IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.NOS.10474, 10505, 10509, 10516, 10521, 10522, 10527, 10475, 10496, 10484, 10497, 10498, 10492, 10494, 10500, 10478, 12854 AND 12855 OF 2021

1 T.S.KUMARASAMY,
PROPRIETOR CHRISTY FRIEDGRAM INDUSTRY,
A 2 AND A 3 SIDCO INDUSTRIAL ESTATE
ANDIPALAYAM, TIRUCHENGODE
NAMAKKAL DISTRICT-637214

... PETITIONER in WP.No.10474 of 2021

1 SUVARNABHOOMI ENTERPRISES PVT.LTD
REP.BY ITS DIRECTOR NO.2, AMMAN NAGAR
MYLAMPATTI POST KARAYAMPALAYAM
COIMBATORE 641062.

... PETITIONER in WP No.10505 of 2021

1 SUVARNABHOOMI ENTERPRISES PVT. LTD
REP. BY ITS DIRECTOR NO.2 AMMAN NAGAR
MYLAMPATTI POST KARAYAMPALAYAM
COIMBATORE 641062.

... PETITIONER in WP No.10509 of 2021

1 NATURAL FOOD PRODUCTS
3/276 KUTTAKADU MUTHUKALIPATTI
RASIPURAM, PIN 637408.

... PETITIONER in WP No.10516 of 2021

1 NATURAL FOOD PRODUCTS
3/276 KUTTAKADU MUTHUKALIPATTI
RASIPURAM, PIN 637408.

... PETITIONER in WP No.10521 of 2021

1 NATURAL FOOD PRODUCTS
3/276 KUTTAKADU MUTHUKALIPATTI
RASIPURAM PIN 637408.

... PETITIONER in WP No.10522 of 2021

1 NATURAL FOOD PRODUCTS
3/276 KUTTAKADU MUTHUKALIPATTI
RASIPURAM PIN 637408.

... PETITIONER in WP No.10527 of 2021

1 T.S.KUMARASAMY
PROPRIETOR CHRISTY FRIEDGRAM INDUSTRY
A 2 AND A 3 SIDCO INDUSTRIAL ESTATE
ANDIPALAYAM TIRUCHENGODE
NAMAKKAL DISTRICT-637214

... PETITIONER in WP No.10475 of 2021

1 SUVARNABHOOMI ENTERPRISES PVT. LTD
REP. BY ITS DIRECTOR NO.2 AMMAN NAGAR
MYLAMPATTI POST KARAYAMPALAYAM
COIMBATORE 641062.

... PETITIONER in WP No.10496 of 2021

1 T.S.KUMARASAMY
PROPRIETOR CHRISTY FRIEDGRAM INDUSTRY
A 2 AND A 3 SIDCO INDUSTRIAL ESTATE
ANDIPALAYAM TIRUCHENGODE
NAMAKKAL DISTRICT-637214

... PETITIONER in WP No.10484 of 2021

1 RASI NUTRI FOODS
1/67-A AND 1/67-B SALEM - TRICHY ROAD
AYEEPALAYAM ATHANUR POST RASIPURAM
PIN - 636301.

... PETITIONER in WP No.10497 of 2021

1 RASI NUTRI FOODS
1/67-A AND 1/67-B SALEM - TRICHY ROAD
AYEEPALAYAM ATHANUR POST RASIPURAM
PIN - 636301.

... PETITIONER in WP No.10498 of 2021

1 RASI NUTRI FOODS
1/67-A AND 1/67-B SALEM - TRICHY ROAD
AYEEPALAYAM ATHANUR POST RASIPURAM
PIN - 636301.
... PETITIONER in WP No.10492 of 2021

1 RASI NUTRI FOODS
1/67-A AND 1/67-B SALEM - TRICHY ROAD
AYEEPALAYAM ATHANUR POST RASIPURAM
PIN - 636301.
... PETITIONER in WP No.10494 of 2021

