



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 12.08.2022 and 18.08.2022

Pronounced on: 20.10.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.Nos.19379, 19382, 19386, 19388, 19390, 19392, 19396, 23586, 23577, 2140, 9511, 9519, 9520, 9523, 9527, 9557, 9561, 9567, 9294, 9495, 9499, 9501, 9515, 9518, 9526, 16717, 16721, 16725, 16729, 16731, 16750, 16752, 24584, 17572, 17574, 17576, 17680, 17675, 17670, 17662, 17577, 17617, 17628, 17639, 17644, 17648, 17652, 17765, 17656, 17747, 17752, 17755, 17760, 17768, 17769, 17771, 17773 18152, 18156, 18160, 18163, 18166, 18170, 18171, 23588, 19414, 19417, 19419, 19421, 19423, 19424, 23244, 24525, 20747, 20751, 20753, 20756, 20758, 20761, 20764, 20766, 21125, 21127, 21129, 21132, 21135, 21137, 21140, 20900, 20901, 20902, 20903, 20904, 20905, 20906, 23579, 2142, 2153, 2157, 2161, 2173, 2183, 2187 9505, 9296, 17573, 17621, 17750 and 9289 of 2021

and

WMP.Nos.24729, 24730, 24716, 24719, 24667, 24668, 24669, 24670, 24671, 24672, 24722, 24723, 24539, 24538, 24732, 24731, 24736, 24734, 24713, 24715, 24708, 24701, 24703, 24710, 24717, 24718, 24721, 24720, 24725, 24727, 24541, 24542, 24545, 24544, 24733, 24735, 24739, 24737, 24742, 24743, 24746, 24749, 24757, 24758, 24748, 24750, 24751, 24753, 24756, 24759, 24763, 24764, 24766, 24767, 24774 & 24776 of 2020

and

WP.Nos.19996, 20050, 20030, 20048, 19876, 19877, 20056, 19998, 19999, 20000, 20038, 20041, 20046, 20028, 20033, 20036, 20039, 20040, 20045, 19867, 19871, 20051, 20055, 20057, 20061, 20060, 20063, 20064, 20065, 20068, 20071 & 20074 of 2020

and

WMP.Nos.24540, 17712, 24815, 24813, 24810, 24806, 24804, 24801, 24803, 24824, 24822, 24821, 24820, 24823, 24825, 24828, 24831, 24808, 24809, 24811, 24814, 24817, 24818, 24819, 24826, 24827, 24829, 24830, 24832,



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W.P.No.19379 of 2021:

Chandran Somasundaram

.... Petitioner

Vs.

- 1.The Principal Director of Income Tax,
67-A, Race Course Rd, Race Course,
Gopalapuram, Coimbatore,
Tamil Nadu 641 018.
- 2.The Deputy Director of Income Tax (Investigation),
Unit 2 (2),Chennai,
Uthamar Gandhi Salai,
No.46, Nungambakkam High Rd, Nungambakkam,
Chennai, Tamil Nadu 600034.
- 3.Deputy Commissioner of Income Tax, Coimbatore,
67-A, Race Course Rd, Race Course,
Gopalapuram, Coimbatore,



Tamil Nadu 641 018.

4. Assistant Commissioner of Income Tax,
Central Circle 3(2),
Uthamar Gandhi Salai,
No.46, Nungambakkam High Rd, Nungambakkam,
Chennai, Tamil Nadu 600034.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring the search and seizure operations conducted by the 1st and 2nd respondents on the petitioner between 07.08.2019 to 09.08.2019 and 13.08.2019 under section 132 of the Income Tax Act, 1961 and the documents seized during the said search as wholly without jurisdiction illegal, arbitrary, and unconstitutional.

