IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

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

W.P.O. No. 596 of 2022

VEDICAA SUPPLIERS PRIVATE LIMITED
Vs.
UNION OF INDIA AND ORS.

With

W.P.O. No. 597 of 2022, W.P.O. No. 598 of 2022, W.P.O. No. 599 of 2022, W.P.O. No. 600 of 2022, W.P.O. No. 602 of 2022, W.P.O. No. 603 of 2022, W.P.O. No. 604 of 2022, W.P.O. No. 605 of 2022, W.P.O. No. 606 of 2022, W.P.O. No. 607 of 2022, W.P.O. No. 608 of 2022, W.P.O. No. 609 of 2022, W.P.O. No. 610 of 2022, W.P.O. No. 613 of 2022, W.P.O. No. 621 of 2022, W.P.O. No. 624 of 2022, W.P.O. No. 626 of 2022, W.P.O. No. 628 of 2022, W.P.O. No. 631 of 2022, W.P.O. No. 635 of 2022, W.P.O. No. 640 of 2022, W.P.O. No. 642 of 2022, W.P.O. No. 647 of 2022, W.P.O. No. 649 of 2022, W.P.O. No. 675 of 2022, W.P.O. No. 676 of 2022, W.P.O. No. 677 of 2022, W.P.O. No. 679 of 2022, W.P.O. No. 680 of 2022, W.P.O. No. 681 of 2022, W.P.O. No. 682 of 2022, W.P.O. No. 683 of 2022, W.P.O. No. 684 of 2022, W.P.O. No. 685 of 2022, W.P.O. No. 686 of 2022, W.P.O. No. 688 of 2022, W.P.O. No. 689 of 2022, W.P.O. No. 690 of 2022, W.P.O. No. 691 of 2022, W.P.O. No. 692 of 2022, W.P.O. No. 693 of 2022, W.P.O. No. 694 of 2022, W.P.O. No. 695 of 2022, W.P.O. No. 696 of 2022, W.P.O. No. 697 of 2022, W.P.O. No. 699 of 2022, W.P.O. No. 700 of 2022, W.P.O. No. 702 of 2022, W.P.O. No. 704 of 2022, W.P.O. No. 706 of 2022, W.P.O. No. 708 of 2022, W.P.O. No. 729 of 2022, W.P.O. No. 730 of 2022, W.P.O. No. 731 of 2022, W.P.O. No. 736 of 2022, W.P.O. No. 752 of 2022, W.P.O. No. 753 of 2022, W.P.O. No. 754 of 2022, W.P.O. No. 755 of 2022, W.P.O. No. 756 of 2022, W.P.O. No. 757 of 2022, W.P.O. No. 758 of 2022, W.P.O. No. 759 of 2022, W.P.O. No. 760 of 2022, W.P.O. No. 761 of 2022, W.P.O. No. 762 of 2022

For the Petitioners :-

Ms. Swapna Das, Mr. Siddharth Das, Mrs. Vijaya Bhatia, Mr. Ganesh Prasad Shaw, Mr. Taraknath Jaiswal, Mr. Gaurav Kumar, Mr. Arvind Agarwal, Mr. Farhan Ghaffar, Ms. Susmita Chakraborty, Mr. Pratyush Jhunjhunwala, Ms. Amani Kayan, Mr. Zubeen Panday, Mr. Subash Agarwal, Mr. Brijesh Kumar Singh, Mr. Avijit Dey, Mr. Devesh Poddar, Mr. Gopal Ram Sharma, Ms. Sanchita Dey, Mr. Anil Kumar Dugar, Mr. Rajarshi Chatterjee, Mr. Rites Goel, **Advocates**

For the Respondents :-

Mr. P.K. Bhaumick, Ms. Sucharita Biswas, Mr. Soumen Bhattacharjee, Mr. Tilak Mitra, Mr. Anurag Bagaria, **Advocates**

Dated : 4th February, 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/