1 SUVARNABHOOMI ENTERPRISES PVT. LTD
REP. BY ITS DIRECTOR NO.2 AMMAN NAGAR
MYLAMPATTI POST KARAYAMPALAYAM
COIMBATORE 641062.
... PETITIONER in WP No.10500 of 2021

1 T.S.KUMARASAMY
PROPRIETOR CHRISTY FRIEDGRAM INDUSTRY
A 2 AND A 3 SIDCO INDUSTRIAL ESTATE
ANDIPALAYAM TIRUCHENGODE
NAMAKKAL DISTRICT-637214

... PETITIONER in WP No.10478 of 2021

1 SUVARNABHOOMI ENTERPRISES PVT.LTD
NO.2 AMMAN NAGAR MYLAMPATTI POST
KARAYAMPALAYAM COIMBATORE 641 062

... PETITIONER in WP No.12854 of 2021

1 RASI NUTRI FOODS
1/67-A AND 1/67-B REP BY ITS PARTNER SALEM
TRICHY ROAD AYEEPALAYAM ATHANUR POST
RASIPURAM PIN 636 301

... PETITIONER in WP No.12855 of 2021

-VS-

1 Union of India,
Rep by its Finance Secretary,
Department of Revenue, Ministry of Finance,
3rd Floor, Jeevan Deep Building,
Sansad Marg, New Delhi- 110001.

2 Interim Board for Settlement,
Formerly Known as Income Tax Settlement,
Commission Additional Bench, Chennai
Rep.by Its Secretary Satguru Complex,
640, Annasalai, Nandanam, Ch-34

3 Assistant Commissioner of Income Tax,
Central circle 2(1), Investigation
Building, Mahatma Gandhi Road,
Chennai-34.

... Respondents in All WPs.

Prayer:

These Writ Petitions are filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus,

WP No.10474 of 2021:-

Issue Writ of Mandamus directing the 2nd Respondents to consider the application dated 05.03.2021 in accordance with the provisions of 245D of the Income Tax 1961.

WP No.10505 of 2021:-

Directing the 2nd respondent to consider the application dated 05/03/2021 in accordance with the provisions of 245 D of the Income Tax 1961 and grant such other relief as this Honourable court may deem fit.

WP No.10509 of 2021:-

Declaring that any proceedings against the petitioner in violation of Chapter XIX - A of the Income Tax Act, 1961 is unlawful and against the constitution of India in view of the application dated 05/03/2021 of the petitioner filed before the Income Tax Settlement commission for settlement of the case of the petitioner before the amended section 245 C of the Income Tax Act, 1961 had been given effect by the Finance Act 2021 and grant such other relief as this Honourable Court may deem fit.

WP No.10516 of 2021:-

Directing the 2nd respondent to consider the application dated 05/03/2021 in accordance with the provisions of 245D of the Income Tax Act, 1961 and grant such other relief as this Honourable Court may deem fit.

WP No.10521 of 2021:-

Declaring Clause 67 of the Finance Act, 2021 dated 01/04/2021 giving retrospective effect from 01/02/2021 as being void ab initio, ultra vires the Constitution especially being inconsistent with Article 14 of constitution of India in so far as it accords preferential / differential treatment to assessees whose cases falls prior to cut off date of 31/01/2021 and consequently to strike down the cut off date fixed i.e. 31/01/2021 in the statute as unconstitutional, arbitrary, discriminatory and illegal and grant such other relief as this Honoruable court may deem fit.

WP No.10522 of 2021:-

Declaring that the amendment to Section 245 C vide Clause 67 of the Finance Act, 2021 is unconstitutional as it takes away the right of the Petitioner to file an application vested under Sec 245 C of the Income Tax Act 1961, as availed by the petitioner vide application dated 05/03/2021, before the passing of Finance Act, 2021 that has brought into force the amended section and consequently to declare that the right invoked by the petitioner vide his Income Tax Settlement Commission application No.80/2021 dated 18/03/2021 under Sec.245 of the Income Tax Act, 1961 is lawful by virtue of the said application and grant such other relief as this Honourable court may deem fit.

