IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

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

W.P.O. No. 311 of 2022

MANISH KEDIA
Vs.
UNION OF INDIA AND ORS.

With

W.P.O. No. 312 of 2022, W.P.O. No. 313 of 2022, W.P.O. No. 314 of 2022, W.P.O. No. 315 of 2022, W.P.O. No. 316 of 2022, W.P.O. No. 317 of 2022, W.P.O. No. 318 of 2022, W.P.O. No. 319 of 2022, W.P.O. No. 320 of 2022, W.P.O. No. 321 of 2022, W.P.O. No. 322 of 2022, W.P.O. No. 323 of 2022, W.P.O. No. 324 of 2022, W.P.O. No. 325 of 2022, W.P.O. No. 326 of 2022, W.P.O. No. 327 of 2022, W.P.O. No. 328 of 2022, W.P.O. No. 329 of 2022, W.P.O. No. 330 of 2022, W.P.O. No. 331 of 2022, W.P.O. No. 332 of 2022, W.P.O. No. 333 of 2022, W.P.O. No. 334 of 2022, W.P.O. No. 335 of 2022, W.P.O. No. 336 of 2022, W.P.O. No. 337 of 2022, W.P.O. No. 338 of 2022, W.P.O. No. 339 of 2022, W.P.O. No. 341 of 2022, W.P.O. No. 342 of 2022, W.P.O. No. 343 of 2022, W.P.O. No. 344 of 2022, W.P.O. No. 345 of 2022, W.P.O. No. 346 of 2022, W.P.O. No. 347 of 2022, W.P.O. No. 348 of 2022, W.P.O. No. 351 of 2022, W.P.O. No. 352 of 2022, W.P.O. No. 353 of 2022, W.P.O. No. 355 of 2022, W.P.O. No. 356 OF 2022, W.P.O. No. 357 of 2022, W.P.O. No. 361 of 2022, W.P.O. No. 362 of 2022, W.P.O. No. 363 of 2022, W.P.O. No. 364 of 2022, W.P.O. No. 365 of 2022, W.P.O. No. 366 of 2022, W.P.O. No. 367 of 2022, W.P.O. No. 368 of 2022, W.P.O. No. 369 of 2022, W.P.O. No. 370 of 2022, W.P.O. No. 371 of 2022, W.P.O. No. 372 of 2022, W.P.O. No. 373 of 2022, W.P.O. No. 374 of 2022, W.P.O. No. 375 of 2022, W.P.O. No. 376 of 2022, W.P.O. No. 377 of 2022, W.P.O. No. 378 of 2022, W.P.O. No. 379 of 2022, W.P.O. No. 380 of 2022, W.P.O. No. 382 of 2022, W.P.O. No. 383 of 2022, W.P.O. No. 384 of 2022, W.P.O. No. 385 of 2022, W.P.O. No. 386 of 2022, W.P.O. No. 387 of 2022, W.P.O. No. 388 of 2022, W.P.O. No. 389 of 2022,

W.P.O. No. 390 of 2022, W.P.O. No. 391 of 2022, W.P.O. No. 392 of 2022, W.P.O. No. 393 of 2022, W.P.O. No. 394 of 2022, W.P.O. No. 395 of 2022, W.P.O. No. 396 of 2022, W.P.O. No. 399 of 2022, W.P.O. No. 400 of 2022, W.P.O. No. 401 of 2022, W.P.O. No. 402 of 2022, W.P.O. No. 403 of 2022, W.P.O. No. 404 of 2022, W.P.O. No. 405 of 2022, W.P.O. No. 408 of 2022, W.P.O. No. 409 of 2022, W.P.O. No. 410 of 2022, W.P.O. No. 411 of 2022, W.P.O. No. 412 of 2022, W.P.O. No. 414 of 2022, W.P.O. No. 415 of 2022.

For the Petitioners :-

Mr. Subash Agarwal, Mr. Brijesh Kumar Singh, Mr. Pranit Bag, Mr. Anujit Mookherjee, Mr. Avijit Dey, Ms. Sapna Das, Mr. Pradeep Jewrajka, Ms. Pooja Jewrajka, Ms. Jyoti Rauth, Mr. Pratyush Jhunjhunwala, Mr. Samit Rudra,, Mr. Amani Kayan, Mr. Zubeen Pandey, Mr. Hemat Tiwari, Ms. Aparajita Rao, Ms. Sutapa Mitra, Mr. Sanwal Tibrewal, Mr. N. Agarwal, Mr. A.K. Upadhyay, Mrs. Shobha Upadhyay, Mr. Kawaljeet Singh, Mr. Anmol Jagga, Advocates

For the Respondents :-

Mr. S.N. Dutta, Ms. Sucharita Biswas, Mr. P.K. Bhowmick, Mr. Tilak Mitra, Advocates

Dated : 28th January, 2022

<u>MD. NIZAMUDDIN, J.</u>

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