In all W.Ps

For Petitioners : Mr.R.V.Easwar, Senior Counsel
Mr.P.S.Raman, Senior Counsel
Mr.V.Ayyathurai, Senior Counsel
Mr.AR.L.Sundaresan, Senior Counsel
Mr.SatishParasaran, Senior Counsel
Mr.Lakshmi Narayan
For
Mr.Velmurugan
Mr.Vishnu Mohan
Mr.NRR.Arun Natarajan
Mr.Salai Varun,
Mr.Karthik Lakshmanan

For Respondents : Mr.A.P.Srinivas, Senior Standing Counsel and
Mr.ANR.Jayaprathap, Junior Standing Counsel



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COMMON ORDER

I. Brief overview of Writ Petitions and preliminaries:

This batch of Writ Petitions challenges assessments under the provisions of the Income Tax Act, 1961 (in short 'Act') in the cases of companies that are engaged in the manufacture of brewing and distilling of liquor, SNJ Breweries Pvt. Ltd., (in short 'SNJ Breweries'), SNJ Distilleries Pvt. Ltd., (in short 'SNJ Distillers'), Kaycee Distillers and Leela Distillers, suppliers of raw material, SNJ Sugars and Products Ltd., (in short 'SNJ Sugars') and their associates.

2. Nandhini Transports Pvt. Ltd., (a transporter) and other suppliers associated with the business, such as bottlers, (N.Jayamurugan, Geetha Jayamurugan, Ramamoorthy Srithar, Srithar Sudha, Kandasamy Thirumoorthy, Thirumoorthy Kala, Manickam Karthikeyan, Chandran Somasundaram, C.Mariappan, Shanmugakani Sivajothi and Somasundaram Rishi Sharaan) constitute the rest of the batch.

3. The genesis of the Writ Petitions are the searches conducted under Section 132 of the Act between 06.08.2019 and 11.08.2019 and consequential proceedings thereafter, culminating in the passing of the assessment orders. SNJ Breweries Pvt. Ltd. is the primary assessee and is stated to be operational in this line of business from 06.04.2011. It operates from factories situated at Madurantakam in Tamil Nadu.



4. The matters were heard on various dates and this common and consolidated order is passed after hearing the detailed submissions of all learned Senior Counsel for the petitioners as well as the learned Senior Standing Counsels for the respondents.

II. Issues:

5. Issue – 1 - The validity of search under Section 132 is challenged by way of Writ of Declaration by SNJ Breweries, SNJ Distillers, SNJ Sugars, N.Jayamurugan, Geetha Jayamurugan, Ramamoorthy Srithar, Srithar Sudha, Nandhini Transports Pvt. Ltd., Kandasamy Thirumoorthy, Thirumoorthy Kala, Manickam Karthikayen, Kaycee Distillers, Chandran Somasundaram, C.Mariappan, Shanmugakani Sivajothi, Somasundaram Rishi Sharaan and Leela Distillers.

6. Issue – 2 - The centralization of assessments under Section 127 of the Act has been challenged by SNJ Sugars, Ramamoorthy Srithar, Srithar Sudha, Kandasamy Thirumoorthy, Thirumoorthy Kala and Manickam Karthikayen.

7. Issue – 3 - Notices issued under Section 153A are challenged by SNJ Breweries, SNJ Distillers, SNJ Sugars, N.Jayamurugan and Geetha Jayamurugan.

8. Issue – 4 - Notices issued under Section 153C are challenged by Ramamoorthy Srithar, Srithar Sudha, Nandhini Transports Pvt. Ltd.,



Kandasamy Thirumoorthy, Thirumoorthy Kala, Manickam Karthikayen, Kaycee Distillers, Chandran Somasundaram, C.Mariappan, Shanmugakani Sivajothi, Somasundaram Rishi Sharaan and Leela Distillers.

9. Issue – 5 - Validity of attachment orders issued under Section 281B of the Act have been challenged by SNJ Breweries, SNJ Distillers, Jayamurugan and Geetha Jayamurugan.

10. Issue – 6 - Challenge to notices under Section 143(2) and orders of assessment under 143(3).

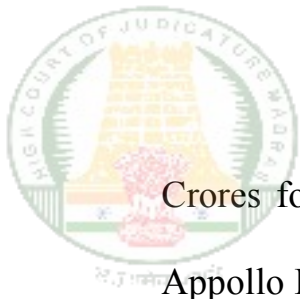
III. Issue – 1 – challenge to the search

III (a) Submissions of the petitioners along with case-law

11. The challenge to the search between 06.08.2019 and 11.08.2019 is based on the following submissions and comprise two components, one, legal submissions, and the second, the alleged violation of human rights. They are summarised as follows:

(i) The searches are unwarranted and illegal, insofar as the books maintained by all the petitioners concerned are correct and complete and the returns of income filed thus far make a full disclosure of all income earned.