WP No.10527 of 2021:-

Declaring that any proceedings against the petitioner in violation of Chapter XIX - A of the Income Tax Act, 1961, is unlawful and against the Constitution of India in view of the application dated 05/03/2021 of the petitioner filed before the Income Tax settlement commission for Settlement of thre case of the petitioner before the amended section 245 C of the Income Tax Act, 1961 had been given effect by the Finance Act 2021 and grant such other relief as this Honourable court may deem fit.

WP No.10475 of 2021:-

Declaring that the amendment to section 245 C vide clause 67 of the Finance Act 2021 is unconstitutional as it takes away the right of the petitioner to file an application vested under sec 245C of the Income Tax Act 1961 as availed by the petitioner vide application dated 05.03.2021 before the passing of Finance Act 2021 that has brought into force the amended section and consequently to declare that the right invoked by the petitioner vide his Income Tax Settlement commission application No.90/2021 dated 19.03.2021 under sec 245C of the Income Tax Act 1961 is lawful by virtue of the said applications.

WP No.10496 of 2021:-

Declaring that the amendment to Section 245 C vide Clause 67 of the Finance Act, 2021 is unconstitutional as it takes away the right of the Petitioner to file an application vested under Sec 245 C of the Income Tax Act 1961, as availed by the petitioner vide application dated 05/03/2021, before the passing of Finance Act, 2021 that has brought into force the amended section and consequently to declare that the right invoked by the petitioner vide his Income Tax Settlement Commission application No.82/2021 dated 18/03/2021 under Sec.245 C of the Income Tax Act, 1961 is lawful by virtue of the said application and grant such other relief as this Honourable Court may deem fit.

WP No.10484 of 2021:-

Declaring Clause 67 of the Finance Act 2021 dated 01.04.2021 giving retrospective effect from 01.02.2021 as being void ab initio, ultra vires the constitution especially being inconsistent with Article 14 of Constitution of India in so far as it accords preferential/differential treatment to assesses whose cases falls prior to cut off dated of 31.01.2021 and consequently to strike down the cut off date fixed i.e.31.01.2021 in the statute as unconstitutional arbitrary, discriminatory and illegal to grant relief as this Court may deem fit.

WP No.10497 of 2021:-

Declaring that the amendment to Section 245 C vide Clause 67 of the Finance Act, 2021 is unconstitutional as it takes away the right of the Petitioner to file an application vested under Sec 245 C of the Income Tax Act, 1961 as availed by the

Petitioner vide application dated 05.03.2021, before the passing of Finance Act, 2021 that has brought into force the amended section and consequently to declare that the right invoked by the Petitioner vide his Income Tax Settlement commission application No.81/2021 dated 18.03.2021 under Sec 245C of the Income Tax Act, 1961 is lawful by virtue of the said application and grant such other relief as this Honourable Court may deem fit.

WP No.10498 of 2021:-

Declaring that any proceedings against the Petitioner in violation of Chapter XIX - A of the Income Tax Act, 1961 is unlawful and against the Constitution of India in view of the application dated 05.03.2021 of the Petitioner filed before the Income Tax Settlement Commission for Settlement of the Case of the Petitioner before the amended section 245 C of the Income Tax Act, 1961 had been given effect by the Finance Act, 2021 and grant such other relief as this Honourable Court may deem fit.

WP No.10492 of 2021:-

Declaring clause 67 of the Finance Act, 2021 dated 01.04.2021 giving retrospective effect from 01.02.2021 as being void ab initio, ultra vires the Constitution especially being inconsistent with Article 14 of India in so far as it accords preferential/differential treatment to assesses whose cases falls prior to cut off date of 31.01.2021 and consequently to strike down the cut off date fixed i.e., 31.01.2021 in the statute as unconstitutional, arbitrary, discriminatory and illegal and grant such other relief as this Honourable Court may deem fit.

