

## **Income tax Settlement Commission (Procedure) Rules, 1987**

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## **Income tax Settlement Commission (Procedure) Rules, 1987**

In exercise of the powers conferred by sub-section (7) of Section 245-F of the Income- tax Act, 1961 (43 of 1961) and in supersession of the Income-tax Settlement Commilsion (Procedure) Rules, 1976, except as respects things done or omitted to be done before such supersession, the Income-tax Settlement Commission hereby makes the following rules, namely:-

### **1. Short title and commencement :-**

(1) These rules may be called the Income-tax Settlement Commission (Procedure) Rules, 1987.

(2) They shall come into force on the 1st day of June, 1987.

### **2. Definitions :-**

In these rules, unless the context otherwise requires,-

- (i) "Act" means the Income-tax Act, 1961 (43 of 1961);
- (ii) "applicant" means a person who makes an application to the Commission under sub-section (1) of Section 245-C to have a case relating to him settled ;
- (iii) "authorised representative" means-
- (a) in relation to an applicant, except where such applicant is required under any of the provisions of Chapter XIX-A of the Act to attend in person, a person who would be entitled to represent him before any income-tax authority or the Appellate Tribunal under Section 288 ;
- (b) in relation to a Commissioner, a person-
- (A) authorised by the Commissioner in writing; or
- (B) duly appointed by the Central Government by notification in the Official Gazette as authorised representative, to appear, plead or act for the Commissioner in any proceedings before the Commission ;
- (iv) "Commission" means the Income-tax Settlement Commission constituted under sub-section (1) of Section 245-B and includes, where the context so requires, any Bench exercising or discharging the powers or functions of the Commission ;
- (v) "Secretary" means a Secretary of the Commission and includes a Deputy Secretary and an Administrative Officer of the Commission;
- (vi) "Section" means a section of the Act;
- (vii) "Settlement application" means an application made by a person to the Commission under sub-section (1) of Section 245-C to have a case relating to him settled;
- (viii) all other words and expressions used in these rules and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

### **3. Language of the Commission :-**

- (1) All pleadings before the Commission may, at the option of the applicant, be in Hindi or in English.
- (2) All orders and other proceedings of the Commission, may, at

the option of the Commission be in Hindi or in English.

#### **4. Signing of notices, etc :-**

(1) Any requisition, direction, letter, authorisation, order or written notice to be issued by the Commission shall be signed by the Chairman or a Vice-Chairman or any other Member of the Commission or by a Secretary.

(2) Nothing in sub-rule (1) shall apply to any requisition or direction which the Commission may, in the course of the hearing, issue to an applicant or a Commissioner or an authorised representative, personally.

#### **5. Procedure for filing settlement application :-**

(1) A settlement application shall be presented by the applicant in person or by his agent to the Secretary at the headquarters of the Commission at New Delhi or of the Bench within whose jurisdiction his case falls or to an officer authorised in this behalf by the Secretary, or shall be sent by registered post addressed to the Secretary, or to such officer.

(2) A settlement application sent by post under sub-rule (1) shall be deemed to have been presented to the Secretary or the officer authorised by the Secretary, on the day on which it is received in the office of the Commission.

#### **6. Commissioners report etc., under Section 245-D :-**

(1).-On receipt of a settlement application, a copy of the said application (other than the Annexure and the statements and other documents accompanying such Annexure) shall be forwarded by the Commission to the Commissioner with the direction to furnish his report under sub-section (1) of Section 245-D within thirty days of the receipt of the said copy of the application by him or within such further period as the Commission may specify.

#### **7. Filing of affidavit :-**

Where a fact which cannot be borne out by, or is contrary to, the record relating to the case is alleged in the settlement application (including the Annexure and the statements or other documents accompanying such Annexure), it shall be stated clearly and concisely and supported by a duly sworn affidavit.