(ii) The petitioners maintain that the search was initiated on the basis of a newspaper report to the effect that one of the group companies, i.e., SNJ Distillers was poised to make the winning bid of an amount of Rs.450.00



Crores for the acquisition of Empee Distillers along with its subsidiaries and Appollo Distillers Private Ltd.

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(iii) The acquisition of Empee and Appollo Distillers was pending on the file of the National Company Law Tribunal at Chennai and the matter was slated to be listed on 06.08.2019 and 08.08.2019. The search was instigated by the business rivals of the petitioner group to ensure that the proposed sale does not proceed as scheduled.

(iv) They allege victimization insofar as this is not the first instance of a search conducted by the Income Tax Department in their premises, but there have been two earlier instances in 2012 and 2016 as well.

(v) The search commenced on 06.08.2019 at 6.30 a.m. when more than 150 officials of the Department are stated to have commenced the proceedings in the temporary rental residence of the Director of the brewery at No.4/27, Cenotaph Road First Lane, Teynampet, Chennai – 18. Simultaneous therewith, his permanent residence located at Chitharanjan Salai, Teynampet and other locations such as location of companies owned by the Directors of the brewery, the registered office of the petitioner companies at Nandanam and other registered offices, the offices/residences of suppliers and vendors and other factory premises located at Tamil Nadu, Kerala, Goa and Andhra Pradesh as



well as residences of the relatives of the Directors of the petitioner companies, the auditor and employees were also searched.

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(vi) In all, 56 locations spread over 7 states in India were raided.

(vii) The basis for such a wide and far reaching search is questioned, particularly in the absence of any credible material to indicate the necessity for such action.

(viii) No cash or documents were seized in the residential premises of N.Jayakumar, Director of SNJ Breweries. Some slips/chits of papers, 2 laptops and a notebook were found in the other premises and this forms the sum total of the material found in the course of search. Thus, it is clear that the impugned search yielded nothing of consequence as the material found was inconsequential and does not point to anything incriminating the petitioners.

(ix) N.Jayamurugan, his wife and their daughters were confined in the residence in cenotaph road, in what is termed as illegal house detention, between 06.08.2019 from 6.30 a.m. till 11.00 a.m. on 11.08.2019. All the telephones of the Directors and family members were confiscated.

(x) Around 20 officers of the Income Tax Department stayed in the very premises for the entirety of the period from 06.08.2019 to 11.08.2019. The petitioners and their family members were not permitted to sleep and were



made to sit throughout the day and night for all 5 days. This constitutes inhuman treatment contrary to all cannons of human rights.

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(xi) One of the daughters of the Director suffered seizures on 09.08.2019 on account of lack of sleep. Despite the emergent medical condition, recourse to medical measures were delayed and it was only after the elapse of one hour, was she permitted to be taken to the hospital.

(xii) Even then, R2/Deputy Director of Income Tax (Investigation) did not permit either of the parents to accompany her and permitted only her sister to leave the premises. She was admitted in Apollo Hospital for treatment and diagnosed with break-through seizures. The discharge summary of Apollo Hospital sets out one of the causes for the medical condition and consequent hospitalization, as sleep deprivation. She was discharged on 11.08.2019.

(xiii) The sister of one of the Directors, who is incidentally a practicing lawyer, was also brought under the scanner on 06.08.2019 and subject to the same inhuman treatment. She is stated to be a diabetic and had suffered a spike in her sugar levels on account of the stress of the proceedings requiring urgent medical attention. An ambulance was called on 08.08.2019, but she was not permitted to leave immediately, despite the emergent medical condition. She was granted permission to leave only after the elapse of one hour and upon the intervention of the doctors.



(xiv) The common areas in the apartment had the facility of CCTV.

However, R2 had disabled all cameras, evidently to suppress the inappropriate and improper manner in which the search was conducted.

(xv) H.C.P.No.1693 of 2019 was filed seeking the production of the Director, N.Jayamurugan from illegal detention and notice was issued on 09.08.2019 to R2. Immediately upon receipt of the notice, the search was concluded in a hasty manner on 11.08.2019 at 11.00 a.m.

