub-section, 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 sub-section (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<sup>7</sup>.

(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 subsection (1) to the Settlement Commission, also intimate the Assessing Officer in the prescribed<sup>9</sup> manner of having made such application to the said Commission.

(5) No application shall be made under this section on or after the 1st day of February, 2021.

**245D. Procedure on receipt of an application under section 245C**

(1) On receipt of an application under section 245C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

Provided that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Principal Commissioner or Commissioner.

~~~~~

~~~~~

(2A) Where an application was made under section 245C before the 1st day of June, 2007, but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the income disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

Explanation: In respect of the applications referred to in this sub-section, the 31st day of July 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) The Settlement Commission shall,-

(i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or

(ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that subsection, on or before the 7th day of August, 2007, call for a report from the Principal Commissioner or Commissioner] and the Principal Commissioner or Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the Principal Commissioner or Commissioner, called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the report and within a period

~~~~~

~~~~~  
of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Principal Commissioner or Commissioner:

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

Provided also that where in respect of an application, an order, which was required to be passed under this sub-section on or before the 31st day of January, 2021, has not been passed on or before the 31st day of January, 2021, such application shall deemed to be valid.

(2D) Where an application was made under sub-section (1) of section 245C before the 1st day of June, 2007 and an order under the provisions of subsection (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional tax on the income disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.

~~~~~

(3) The Settlement Commission, in respect of-

(i) an application which has not been declared invalid under sub-section (2C); or

(ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section,

may call for the records from the Principal Commissioner or Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Principal Commissioner or Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Principal Commissioner or Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

Provided that where the Principal Commissioner or Commissioner does not furnish the report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

(4) After examination of the records and the report of the Principal Commissioner or Commissioner, if any, received under-

(i) sub-section (2B) or sub-section (3), or

(ii) the provisions of sub-sections (1) as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Principal Commissioner or Commissioner to be heard, either in

~~~~~

~~~~~  
person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Principal Commissioner or Commissioner.

(4A) The Settlement Commission shall pass an order under sub-section (4),-

(i) in respect of an application referred to in sub-section (2A) or subsection (2D), on or before the 31st day of March, 2008;

(ii) in respect of an application made on or after the 1st day of June, 2007 but before the 1st day of June, 2010, within twelve months from the end of the month in which the application was made.

(iii) in respect of an application made on or after the 1st day of June, 2010, within eighteen months from the end of the month in which the application was made.

(5) Subject to the provisions of section 245BA, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (4) and, in relation to the passing of such order, the provisions of section 245BD shall apply.

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the


~~~~~  
settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(6A) Where any tax payable in pursuance of an order under sub-section (4) is not paid by the assessee within thirty-five days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such tax or has allowed payment thereof by installments, the assessee shall be liable to pay simple interest at one and one-fourth per cent for every month or part of a month on the amount remaining unpaid from the date of expiry of the period of thirty-five days aforesaid.

(6B) The Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed under sub-section (4)--

(a) at any time within a period of six months from the end of the month in which the order was passed; or

(b) at any time within the period of six months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be:

Provided that no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of six months from the end of the month in which an order under sub-section (4) is passed by the Settlement Commission:

Provided further that an amendment which has the effect of modifying the liability of the applicant shall not be made under

~~~~~

this sub-section unless the Settlement Commission has given notice to the applicant and the Principal Commissioner or Commissioner of its intention to do so and has allowed the applicant and the Principal Commissioner or Commissioner an opportunity of being heard.

(7) Where a settlement becomes void as provided under sub-section (6), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the income-tax authority concerned, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void.

(8) For the removal of doubts, it is hereby declared that nothing contained in section 153 shall apply to any order passed under sub-section (4) or to any order of assessment, reassessment or recomputation required to be made by the Assessing Officer in pursuance of any directions contained in such order passed by the Settlement Commission and nothing contained in the proviso to sub-section (1) of section 186 shall apply to the cancellation of the registration of a firm required to be made in pursuance of any such directions as aforesaid.

(9) On and from the 1st day of February, 2021, the provisions of sub-sections (1), (2), (2B), (2C), (3), (4), (4A), (5), (6) and (6B) shall apply to pending applications allotted to Interim Board with the following modifications, namely:--

(i) for the words "Settlement Commission", wherever they occur, the words "Interim Board" shall be substituted;

~~~~~

(ii) for the word "Bench", the words "Interim Board" shall be substituted;

(iii) for the purposes of this section, the date referred to in sub-section (2) of section 245M shall be deemed to be date on which the application was made under section 245C and received by the Interim Board;

(iv) where the time-limit for amending any order or filing of rectification application under sub-section (6B) expires on or after the 1st day of February, 2021, but before the 1st day of February, 2022, such time-limit shall be extended to the 30th day of September, 2023.