WP No.10494 of 2021:-

Directing the 2nd Respondent to consider the application dated 05.03.2021 in accordance with the provisions of 245D of the Income Tax Act, 1961 and grant such other relief as this Honourable Court may deem fit.

WP No.10500 of 2021:-

Declaring clause 67 of the Finance Act, 2021 dated 01/04/2021 giving retrospective effect from 01/02/2021 as being void ab initio, ultra views the constitution especially being inconsistent with Article 14 of Constitution of India in so far as it accords preferential/differential treatment to assessees whose cases falls prior to cut off dated of 31/01/2021 and consequently to strike down the cut off date fixed i.e 31/01/2021 in the statute as unconstitutional arbitrary, discriminatory and illegal and grant such other relief as this Honourable court may deem fit.

WP No.10478 of 2021:-

Declaring that any proceedings against the petitioner in violation of Chapter XIX -A of the Income Tax Act 1961 is unlawful and against the constitution of India in view of the application dated 05.03.2021 of the petitioner filed before the Income Tax Settlement commission for settlement of the case of the petitioner before the amended section 245C of the Income Tax Act 1961 had been given effect by the Finance Act 2021

WP No.12854 of 2021:-

Declare that the amended provisions of Finance Act 2021 pertaining to Chapter XIX A of Income Tax Act 1961 Settlement of Cases is unconstitutional, arbitrary void, anomalous, inconsistent non est in the eye of law and same could not be applied and interpreted to further the primary object of the amended provisions of Finance Act 2021 in the absence of any object and reason spelt out in the impugned Finance Act 2021 and grant such other further order or orders as this Hon'ble Court may deem fit.

WP No.12855 of 2021:-

Declare that the amended provisions of Finance Act 2021 pertaining to Chapter XIX A of Income Tax Act 1961 Settlement of Cases is unconstitutional, arbitrary void, anomalous, inconsistent non est in the eye of law and same could not be applied and interpreted to further the primary object of the amended provisions of Finance Act 2021 in the absence of any object and reason spelt out in the impugned Finance Act 2021 and grant such other further order or orders as this Honble Court may deem fit.

For the Petitioners in all WPs. except WPs.12854 & 12855/21	:	Mr.R.Janakiraman
For the Petitioners in WPs.12854 & 12855/21	:	Mr.Lesi Saravanan
For the Respondents	:	Mr.R.Rajesh Vivekanandan Asst. Solicitor General for R-1 in all WPs.
	:	Mr.A.P.Srinivas, Stdg. Counsel for RR 2 and 3 in all WPs.

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Since the petitioners do not press the petitions, inter alia, on the ground that no immediate relief is necessary, W.P.Nos.10474, 10505, 10509, 10516, 10521, 10522, 10527, 10475, 10496, 10484, 10497, 10498, 10492, 10494, 10500, 10478, 12854 and 12855 of 2021 are dismissed as not pressed without going into the merits thereof.

2. This order will not stand in the way of fresh petitions being brought at the appropriate stage. There will be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To:

1 The Finance Secretary,
Union of India,
Department of Revenue, Ministry of Finance,
3rd Floor, Jeevan Deep Building,
Sansad Marg, New Delhi- 110001.

2 The Secretary,
Income Tax Settlement Commission/
Interim Board, Satguru Complex,
640, Anna Salai, Nandanam,
Chennai-600035.

3 The Assistant Commissioner of Income Tax,
Central circle 2(1), Investigation
Building, Mahatma Gandhi Road,
Chennai-34.

+1cc to Mr.Lesi Saravanan, Advocate, S.R.No.47154
+1cc to Mr.R.Janakiraman, Advocate, S.R.No.47153

W.P.Nos.10474, 10505, 10509,
10516, 10521, 10522, 10527, 10475,
10496, 10484, 10497, 10498, 10492,
10494, 10500, 10478, 12854 and
12855 of 2021

SV-I(CO)
CS/27/09/2021