(xvi) Ultimately, when the HCP came up for hearing on 13.08.2019, it was closed, the Division Bench recording as follows:

2. When the matter is taken up of hearing, the Learned Special Public Prosecutor submitted that what was done is only an enquiry, though the Learned Senior Counsel submits that it is a clear case of detention. Suffice it to state that the detenues are not in the custody of anyone as of now. Thus leaving open the larger issue these Habeas Corpus Petitions stand closed as nothing survives for consideration. However liberty is also given to the Petitioners to take appropriate action in the manner known to law, if they are of the view there involves illegal custody."

(xvii) Several prohibitory orders were issued on 08.08.2019, 09.08.2019 and 10.08.2019 attaching the assets including bank accounts of the petitioners, all of which were duly disclosed.

(xviii) N.Jayamurugan was taken to the registered office of SNJ Breweries on the night of 10.08.2019 and at about 5.00 a.m. on 11.08.2019,



was forced to sign a pre-drafted statement on each page. Dates were assigned to different pages of the statement to indicate as though the statement had been recorded every day from 06.08.2019 to 11.08.2019. As a fact, however, he was coerced and made to sign the entirety of the statement at one go, on 11.08.2019.

(xix) The nightmare, according to the petitioners, came to an end on 11.08.2019 at about 11.00 a.m.

(xx) Several irregularities are pointed out in regard to the documentation executed in connection with the search, in rank violation of Rule 112 of the Income Tax Rules, 1962 (in short 'Rules').

(xxi) Firstly, the panchanamas do not set out the correct dates and times of the search. Secondly, the panchas were not drawn from the locality in which the search was conducted.

(xxii) A tabulation has been made in respect of the panchas to show that, while Rule 112 required respectable persons, resident in the locality in which the search is conducted, to be summoned as panchas, their Aadhar cards revealed that they belonged to different parts of the Country.

(xxiii) As far as the individuals are concerned, they challenge the search on the ground that no warrant was produced at the time when the authorities visited their premises. They too allege inhuman treatment at the hands of R2 and gross violation of human rights.



(xxiv) The premises of the individuals were searched intermittently during the period 6th to 11th of August, 2019 and in unison, they would state that during the aforesaid period, they were harangued with repeated threats and intimidating methods of examination, not permitted to sleep and finally coerced into signing statements that had not been voluntarily recorded.

(xxv) Some of the statements have been retracted on 29.11.2019 and 30.11.2019. Even thereafter, they allege, the respondents were harassing them by repeated issuance of summons and notices.

(xxvi) In the case of the petitioner in W.P.No.23244 of 2021, a specific allegation is made that in the course of search on 08.08.2019, the petitioner's wife fell ill with a sudden spike in her blood sugar levels. The respondents, despite specific requests, refused to call a doctor, casually stating that senior officials could themselves handle the situation. She was left to her own devices to make an emergency call and reach the hospital.

(xxvii) The search and seizure manual sets out in categorical terms the procedure to be followed in the conduct of searches. There has been clear violation of the stipulations thereunder.

12. The petitioners submit that the ingredients of Section 132 have not been satisfied in this case as the respondents have no 'reason to believe' that:



a) a person who has been issued a summons or notice under the provisions of the present Act or 1922 Act for production of books of accounts or documents, has omitted/failed to do so;

b) a person to whom summons or notice under the provisions of the present or 1922 Act might be issued would not comply with such summon/notice.

c) the petitioners are in the possession of money, bullion, jewellery or other valuable article or thing which represents wholly or partly income or property that has not or will not be disclosed for the purposes of the present or 1922 Act.

13. Furthermore, it is a pre-requisite for the Income Tax Department to be in possession of 'information' leading to a 'reason to believe' that any one of the three conditions set out above would be satisfied in a particular case. The present proceedings constitute a roving enquiry and there was no 'information' in the possession of the Department that would justify invocation of powers under Section 132.

