IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

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

W.P.O. No. 1455 of 2021

M/S SAPRA IMPEX P LTD
Vs.
PR COMMISSIONER OF INCOME TAX 2 AND ORS.

With

W.P.O. No. 1456 of 2021, W.P.O. No. 1457 of 2021, W.P.O. No. 1458 of 2021, W.P.O. No. 1624 of 2021, W.P.O. No. 1626 of 2021, W.P.O. No. 1629 of 2021, W.P.O. No. 1632 of 2021, W.P.O. No. 1634 of 2021, W.P.O. No. 1698 of 2021, W.P.O. No. 1700 of 2021, W.P.O. No. 1707 of 2021, W.P.O. No. 1711 of 2021, W.P.O. No. 1712 of 2021, W.P.O. No. 1713 of 2021, W.P.O. No. 1714 of 2021, W.P.O. No. 1715 of 2021, W.P.O. No. 1716 of 2021, W.P.O. No. 1717 of 2021, W.P.O. No. 1718 of 2021, W.P.O. No. 1719 of 2021, W.P.O. No. 1720 of 2021, W.P.O. No. 1721 of 2021, W.P.O. No. 1722 of 2021, W.P.O. No. 1723 of 2021, W.P.O. No. 1724 of 2021, W.P.O. No. 1725 of 2021, W.P.O. No. 1726 of 2021, W.P.O. No. 1727 of 2021, W.P.O. No. 1728 of 2021, W.P.O. No. 1729 of 2021, W.P.O. No. 1730 of 2021, W.P.O. No. 1731 of 2021, W.P.O. No. 1732 of 2021, W.P.O. No. 1733 of 2021, W.P.O. No. 1734 of 2021, W.P.O. No. 1736 of 2021, W.P.O. No. 1737 of 2021, W.P.O. No. 1738 of 2021, W.P.O. No. 1739 of 2021, W.P.O. No. 1740 of 2021, W.P.O. No. 1741 of 2021, W.P.O. No. 1743 of 2021, W.P.O. No. 1744 of 2021, W.P.O. No. 1746 of 2021, W.P.O. No. 1748 of 2021, W.P.O. No. 1750 of 2021, W.P.O. No. 1753 of 2021, W.P.O. No. 1755 of 2021,

W.P.O. No. 1756 of 2021, W.P.O. No. 1758 of 2021, W.P.O. No. 1759 of 2021, W.P.O. No. 1765 of 2021, W.P.O. No. 1769 of 2021, W.P.O. No. 1770 of 2021, W.P.O. No. 1773 of 2021, W.P.O. No. 1775 of 2021, W.P.O. No. 1778 of 2021, W.P.O. No. 1783 of 2021, W.P.O. No. 1795 of 2021, W.P.O. No. 1826 of 2021

For the Petitioners :-

Mr. Subash Agarwal, Mr. Brijesh Kumar Singh, Mr. Avijit Dey, Mr. Pradip Jewrajka, Ms. Pooja Jewrajka, Mr. Anil Kumar Dugar, Mr. Rajarshi Chatterjee, Ms. Swapna Das, Mr. Siddhartha Das, Mr. A. Kumar Sen, Mr. Chandrachur Chatterjee, Mr. Pramit Bag, Mr. Anuj Kumar Mishra, Mr. Balaram Patra, Mr. Vijaya Bhatia, Mr. Ganesh Prasad Shaw, Mr. Taraknath Jaiswal, Mr. Gaurav Kumar, Mr. Pratyush Jhunjunwala, Mr. S. Rudra, Mr. Mohit Gupta, Ms. Sutapa Roy Chowdhury, Mr. Abhijit Das, Ms. Aratrika Roy, Ms. Monika Kalra, Mr. Farhan Ghaffar, Mr. Arjun Mukherjee, Mr. Syed E. Huda, Mr. Md. Rizwan Alam, Mr. A. Khatoon,Mr. Debashis Sinha, Mr. Mohit Gupta, Mr. Arijit Chatterjee, Ms. Sharmistha Dhar, Mr. D. Das, Mr. Ruchesh Sinha, **Advocates**

For the Respondents :-

Mr. R. Sinha, Mr. Tilak Mitra, Mr.Smarajit Roy Chowdhury, Mr. Soumen Bhattacharjee, Mr. Prabir Kumar Bhowmik, **Advocates**

Dated : 18th 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.)

Sbghosh