#### **8. Commissioners further report :-**

Where an order is passed by the Commission under sub-section (1)

of Section 245-D allowing the settlement application to be proceeded with, a copy of the Annexure to the said application, together with a copy of each of the statements and other documents accompanying such Annexure, shall be forwarded to the Commissioner along with a copy of the said order with the direction that the Commissioner shall furnish a further report within ninety days of the receipt of the said Annexure (including the statements and other documents accompanying it or within such further period as the Commission may specify.

**9. Date and place for hearing of application to be notified :-**

On receipt of the Commissioner's further report under Rule 8, the Commission shall notify to the applicant and the Commissioner the date and place of hearing of the application.

**10. Sitting of Bench :-**

A Bench shall hold its sittings at its headquarters or such other place as it may consider convenient.

**11. Powers of Bench :-**

A Bench shall dispose of such settlement applications or matters arising therefrom as the Chairman may by general or special order direct.

**12. Filing of authorisation :-**

An authorised representative appearing for the applicant at the hearing of an application shall file before the commencement of the hearing a document authorising him to appear for the the applicant and if he is a relative of the applicant, the document shall state the nature of his relationship with the applicant, or if he is a person regularly employed by the applicant, the capacity in which he is at the time employed.

**13. Verification of additional facts.-Where in the course of any proceedings before the Commission any facts not :-**

contained in the settlement application (including the Annexure and the statements and other documents accompanying such Annexure) are alleged, they shall be submitted to the Commission in writing and shall be verified in the same manner as provided for in the settlement application.

**14. Proceedings not open to the public :-**

The proceedings before the Commission shall not be open to the public and no person (other than the applicant, his employee, the concerned officers of the Income-tax Department or the authorised

representatives) shall, without the permission of the Commission, remain present during such proceedings.

**15. Adjournment of hearing of application :-**

The Commission may, on such terms as it thinks fit and at any stage of the proceedings, adjourn the hearing of the application.

**16. Special provisions in respect of settlement applications made, before 1-10-1984 :-**

(1) Where, in respect of a settlement application made before the 1st day of October, 1984, an order is passed by the Commission under sub-section (1) of Section 245-D allowing the application to be proceeded with, a notice shall be issued by the Commission to the applicant requiring him to furnish in quintuplicate-

(a) a full and true statement of facts regarding the matters to be settled (including the manner in which any income disclosed or proposed to be disclosed by the applicant has been derived); and where the settlement involves determination of income, accompanied with annexures containing-

(i) computation of total income of the applicant for the assessment year or years to which the settlement application relates, in accordance with the provisions of the Act;

(ii) copies of manufacturing account or trading account or both, as the case may be ; profit and loss account or income and expenditure account or any other similar account, as the case may be, and balance-sheet ; and

(iii) in the case of-

(A) a proprietary business or profession, copy of the personal account of the proprietor ;

(B) a firm or association of persons or body of individuals, copies of the personal accounts of the partners or members thereof, as the case may be; and

(C) a partner of a firm or a member of an association of persons or body of individuals, copies of the personal account of such partner or member in the firm or association or persons or body of individuals, as the case may be;

(b) the terms of settlement sought for by the applicant.

(2) The statement of facts, the annexures thereto and the terms of settlement shall each be signed separately by the applicant and the state- ment of facts shall be verified in the following manner, namely :- "1.....son/daughter/ [Name i n full and in Block letters] wife of..... solemnly declare that to the best of my knowledge and belief, the information given in this statement of facts and the annexures accom- panying it is correct and complete and other particulars shown therein are truly stated. I further declare that I am making this statement in my capacity as..... (Designation) and that] I am competent to make this statement of facts and to verify it. Place..... Signature"

(3) Where a fact which cannot be borne out by, or is contrary to, the record relating to the case is alleged in the statement of facts furnished under sub-rule (1), it shall be stated clearly and concisely and supported by a duly sworn affidavit.

(4) On receipt of the statement of facts and the terms of settlement under sub-rule (1), the Commission shall forward a copy thereof to the Commissioner calling for Bis further report.