14. The impugned action of the respondents and rank high handedness are in gross violation of the judgments in the cases of :

Hon'ble Supreme Court:

K.S.Puttasamy V. Union of India ((2017) 10 SCC 1)

Pooran Mal V. Director of Income Tax (93 ITR 505)



State of Punjab V. Baldev Singh ((1999) 6 SCC 172)

Madras High Court:

K.V.Krishnasamy Naidu V. Commissioner of Income Tax and others (166 ITR 244)

Bombay High Court:

CIT V. Arpit Land Pvt. Ltd. (393 ITR 276)

Calcutta High Court:

Dwaraka Prasad Agarwal V. DIT (137 ITR 456)

Delhi High Court:

Commissioner of Income tax Central –ii V. P.C. Jain (HUF)
(344 ITR 202)

Khem Chand Mukim V. Pr. Director of Income Tax (inv.)-2, A.i.u. & ors
(423 ITR 129)

Punjab and Haryana High Court:

H.L.Sibal V. CIT (101 ITR 112)

Anand Swaroop V. CIT (103 ITR 575)

Patna High Court:

CCIT V. State of Bihar through Chief Secretary (2015 3 CTR 304)

Rajasthan High Court:

CIT Jaipur V. Umlesh Goel and Ors. (D.B.Income Tax Appeal Nos.153 of 2003 dated 31.08.2016)

Orissa High Court:

Siksha “O” Anusandhan V. Commissioner of Income Tax and Ors.

III (b) Submissions of the IT Department with case-law:

15. The provisions of Section 132 vest wide powers in the authorities to enter and search the premises of an assessee and seize incriminating materials if



the officers have information in their possession to arrive at a 'reason to believe' that the conditions stipulated therein are satisfied. In the present case the officials have the requisite 'information' and have recorded proper and sufficient 'reasons' that have led to their belief that the search was warranted.

16. The requirements under the Rules as well as Departmental manual have been adhered to and there is no merit in the submission that there are any violations thereof. All panchas have been drawn from the locality concerned and the outstation addresses referred to by the petitioners are their permanent addresses as reflected in their Aadhar cards.

17. There is complete and total denial of the allegations of human rights put forth by the petitioners. According to the respondents all necessary measures were taken to address the medical issues that were projected by the petitioners and their family members and the submissions to the contrary were to be rejected in full.

18. They rely upon the following judgments to buttress their submissions:-

Hon'ble Supreme Court:

Commissioner of Commercial Taxes, Board of Revenue, Madras V.

Ramkishan Shri Kishan Jhaver (66 ITR 664)

Income-tax Officer V. Seth Brothers (74 ITR 836)



Pooran Mal V. Director of Inspection (93 ITR 505)

State of Punjab V. Baldev Singh ((1999) 6 SCC 172)

DGIT (Inv.) V. Spacewood Furnishers (P) Ltd. (374 ITR 595)

Income Tax Officer, Calcutta and Ors. vs. Lakhmani Mewal Das

(103 ITR 437)

Principal Director Of Income Tax (Investigation) vs Laljibhai Kanjibhai Mandalia((2022)140 taxmann.com)

Commissioner of Income-tax, Gujarat V. Vijaybhai N. Chandra (357 ITR 713)

Madras High Court:

P.Murugesan V. Director of Income-tax (Inv.) (222 CTR 619)

Agni Estates and Foundations (P) Ltd. V. DCIT (357 ITR 713)

Delhi High Court:

MDLR Resorts (P) Ltd. V. Commissioner of Income tax (361 ITR 407)

Gujarat High Court:

Madhupuri Corporation V. DDIT (256 ITR 498)

Arti Gases V. DGIT (Inv) (248 ITR 55)

Allahabad High Court:

Digvijay Chemicals Ltd. V. ACIT (248 ITR 381)

Calcutta High Court:

Sambhu Prasad Agarwal V. DIT (245 ITR 660)

Kerala High Court:

Commissioner of Income –tax V. Cr.C.Balakrishnan Nair (282 ITR 158)



Dr.N.S.D.Raju V. DGIT (Inv.) (283 ITR 154)

Rajasthan High Court:

J.R.Tantia Charitable Trust V. DCIT(355 ITR 226)

III (c) - Discussion

19. The Explanation below Section 132(1) states that the ‘reasons to believe’ as recorded by the income tax authority under that provision shall not be disclosed to any person, authority or the Appellate Tribunal. It is thus for the Court to, if it sees reason to do so, summon the files containing the reasons and peruse the same, which I have done in the instant case.

