IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

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

W.P.O. No. 9 of 2022

BRIGHTMOON SUPPLY PVT LTD
Vs.
UNION OF INDIA AND ORS.

With

W.P.O. No. 31 of 2022, W.P.O. No. 32 of 2022, W.P.O. No. 37 of 2022, W.P.O. No. 46 of 2022, W.P.O. No. 47 of 2022, W.P.O. No. 121 of 2022, W.P.O. No. 124 of 2022, W.P.O. No. 125 of 2022, W.P.O. No. 129 of 2022, W.P.O. No. 130 of 2022, W.P.O. No. 146 of 2022, W.P.O. No. 147 of 2022, W.P.O. No. 148 of 2022, W.P.O. No. 149 of 2022, W.P.O. No. 150 of 2022, W.P.O. No. 151 of 2022, W.P.O. No. 152 of 2022, W.P.O. No. 153 of 2022, W.P.O. No. 154 of 2022, W.P.O. No. 155 of 2022, W.P.O. No. 156 of 2022, W.P.O. No. 157 of 2022, W.P.O. No. 158 of 2022, W.P.O. No. 159 of 2022, W.P.O. No. 160 of 2022, W.P.O. No. 161 of 2022, W.P.O. No. 162 of 2022, W.P.O. No. 163 of 2022, W.P.O. No. 164 of 2022, W.P.O. No. 165 of 2022, W.P.O. No. 166 of 2022, W.P.O. No. 167 of 2022, W.P.O. No. 168 of 2022, W.P.O. No. 169 of 2022, W.P.O. No. 170 of 2022, W.P.O. No. 171 of 2022, W.P.O. No. 172 of 2022, W.P.O. No. 173 of 2022, W.P.O. No. 174 of 2022, W.P.O. No. 175 of 2022, W.P.O. No. 176 of 2022, W.P.O. No. 177 of 2022, W.P.O. No. 178 of 2022, W.P.O. No. 179 of 2022, W.P.O. No. 180 of 2022, W.P.O. No. 181 of 2022, W.P.O. No. 182 of 2022, W.P.O. No. 183 of 2022, W.P.O. No. 184 of 2022, W.P.O. No. 185 of 2022, W.P.O. No. 186 of 2022, W.P.O. No. 187 of 2022, W.P.O. No. 188 of 2022, W.P.O. No. 189 of 2022, W.P.O. No. 190 of 2022, W.P.O. No. 191 of 2022, W.P.O. No. 192 of 2022, W.P.O. No. 193 of 2022, W.P.O. No. 194 of 2022, W.P.O. No. 195 of 2022, W.P.O. No. 196 of 2022, W.P.O. No. 197 of 2022, W.P.O. No. 198 of 2022, W.P.O. No. 199 of 2022, W.P.O. No. 200 of 2022, W.P.O. No. 201 of 2022, W.P.O. No. 202 of 2022, W.P.O. No. 203 of 2022, W.P.O. No. 205 of 2022, W.P.O. No. 206 of 2022,

W.P.O. No. 207 of 2022, W.P.O. No. 208 of 2022, W.P.O. No. 209 of 2022, W.P.O. No. 210 of 2022, W.P.O. No. 211 of 2022, W.P.O. No. 212 of 2022, W.P.O. No. 213 of 2022, W.P.O. No. 215 of 2022, W.P.O. No. 216 of 2022, W.P.O. No. 217 of 2022, W.P.O. No. 220 of 2022, W.P.O. No. 221 of 2022, W.P.O. No. 222 of 2022, W.P.O. No. 223 of 2022, W.P.O. No. 224 of 2022, W.P.O. No. 225 of 2022, W.P.O. No. 226 of 2022, W.P.O. No. 227 of 2022, W.P.O. No. 228 of 2022, W.P.O. No. 229 of 2022, W.P.O. No. 230 of 2022, W.P.O. No. 231 of 2022, W.P.O. No. 232 of 2022, W.P.O. No. 233 of 2022, W.P.O. No. 234 of 2022

For the Petitioners :-

Mr. A.K. Upadhyay, Ms. Shobha Upadhyay, Mr. Kawaljeet Singh, Mr. Subash Agarwal, Mr. Brijesh Kumar Singh, Mr. Arvind Agarwal, Mr. Farhan Ghaffar, Ms. Manika Kalra, Ms. Susmita Chakraborty, Mr. Pranit Bag, Ms. Swapna Das, Mr. Siddharth Das, Mr. Shiv Shankar Banerjee, Ms. Anupa Banerjee, Ms. Arijita Ghosh, **Advocates**

For the Respondents :-

Mr. S. N. Dutta, Mr. Smarajit Roy Chowdhury, Mr. P.K. Bhaumick, Mr. Tilak Mitra, Ms. Sucharita Biswas, **Advocates**

Dated : 25th 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 photo copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Md. Nizamuddin, J.)

TR/