

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

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

W.P.O. No. 397 of 2022

SHREE KARTIKEY VANIJYA PVT LTD

Vs.

INCOME TAX OFFICER, WARD NO. 1(1), KOLKATA AND ORS.

With

W.P.O. No. 398 of 2022, W.P.O. No. 416 of 2022, W.P.O. No. 417 of 2022, W.P.O. No. 418 of 2022, W.P.O. No. 420 of 2022, W.P.O. No. 421 of 2022, W.P.O. No. 422 of 2022, W.P.O. No. 423 of 2022, W.P.O. No. 424 of 2022, W.P.O. No. 425 of 2022, W.P.O. No. 426 of 2022, W.P.O. No. 427 of 2022, W.P.O. No. 428 of 2022, W.P.O. No. 429 of 2022, W.P.O. No. 445 of 2022, W.P.O. No. 447 of 2022, W.P.O. No. 448 of 2022, W.P.O. No. 449 of 2022, W.P.O. No. 450 of 2022, W.P.O. No. 451 of 2022, W.P.O. No. 452 of 2022, W.P.O. No. 453 of 2022, W.P.O. No. 454 of 2022, W.P.O. No. 456 of 2022, W.P.O. No. 471 of 2022, W.P.O. No. 473 of 2022, W.P.O. No. 474 of 2022, W.P.O. No. 476 of 2022, W.P.O. No. 477 of 2022, W.P.O. No. 478 of 2022, W.P.O. No. 479 of 2022, W.P.O. No. 480 of 2022, W.P.O. No. 481 of 2022, W.P.O. No. 482 of 2022, W.P.O. No. 483 of 2022, W.P.O. No. 484 of 2022, W.P.O. No. 485 of 2022, W.P.O. No. 486 of 2022, W.P.O. No. 487 of 2022, W.P.O. No. 488 of 2022, W.P.O. No. 489 of 2022, W.P.O. No. 490 of 2022, W.P.O. No. 491 of 2022, W.P.O. No. 492 of 2022, W.P.O. No. 493 of 2022, W.P.O. No. 494 of 2022, W.P.O. No. 495 of 2022, W.P.O. No. 496 of 2022, W.P.O. No. 497 of 2022, W.P.O. No. 498 of 2022, W.P.O. No. 499 of 2022, W.P.O. No. 500 of 2022, W.P.O. No. 501 of 2022, W.P.O. No. 503 of 2022, W.P.O. No. 504 of 2022, W.P.O. No. 505 of 2022, W.P.O. No. 506 of 2022, W.P.O. No. 507 of 2022, W.P.O. No. 508 of 2022, W.P.O. No. 510 of 2022, W.P.O. No. 511 of 2022, W.P.O. No. 512 of 2022, W.P.O. No. 513 of 2022, W.P.O. No. 514 of 2022, W.P.O. No. 515 of 2022, W.P.O. No. 516 of 2022, W.P.O. No. 517 of 2022, W.P.O. No. 518 of 2022, W.P.O. No. 519 of 2022, W.P.O. No. 520 of 2022,

W.P.O. No. 521 of 2022, W.P.O. No. 522 of 2022, W.P.O. No. 523 of 2022, W.P.O. No. 524 of 2022, W.P.O. No. 525 of 2022, W.P.O. No. 527 of 2022, W.P.O. No. 529 of 2022

For the Petitioners :-

Mr. Anil Kumar Dugar, Mr. Rajarshi Chatterjee, Mr. Gobinda Dey, Mr. Pratyush Jhunjhunwala, Mr. P.K. Jhunjhunwala, Ms. Amani Kayan, Mr. Zubeen Panday, Ms. Aparajita Rao, Ms. Sutapa Mitra, Mr. Sanwal Tibrewal, Mr. Pradeep Kumar Jewrajka, Ms. Pooja Jewrajka, Ms. Jyoti Rauth, Mr. Rites Goel, Mr. Anurag Bagaria, Mr. Saurav Jain, Ms. Swapna Das, Mr. Siddharth Das, Mr. Soumya Kejriwal, Mr. Navin Mittal, Mr. Hemant Tiwari, **Advocates**

For the Respondents :-

Mr. P.K. Bhaumick, Mr. Smarajit Roy Chowdhury, Mr. Asok Bhowmik, Mr. Sunit Kr. Chatterji, Ms. Sucharita Biswas, Mr. Soumen Bhattacharjee, Mr. Tilak Mitra **Advocates**

Dated : 31st 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 assesseees/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, assesseees/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 assesseees/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/