20. I now discuss below the judgements that have been cited at the Bar, to set out the scope of possible interference in a search and the circumstances in which such intervention has been held to be warranted or justified. In the case of *Ramkishan Shri Kishan Jhaver* (supra), a Constitutional Bench of the Hon’ble Supreme Court considered 5 appeals on certificates that had been granted by this Court. The validity of the warrants of search had been challenged on the ground that Section 41 of the Madras General Sales Tax Act, 1959 did not vest any authority in the officers of the Sales Tax Department to search the premises of an assessee or seize account books or goods found therein.



21. While accepting the final conclusion of this court with regard to the challenge by the assesseees in that case, the Bench held that sufficient safeguards have been provided for in regard to the manner in which the search may be conducted, such as recording of reasons and the outlining of procedures for other events connected with the search itself. Thus, and with the safeguards provided, the intervention by the officers must be held to be in tune with the reasonable restrictions imposed upon the right to carry on trade and hold property.

22. Akin to the ratio of this judgment, is that of the judgement passed by the Hon'ble Supreme Court in the case of *Seth Brothers* (supra), wherein the provisions of Section 132 came to be discussed. *Seth Brothers* had been subject to search and seizure action on 07th and 08th June, 1963 and had challenged the same on the ground that the action was intrusive and violative of the provisions of law. The Court went into the scheme of Section 132 concluding that the vesting of power upon the revenue officers under that Section was not arbitrary, but was premised on the satisfaction of statutory conditions justifying the search action.

23. The issue of a warrant by a Commissioner is neither a judicial nor a quasi-judicial act. The Commissioner is enjoined to issue such warrant only



based upon information in his possession in consequence of which he forms the necessary belief and hence, the matter is not subject to scrutiny by the Court.

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24. In this connection, they referred to a decision of the Allahabad High Court in *Income-tax Officer, A-Ward, Agra and Ors. v. Firm Madan Mohan Demma Mal and anr.* (70 ITR 293). The ratio of the aforesaid judgements has been applied over the years, Courts taking note of the allegations of assesseees on a case on case basis, to decide whether there is, prima facie, any indication of violation or perversity and applying the Wednesbury Principles of reasonableness to determine violations in law.

25. At paragraph 8, the Hon'ble Supreme Court states as follows:

8. The section does not confer any arbitrary authority upon the Revenue Officer. The Commissioner or the Director of Inspection must have, in consequence of information, reason to believe that the statutory conditions for the exercise of the power to order search exist. He must record reasons for the belief and he must issue an authorization in favour of a designated officer to search the premises and exercise the powers set out therein. The condition for entry into and making search of any building or place is the reason to believe that any books of account or other documents which will be useful for, or relevant to, any proceeding under the Act may be found. If the Officer has reason to believe that any books of account or other documents would be useful for, or relevant to, any proceedings under the Act, he is authorised by law to seize those books of account or other documents, and to place marks of identification therein, to make extracts or copies therefrom and also to make a note or an inventory of any articles or other things found in the course of the search. Since by the



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exercise of the power a serious invasion is made upon the rights, privacy and freedom of the tax-payer, the power must be exercised strictly in accordance with the law and only for the purposes for which the law authorizes it to be exercised. If the action of the Officer issuing the authorization, or of the designated Officer is challenged the Officer concerned must satisfy the Court about the regularity of his action. If the action is maliciously taken or power under the section is exercised for a collateral purpose, it is liable to be struck down by the Court. If the conditions for exercise of the power are not satisfied the proceeding is liable to be quashed. But where power is exercised bona fide, and in furtherance of the statutory duties of the tax officers any error of judgment on the part of the Officers will not vitiate the exercise of the power. Where the Commissioner entertains the requisite belief and for reasons recorded by him authorises a designated Officer to enter and search premises for books of account and documents relevant to or useful for any proceeding under the Act, the Court in a petition by an aggrieved person cannot be asked to substitute its own opinion whether an order authorising search should have been issued. Again, any irregularity in the course of entry, search and seizure committed by the Officer acting in pursuance of the authorisation will not be sufficient to vitiate the action taken, provided the Officer has in executing the authorisation acted bona fide.

