IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No.	Petitioners	Respondents.
2 of 2012	M/s.Ajmera Housing Corporation and anr.	The Income Tax Settlement Commission and ors.
3 of 2012	M/s.Vijaynagar Corporation and anr.	The Income Tax Settlement Commission and ors.
4 of 2012	M/s. Yogi Corporation and anr.	The Income Tax Settlement Commission and ors.
5 of 2012	M/s.Ajmera Housing Corporation and anr.	The Income Tax Settlement Commission and ors.
6 of 2012	Shri. Ishwarlal S. Ajmera	The Income Tax Settlement Commission and ors.
7 of 2012	Shri. Chhotalal S.Ajmera	The Income Tax Settlement Commission and ors.
8 of 2012	Vimlaben B. Ajmera	The Income Tax Settlement Commission and ors.
9 of 2012	Kokilaben S. Ajmera	The Income Tax Settlement Commission and ors.
10 of 2012	Shailesh B. Ajmera	The Income Tax Settlement Commission and ors.

11 of 2012	Chhotalal S. Ajmera	The Income Tax Settlement Commission and ors.
12 of 2012	Shashikant S. Ajmera	The Income Tax Settlement Commission and ors.
13 of 2012	Jyotiben N.Ajmera	The Income Tax Settlement Commission and ors.
14 of 2012	Shashikant S.Ajmera(HUF)	The Income Tax Settlement Commission and ors.
15 of 2012	Rajnikant S. Ajmera(HUF)	The Income Tax Settlement Commission and ors.
16 of 2012	Ishwarlal S.Ajmere	The Income Tax Settlement Commission and ors.
17 of 2012	Bhanumati C.Ajmera	The Income Tax Settlement Commission and ors.
18 of 2012	Natwarlal S.Ajmera	The Income Tax Settlement Commission and ors.
19 of 2012	Rajnikant S. Ajmera	The Income Tax Settlement Commission and ors.
20 of 2012	Natwarlal S.Ajmera	The Income Tax Settlement Commission and ors.

21 of 2012	Jayant S. Ajmera	The Income Tax Settlement Commission and ors.
22 of 2012	Smt.Bhanumati C.Ajmera	The Income Tax Settlement Commission and ors.

Mr. J. D.Mistri, Senior Counsel i/by Ms. Vasanti B. Patel for the Petitioners.
Mr. Anil Singh, A.S.G. i/by Mr. Abhay Ahuja for the Respondents.

CORAM : M.S.SANKLECHA &, J.
S.C. GUPTE, JJ.

DATE : 18 NOVEMBER 2014.

P.C. :-

Heard.

2) Admit.

3) The challenge in the present proceeding is to the order dated 10 April 2011 under Section 245D(4) of the Income Tax Act ("the Act") and the order dated 7 November 2011 passed on the Rectification Application filed under Section 245D(6B) of the Act passed by the Income Tax Settlement Commission (Settlement Commission). Normally the Court would not interfere with the final order of the Settlement Commission passed under Section 245D(4)

of the Act unless the same is contrary to the provisions of the Act or ignores the settled law or is perverse and arbitrary.

4) This group of petitions has been filed by four partnership firms and its partners against the common impugned orders dated 10 April 2011 and 7 November 2011. The petitioners are in the business of construction and following the project completion method of Accounting and all amounts received by them were being offered to tax in the year of the completion of the project. It appears to be an undisputed position as reflected in the impugned orders that the on money received by the petitioner during the Assessment Year 1989-90 to 1993-94 was actually offered to tax in the year of the completion of the project in respect of which the on money was received. Nevertheless the impugned orders subject the same amount of on money to the tax for the A.Y. 1989-90 to 1993-94 on receipt basis. The grievance of the petitioner is that it is being subjected to tax twice over the same amount is disposed of by the impugned orders by directing the petitioner to seek appropriate remedy even when the assessment

for the year in which the on money amount was offered is complete and nothing is pending. The contention of the petitioner that the amounts so received during the subject years 1989-90 to 1992-93 are appropriately offered to tax on the completion of the project to which the onmoney is related is supported by the decision of this Court in Income Tax Appeal No.1537 of 2010 (CIT vs. Jalaram Jagruti Development Pvt. Ltd.) rendered on 23 November 2010 and Income Tax Appeal No.1849 of 2011(CIT vs. M/s.Guruprena Enterprises) rendered on 4 March 2012. Thus, the petitioner's contention would require consideration.

5) Hearing expedited. The respondents waive service.

6) As the issue relates to an application for settlement for A.Y. 1989-90 to 1993-94, the hearing of the petition is expedited. At the request of the Counsel for the parties the petition to be on board on 14 January 2015 before the Bench to which these matters are assigned under the caption "Directions".

(S.C. GUPTE, J.) **(M.S.SANKLECHA,J.)**