(10) On and from the 1st day of February, 2021, the provisions of sub-sections (6A) and (7) shall have effect as if for the words "Settlement Commission", the words "Settlement Commission or Interim Board of Settlement" had been substituted.

(11) The Central Government may by notification in the Official Gazette, make a scheme, for the purposes of settlement in respect of pending applications by the Interim Board, so as to impart greater efficiency, transparency and accountability by--

(a) eliminating the interface between the Interim Board and the assessee in the course of proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a mechanism with dynamic jurisdiction.

(12) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (11), by notification in the Official Gazette, direct that any of the provisions of this

~~~~~

~~~~~

Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023

(13) Every notification issued under sub-section (11) and sub-section (12) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

**245DD. Power of Settlement Commission to order provisional attachment to protect revenue**

(1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in the Second Schedule :

Provided that where a provisional attachment made under section 281B is pending immediately before an application is made under section 245C, an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under section 281B would have continued if such application had not been made:

Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section (2) shall apply to such order as if the said order had originally been passed by the Settlement Commission.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after

~~~~~

~~~~~

the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit

(3) On and from the 1st day of February, 2021, the power of the Settlement Commission under this section shall be exercised by the Interim Board and the provisions of this section shall mutatis mutandis apply to the Interim Board as they apply to the Settlement Commission.

**245E. Power of Settlement Commission to reopen completed proceedings**

If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act by any income-tax authority before the application under section 245C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be reopened by the Settlement Commission under this section if the period between the end of the assessment year to which such a proceeding relates and the date of application for settlement under section 245C exceeds nine years.

Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an

~~~~~

~~~~~  
application under section 245C is made on or after the 1st day of June, 2007.

**245F. Powers and procedure of Settlement Commission**

(1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in an income-tax authority under this Act.

(2) Where an application made under section 245-C has been allowed to be proceeded with under section 245-D, the Settlement Commission shall, until an order is passed under sub-section (4) of section 245-D, have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of an income-tax authority under this Act in relation to the case:

Provided that where an application has been made under section 245-C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where-

(i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245-D; or

(ii) an application is not allowed to be proceeded with under sub-section (2-A) of section 245-D, or, as the case may be, is declared invalid under sub-section (2-C) of that section; or

(iii) an application is not allowed to be further proceeded with under sub-section (2-D) of section 245-D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction upto the date on which the

~~~~~  
application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment in relation to the matters before the Settlement Commission.

(4) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(7) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

245G. Inspection, etc., of reports

No person shall be entitled to inspect, or obtain copies of, any reports made by any income-tax authority to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee1:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record

~~~~~

against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Provided further that on or after the 1st day of February, 2021, functions of the Settlement Commission under this section shall be performed by the Interim Board and the provisions of this section shall mutatis mutandis apply to Interim Board as they apply to the Settlement Commission.

**245H. Power of Settlement Commission to grant immunity from prosecution and penalty**

(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose for the reasons to be recorded in writing, immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860), or under any other Central Act for the time being in force and also (either wholly or in part) from the imposition of any penalty under this Act, with respect to the case covered by the settlement:

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 245C

Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian

~~~~~



~~~~~

Penal Code (45 of 1860) or under any Central Act other than this Act and the Wealth-tax Act, 1957 (27 of 1957) to a person who makes an application under section 245C on or after the 1st day of June, 2007.

(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.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

(3) On and from the 1st day of February, 2021, the power of the Settlement Commission under this section shall be exercised by the Interim Board and the provisions of this section shall mutatis mutandis apply to the Interim Board as they apply to the Settlement Commission.