26. The ratio of the aforesaid judgments was reiterated in the case of *Pooran Mal* (supra) when a constitutional challenge was laid to the provisions of Section 132 stating that the provisions violated Articles 19(1)(f) and (g) of the Constitution of India. This was repelled by the Hon'ble Supreme Court in the following terms at page 518 of the Report:



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".....We are, therefore, to see what are the inbuilt safeguards in section 132 of the Income Tax Act. In the first place, it must be noted that the power to, order search and seizure is vested in the highest officers of the department. Secondly, the exercise of this power can only follow a reasonable belief entertained by such officer that any of the three conditions mentioned in Section 132(1)(a), (b) and (c) exists. In this connection it may be further pointed out that under sub-rule (2) of Rule 112, the Director of Inspection or the Commissioner, as the case may be, has to record his reasons before the authorisation is issued to the officers mentioned in sub-section (1). Thirdly, the authorisation for the search cannot be in favour of any officer below the rank of an Income Tax Officer. Fourthly, the authorisation is for specific purposes enumerated in (i) to (v) in subsection (1) all of which are strictly limited to the object of the search. Fifthly, when money bullion, etc., is seized the Income Tax Officer is to make a summary enquiry with a view to determine how much of what is seized will be retained by him to cover the estimated tax liability and how much will have to be returned forthwith. The object of the enquiry under sub-section (5) is to reduce the inconvenience to the assessee as much as possible so that within a reasonable time what is estimated due to the Government may be retained and what should be returned to the assessee may be immediately returned to him. Even with regard to the books of account and documents seized, their return is guaranteed after a reasonable time. In the meantime the person from whose custody they are seized is permitted to make copies and take extracts. Sixthly, where money, bullion, etc., is seized it can also be immediately returned to the person concerned after he makes appropriate provision for the payment of the estimated tax dues under sub-section (5) and lastly, and this is most important, the provisions of the Criminal Procedure Code relating to search and seizure apply as far as they may be, to all searches and seizures under section 132. Rule 112 provides for the actual search and seizure being made after observing normal decencies of behavior. The person in charge of the premises searched is



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immediately given a copy of the list of articles seized. One copy is forwarded to the authorising officer. Provision for the safe custody of the articles after seizure is also made in rule 112. In our opinion, the safeguards are adequate to render the provisions of search and seizure as less onerous and restrictive as is possible under the circumstances. The provisions, therefore, relating to search and seizure in Section 132 and rule 112 cannot be regarded as violative of Articles 19(1)(f) and (g)".

27. The Bench notes that undoubtedly search and seizure is a drastic process and is bound to be accompanied by unsavoury events and sometimes inconvenient results. A sudden search and seizure will no doubt unnerve inmates of the location under search. In the cases before me, allegations and rebuttals have been advanced in regard to the highhandedness of the officials as well as the oppression that was allegedly meted out to the residents. So too in *Pooran Mal's* case. This has been noticed in the judgment itself, but the Bench takes an overall view of the matter stating that on the whole, the search was not established to be malafide, oppressive or excessive. So too in this case. The Bench held further that even if a search had been illegal, the evidence seized can be validly used in the assessments to follow.

28. The ambit of phrase 'reasons to believe' have been interpreted in the seminal judgment in the case of *Lakmani Mewal Das* (supra) in the context of Section 147 of the Act, which also deploys the same phrase. At page 445, the Bench states as follows:



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The grounds or reasons which lead to the formation of the belief contemplated by Section 147(a) of the Act must have a material bearing on the question of escapement of income of the assessee from assessment because of his failure or omission to disclose fully and truly all material facts. Once there exist reasonable grounds for the Income-tax Officer to form the above belief, that would be sufficient to clothe him with jurisdiction to issue notice. Whether the grounds are adequate or not is not a matter for the Court to investigate. The sufficiency of grounds which induce the income-tax Officer to act is, therefore, not a justiciable issue. It is, of course, open to the assessee to contend that the Income-tax Officer did not hold the belief that there had been such non-disclosure. The existence of the belief can be challenged by the assessee but not the sufficiency of reasons for the belief. The expression "reason to believe" does not mean a purely subjective satisfaction on the part of the Income-tax Officer. The reason must be held in good faith. It cannot be merely a pretence. It is open to the Court to examine whether the reasons for the formation of the belief have a rational connection with or a relevant bearing on the formation of the belief and are not extraneous or irrelevant for the purpose of the section. To this limited extent, the action of the Income-tax Officer in starting proceedings in respect of income escaping assessment is open to challenge in a Court of law.

