IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3555 OF 2021

Sai Cylinders Private Limited ....Petitioner

V/s.

Assistant Commissioner of Income Tax
Circle 8(1)(1), Mumbai and Ors. ...Respondents

ALONGWITH
WRIT PETITION (L) NO. 22057 OF 2021
ALONGWITH
WRIT PETITION NO. 700 OF 2022
ALONGWITH
WRIT PETITION NO. 1953 OF 2022
ALONGWITH
WRIT PETITION NO. 1966 OF 2022
ALONGWITH
WRIT PETITION NO. 1980 OF 2022
ALONGWITH
WRIT PETITION NO. 1981 OF 2022
ALONGWITH
WRIT PETITION NO. 2121 OF 2022
ALONGWITH
WRIT PETITION NO. 2146 OF 2022
ALONGWITH
WRIT PETITION NO. 2148 OF 2022
ALONGWITH
WRIT PETITION NO. 2153 OF 2022
ALONGWITH
WRIT PETITION NO. 2206 OF 2022
ALONGWITH
WRIT PETITION NO. 2215 OF 2022
ALONGWITH
WRIT PETITION NO. 2224 OF 2022
ALONGWITH
WRIT PETITION NO. 2225 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 8297 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 8298 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 8299 OF 2022
ALONGWITH

WRIT PETITION (L) NO. 8300 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12558 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12865 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13022 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13026 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13032 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13233 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13794 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13798 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13893 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13906 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13961 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 14019 OF 2022
ALONGWITH
WRIT PETITION NO. 2249 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 14092 OF 2022
ALONGWITH
WRIT PETITION NO. 875 OF 2022
ALONGWITH
WRIT PETITION NO. 1271 OF 2022
ALONGWITH
WRIT PETITION NO. 1272 OF 2022
ALONGWITH
WRIT PETITION NO. 1963 OF 2022
ALONGWITH
WRIT PETITION NO. 2043 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 11831 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12255 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12862 OF 2022

ALONGWITH
WRIT PETITION (L) NO. 12864 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12866 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12868 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12870 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12875 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12876 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12878 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12882 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12888 OF 2022
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WRIT PETITION (L) NO. 12894 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12895 OF 2022
ALONGWITH
WRIT PETITION NO. 1241 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 10488 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 10510 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 10521 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13188 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 13225 OF 2022
ALONGWITH
WRIT PETITION NO. 1276 OF 2022
ALONGWITH
WRIT PETITION NO. 1347 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 6353 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 6354 OF 2022
ALONGWITH
WRIT PETITION NO. 1989 OF 2022

ALONGWITH
WRIT PETITION (L) NO. 11827 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12228 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12277 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12501 OF 2022
ALONGWITH
WRIT PETITION (L) NO. 12761 OF 2022
ALONGWITH
WRIT PETITION NO. 2025 OF 2022
ALONGWITH
WRIT PETITION NO. 2026 OF 2022
ALONGWITH
WRIT PETITION NO. 2034 OF 2022
ALONGWITH
WRIT PETITION NO. 2048 OF 2022
ALONGWITH
WRIT PETITION NO. 2068 OF 2022
ALONGWITH
WRIT PETITION NO. 2070 OF 2022
ALONGWITH
WRIT PETITION NO. 2071 OF 2022
ALONGWITH
WRIT PETITION NO. 2093 OF 2022
ALONGWITH
WRIT PETITION NO. 2104 OF 2022
ALONGWITH
WRIT PETITION NO. 2111 OF 2022
ALONGWITH
WRIT PETITION NO. 2112 OF 2022
ALONGWITH
WRIT PETITION NO. 2120 OF 2022
ALONGWITH
WRIT PETITION NO. 2174 OF 2022
ALONGWITH
WRIT PETITION NO. 2181 OF 2022
ALONGWITH
WRIT PETITION NO. 2183 OF 2022
ALONGWITH
WRIT PETITION NO. 2191 OF 2022
ALONGWITH
WRIT PETITION NO. 2192 OF 2022

Mr. Jitendra Singh, Mr. Harshad Sathe, Ms. Arya Sapre, Mr. P V Shekhawat, Mr. Subhradeep Banerjee, Mr. Deep Shah, Mr. Mandar Vaidya, Mr. Rahul Sarda, Mr. Rajendra, Mr. Nishit Gandhi, Ms. Akshita Bhandari, Ms. Deepali Kamble, Mr. Tushar Hemani, Mr. Vipul J Shah, Mr. Kumar Kale, Mr. Shashi Bekal, Mr. Satish Mody, Ms. Aasifa Khan, Mr. Sameer G. Dalal, Mr. Pankaj R Toprani, Ms. Krupa P. Toprani, Mr. Rahul S. Agarwal, Mr. Dharan V. Gandhi, Mr. Devendra Jain, Ms. Radha Halbe, Mr. Rahul Hakani, Mr. Dhrumil C. Shah, Mr. Mrunal Parekh, Mr. Harsh Kapadia, Mr. Sanket Bora, Ms. Vidhi Punmiya, Mr. Ravi Sawana, Mr. Naresh Jain, Mr. Mahaveer Jain, Ms. Neha Anchlia, Mr.Madhur Agrawal, Mr. Rahul Gaikwad, Ms. Nikita Abhyankar and Mr. Jignesh R Shah with Mr. Harshad Bhadbhade, Kevin Shah & Associates, Mr. Ryan Saldanha, PRH Juris Consults, Mr. Rishabh Dhanuka, Ms. Niyati Mankad, Lex Services, DMD Advocates, SPCM Legal, Mr. Sriram Sridharan and Gravitas Legal for Petitioners-Assessees in respective matters.

Mr. Suresh Kumar, Mr. Akhileshwar Sharma, Mr. Ashok Kotangle, Mr. Arvind Pinto, Mr. P. A. Narayanan, Ms. Swapna Gokhale and Ms. Mamta Omle for Respondents-Revenue in respective matters.

CORAM : K.R. SHRIRAM &
N. R. BORKAR, JJ.
DATED : 5th MAY, 2022

P.C. :

1. The Hon'ble Apex Court in the judgment of ***Union of India & Ors. vs. Ashish Agarwal***[1] partially set aside the order and judgment passed by the Hon'ble High Court Judicature at Allahabad in Writ Tax No.524 of 2021 and other Writ Tax Petitions. The order also covers the judgments passed by various other High Courts including this court in ***Tata Communications Transformation Services Limited V/s. Assistant Commissioner of Income Tax 14(1) & Ors.***[2]

2. The Hon'ble Apex Court has in paragraph no.10 passed the following directions :

1 Civil Appeal No. 3005/2022 dated 4th May, 2022.
2. Writ Petition No.1334 of 2021 dated 29th March, 2022.

10. In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/ petitions, is/are hereby modified and substituted as under:

(i) The impugned section 148 notices issued to the respective assessees which were issued under unamended section 148 of the IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees can reply to the show-cause notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) is hereby dispensed with as a one-time measure vis-à-vis those notices which have been issued under section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts.

Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;

(iii) The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);

(iv) All defences which may be available to the assesses including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.

3. In view of the above all petitions are disposed.

4. Certainly, since all rights and contentions of the parties are kept open, the assessees may take such steps if they are aggrieved by any order passed by the Assessing Officer.

5. In view of the above, wherever the assessment order has been passed those assessment orders will stand quashed and set aside. So also the consequential orders/notices.

6. Revenue may restart the process as directed by the Hon'ble Apex Court.

(N. R. BORKAR, J.) **(K.R. SHRIRAM, J.)**