IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

Present :- Hon'ble Mr. Justice Md. Nizamuddin

W.P.O. No. 116 of 2022

AMRITVANI DEALER PVT. LIMITED
Vs.
UNION OF INDIA AND ORS.

With

W.P.O. No. 116 of 2022, W.P.O. No. 118 of 2022, W.P.O. No. 119 of 2022, W.P.O. No. 120 of 2022, W.P.O. No. 122 of 2022, W.P.O. No. 123 of 2022, W.P.O. No. 126 of 2022, W.P.O. No. 127 of 2022, W.P.O. No. 128 of 2022, W.P.O. No. 131 of 2022, W.P.O. No. 132 of 2022, W.P.O. No. 133 of 2022, W.P.O. No. 134 of 2022, W.P.O. No. 135 of 2022, W.P.O. No. 136 of 2022, W.P.O. No. 137 of 2022, W.P.O. No. 138 of 2022, W.P.O. No. 139 of 2022, W.P.O. No. 140 of 2022, W.P.O. No. 141 of 2022, W.P.O. No. 142 of 2022, W.P.O. No. 143 of 2022, W.P.O. No. 145 of 2022, W.P.O. No. 214 of 2022, W.P.O. No. 218 of 2022, W.P.O. No. 219 of 2022, W.P.O. No. 235 of 2022, W.P.O. No. 236 of 2022, W.P.O. No. 237 of 2022, W.P.O. No. 238 of 2022, W.P.O. No. 239 of 2022, W.P.O. No. 240 of 2022, W.P.O. No. 241 of 2022, W.P.O. No. 242 of 2022, W.P.O. No. 243 of 2022, W.P.O. No. 244 of 2022, W.P.O. No. 245 of 2022, W.P.O. No. 246 of 2022, W.P.O. No. 247 of 2022, W.P.O. No. 248 of 2022, W.P.O. No. 249 of 2022,W.P.O. No. 250 of 2022, W.P.O. No. 251 OF 2022, W.P.O. No. 252 of 2022, W.P.O. No. 253 of 2022, W.P.O. No. 254 of 2022, W.P.O. No. 255 of 2022, W.P.O. No. 256 of 2022, W.P.O. No. 257 of 2022, W.P.O. No. 258 of 2022, W.P.O. No. 259 of 2022, W.P.O. No. 260 of 2022, W.P.O. No. 261 of 2022, W.P.O. No. 262 of 2022, W.P.O. No. 263 of 2022, W.P.O. No. 264 of 2022, W.P.O. No. 265 of 2022, W.P.O. No. 266 of 2022, W.P.O. No. 267 of 2022, W.P.O. No. 268 of 2022, W.P.O. No. 269 of 2022, W.P.O. No. 270 of 2022, W.P.O. No. 271 of 2022, W.P.O. No. 272 of 2022, W.P.O. No. 273 of 2022, W.P.O. No. 278 of 2022, W.P.O. No. 279 of 2022, W.P.O. No. 280 of 2022, W.P.O. No. 281 of 2022, W.P.O. No.

282 of 2022, W.P.O. No. 283 of 2022, W.P.O. No. 284 of 2022, W.P.O. No. 285 of 2022, W.P.O. No. 286 of 2022, W.P.O. No. 287 of 2022, W.P.O. No. 288 of 2022, W.P.O. No. 289 of 2022, W.P.O. No. 290 of 2022, W.P.O. No. 291 of 2022, W.P.O. No. 292 of 2022, W.P.O. No. 293 of 2022, W.P.O. No. 295 of 2022, W.P.O. No. 296 of 2022, W.P.O. No. 297 of 2022, W.P.O. No. 298 of 2022, W.P.O. No. 299 of 2022, W.P.O. No. 300 of 2022, W.P.O. No. 301 of 2022, W.P.O. No. 302 of 2022, W.P.O. No. 303 of 2022, W.P.O. No. 304 of 2022, W.P.O. No. 306 of 2022, W.P.O. No. 307 of 2022, W.P.O. No. 308 of 2022, W.P.O. No. 309 of 2022, W.P.O. No. 310 of 2022, W.P.O. No. 458 of 2022, W.P.O. No. 463 of 2022.