**245HA. Abatement of proceeding before Settlement Commission**

~~~~~

~~~~~

(1) Where-

(i) an application made under section 245C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 245D; or

(ii) an application made under section 245C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 245D; or

(iii) an application made under section 245C has been declared as invalid under sub-section (2C) of section 245D; or

(iiia) in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement; or

(iv) in respect of any other application made under section 245C, an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D,

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation: For the purposes of this sub-section, “specified date” means -

(a) in respect of an application referred to in clause (i), the day on which the application was rejected;

(b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;

(c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;

~~~~~

~~~~~  
(ca) in respect of an application referred to clause (iiia), the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement;

(d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 245D expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other income-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other income-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under sections 149, 153, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment under sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 245C and ending with “specified date” referred to in sub-section (1) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the

~~~~~

~~~~~  
firm under subsection (1) of section 186, the period aforesaid shall, likewise, be excluded.

#### **245HAA. Credit for tax paid in case of abatement of proceedings**

Where an application made under section 245C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D, or any other application made under section 245C is not allowed to be proceeded with under sub-section (2A) of section 245D or is declared invalid under subsection (2C) of section 245D or has not been allowed to be further proceeded with under sub-section (2D) of section 245D or an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.

#### **245-I. Order of settlement to be conclusive**

Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act, or under any other law for the time being in force.

#### **245J. Recovery of sums due under order of settlement**

Any sum specified in an order of settlement passed under sub-section (4) of section 245D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of Chapter XVII, by

~~~~~

the Assessing Officer having jurisdiction over the person who made the application for settlement under section 245C.

245K. Bar on subsequent application for settlement in certain cases

(1) Where –

(i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or

(iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he or any person related to such person (herein referred to as related person) shall not be entitled to apply for settlement under section 245C in relation to any other matter.

(2) Where a person has made an application under section 245C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 245D, such person or any related person shall not be subsequently entitled to make an application under section 245C.

Explanation.--For the purposes of this section, "related person" with respect to a person means,--

(i) where such person is an individual, any company in which such person holds more than fifty per cent. of the shares or voting

~~~~~

~~~~~

rights at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than fifty per cent. of the profits at any time, or any Hindu undivided family in which such person is a karta;

(ii) where such person is a company, any individual who held more than fifty per cent. of the shares or voting rights in such company at any time before the date of application before the Settlement Commission by such person;

(iii) where such person is a firm or association of persons or body of individuals, any individual who was entitled to more than fifty per cent. of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;

(iv) where such person is a Hindu undivided family, the karta of that Hindu undivided family.

245L. Proceedings before Settlement Commission to be judicial proceedings

Any proceeding under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860).

245M. Option to withdraw pending application

(1) With respect to a pending application, the assessee who had filed such application may, at his option, withdraw such application within a period of three months from the date of commencement of the Finance Act, 2021 and intimate the Assessing Officer, in the prescribed manner, about such withdrawal.

~~~~~

~~~~~

(2) Where the option under sub-section (1) is not exercised by the assessee within the time allowed under that sub-section, the pending application shall be deemed to have been received by the Interim Board on the date on which such application is allotted or transferred to the Interim Board under sub-section (3).

(3) The Board may, by an order, allot any pending application to any Interim Board and may also transfer, by an order, any pending application from one Interim Board to another Interim Board.

(4) Where the pending application is allotted to an Interim Board under sub-section (3) or transferred to another Interim Board subsequently, all the records, documents or evidences, by whatever name called, with the Settlement Commission shall be transferred to such Interim Board and shall be deemed to be the records before it for all purposes.

(5) Where the assessee exercises the option under sub-section (1) to withdraw his application, the proceedings with respect to the application shall abate on the date on which such application is withdrawn and the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made:

Provided that for the purposes of the time-limit under sections 149, 153, 153B, 154 and 155 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or re-assessment under this sub-section, the period commencing on and from the date of the application to the Settlement Commission under section 245C

~~~~~

and ending with the date referred to in this sub-section shall be excluded:

Provided further that the income-tax authority shall not be entitled to use the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of proceedings before it:

Provided also that nothing contained in the first proviso shall apply in relation to the material and other information collected, or results of the inquiry held or evidence recorded by the Assessing Officer, or as the case may be, other income-tax authority during the course of any other proceeding under this Act irrespective of whether such material or other information or results of the inquiry or evidence were also produced by the assessee or the Assessing Officer before the Settlement Commission.

~~~~~