For the Petitioners :-

Mr. Subash Agarwal, Mr. Brijesh Kumar Singh, Mr. Avijit Dey, Ms. Sapna Das, Mr. Siddhartha Das, Mr. Pradeep Jewrajka, Ms. Pooja Jewrajka, Mr. Pratyush Jhunjhunwala, Mr. Samit Rudra, Ms. Ankita Dey, Mr. Anurag Bagaria, Mr. Anil Kumar Dugar, Mr. Rajarshi Chatterjee, Mr. Govind Tethodia, Mr. Rites Goel, Mr. Saurav Jain, Mr. Amani Kayan, Mr. Zubeen Pandey, Advocates

For the Respondents :-

Mr. S.N. Dutta, Mr. Asok Bhowmik, Mr. Prabir Kumar Bhowmik, Ms. Sucharita Biswas, Mr. P.K. Bhowmick, Mr. Tilak Mitra, Mr. Sararajit Ray Chowdhury, Advocates

Dated : 27th January, 2022

MD. NIZAMUDDIN, J.

Heard Learned Counsels appearing for the parties.

In view of involvement of common question of law and similarity of facts in all these Writ Petitions, with the consent of the parties all these Writ Petitions have been heard together and are being decided by the present common judgement and order.

Common facts and issues involved in all these Writ Petitions as appear on perusal of relevant record and upon considering the submissions of the parties are that the petitioners are aggrieved by the issuance of impugned notices under Section 148 of the Income Tax Act, 1961 on the ground that the same are barred by limitation and the respondent Income Tax Authority concerned, before issuing the impugned notices under Section 148 of the Income Tax Act, have not observed the statutory formalities under Section 148 A of the Income Tax Act as prescribed by the Finance Act, 2021 which are applicable with effect from 1st April, 2021 before issuance of notices under Section 148 of the Act on or after 1st April, 2021.

Issues arising in all the present Writ Petitions are purely legal and in all these Writ Petitions the assessees/petitioners have sought relief of quashing of the impugned re-assessment notices issued post 31st March, 2021 by the respondent Income Tax Authority concerned under Section 148 of the Income Tax Act, assessees/petitioners have also sought relief by way of a declaration declaring Explanations A(a)(ii)/A(b) to the Notification No. 20 [S.O. 1432 (E) dated 31st March, 2021 and Notification No. 38 [S.O.1703 (E)] dated 27th April, 2021 to the extent that the same extend the applicability of the "provisions of Section 148, Section 149 and Section 151 of the Act, as the case may be, as they stood as on the 31st March, 2021, before the commencement of the Finance Act, 2021" to the period beyond 31st March, 2021 as ultra vires the parent legislation, viz., The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (hereinafter referred to as ' Relaxation Act, 2020').

At the outset, all the counsels appearing for the parties jointly submitted that the issues involved in these Writ Petitions are covered by the decision of the Division Bench of the Allahabad High Court dated 30th September, 2021 in the case of 'Ashok Kumar Agarwal –vs- Union of India through its Revenue Secretary North Block & Ors.' (Writ Tax No. 524/2021) decided in favour of assessees/petitioners on 30.09.2021 and order of Rajasthan High Court dated 25th November, 2021 in the case of Bpip Infra Private Limited-vs.- Income Tax Officer, Ward 4 (1), Jaipur (S.B. Civil Writ Petition No. 13297/2021) and the order of Delhi High Court 15th December, 2021 in the case of Man Mohan Kohli –vs- Assistant Commissioner of Income Tax & Anr. In (W.P. (C) 6176 of 2021) and judgement and order of this Court dated 17th January, 2022 in the case of Manoj Jain Vs. Union of India & Ors. In WPA No. 11950 of 2021 and in the case of Bagaria Properites and Investment Private Limited & Anr. In WPO 244 of 2021.

In view of judgement and order of this Court dated 17th January, 2022 in the case of Manoj Jain Vs. Union of India & Ors. In WPA No. 11950 of 2021 and in the case of Bagaria Properties and Investment Private Limited & Anr. in WPO No. 244 of 2021, all these Writ Petitions herein are disposed of by allowing the same. Explanations A(a)(ii)/A(b) to the Notifications dated 31st March, 2021 and 27th April, 2021 are declared to be ultra vires the Relaxation Act, 2020 and are therefore bad in law and null and void. All the impugned notices under Section 148 of the Income Tax Act are quashed with liberty to the Assessing Officers concerned to initiate fresh re-assessment proceedings in accordance with the relevant provisions of the

Act as amended by Finance Act, 2021 and after making compliance of the formalities as required by the law.

Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Md. Nizamuddin, J.)

Sbghosh