29. In *State of Punjab V. Baldev Singh* ((1999) 6 SCC 172), a judgment rendered in the context of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), the judgment in the case of *Pooran Mal* (supra) was referred to. The State sought to take the ratio in *Pooran Mal*, as above, a step forward, arguing that possession of incriminating material should itself be construed as evidence of unlawful possession of illicit article by that person.



30. The Court repelled that argument stating that the judgment in *Pooran Mal* cannot be understood to have laid down that an illicit article seized during the search of a person on prior information conducted in violation of the provisions of Section 50 of the NDPS Act can be used as evidence of unlawful possession of the illicit article by the person from whom such contraband had been seized during the illegal search. That would be stretching the ratio of the judgment in *Pooran Mal* beyond what the Court had intended.

31. In the case of *Spacewood Furnishers Pvt. Ltd.*(supra), the Hon'ble Supreme Court hold as follows:

8. What is significant and, therefore, must be noticed is that in both the aforesaid two decisions while this Court has emphasized the necessity of recording of reasons in support of the 'reasonable belief contemplated by Section 132, nowhere, in either of the decisions any view had been expressed that the reasons recorded prior to authorizing the search needs to be disclosed or communicated to the person against whom the warrant of authorization is issued. The same is the view expressed by this Court in Dr. Pratap Singh v. Director of Enforcement 155 ITR 166 (SC) while considering a pari materia provision in the Foreign Exchange Regulation Act.

The material on which the officer has reasons to believe that any documents will be useful for or relevant to any investigation need not be disclosed in the search warrant; such material may be secret, may have been obtained through intelligence, or even conveyed orally by informants. In the said case, the Petitioner contended that, if the court is going to look into the file produced on behalf of the officer who authorized the search, it must be disclosed to the Petitioner so that the Petitioner "can



controvert any false or wholly unreasonable material set out in the file", but the Supreme Court did not accept this submission. The Supreme Court also referred to an earlier decision in S. Narayanappa v. CIT MANU/SC/0124/1966 : (1967) 63 ITR 219 (SC), to hold that whether grounds for ordering search were sufficient or not is not a matter for the court to investigate. However, the court may examine the question whether the reasons for the belief have a rational connection or a relevant bearing to the formation of the belief and are not extraneous or irrelevant for the purpose of the section.

32. The march of the law has been noticed and summarized by the Hon'ble Supreme Court in a recent judgment in the case of *Laljibhai Kanjibhai Mandalia*, (supra), wherein at paragraphs 32 and 33, the Bench holds as follows:

32. In the light of judgments referred to above, the sufficiency or inadequacy of the reasons to believe recorded cannot be gone into while considering the validity of an act of authorization to conduct search and seizure. The belief recorded alone is justiciable but only while keeping in view the Wednesbury Principle of Reasonableness. Such reasonableness is not a power to act as an appellate authority over the reasons to believe recorded.

33. We would like to restate and elaborate the principles in exercising the writ jurisdiction in the matter of search and seizure under [Section 132](#) of the Act as follows:

i) The formation of opinion and the reasons to believe recorded is not a judicial or quasi-judicial function but administrative in character;

ii) The information must be in possession of the authorised official on the basis of the material and that the formation of



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opinion must be honest and bona fide. It cannot be merely pretence. Consideration of any extraneous or irrelevant material would vitiate the belief/satisfaction;

iii) The authority must have information in its possession on the basis of which a reasonable belief can be founded that the person concerned has omitted or failed to produce books of accounts or other documents for production of which summons or notice had been issued, or such person will not produce such books of accounts or other documents even if summons or notice is issued to him; or

iv) Such person is in possession of any money, bullion, jewellery or other valuable article which represents either wholly or partly income or property which has not been or would not be disclosed;

v) Such reasons may have to be placed before the High Court in the event of a challenge to formation of the belief of the competent authority in which event the Court would be entitled to examine the reasons for the formation of the belief, though not the sufficiency or adequacy thereof. In other words, the Court will examine whether the reasons recorded are actuated by mala fides or on a mere pretence and that no extraneous or irrelevant material has been considered;

vi) Such reasons forming part of the satisfaction note are to satisfy the judicial consciousness of the Court and any part of such satisfaction note is not to be made part of the order;

vii) The question as to whether such reasons are adequate or not is not a matter for the Court to review in a writ petition. The sufficiency of the grounds which induced the competent authority to act is not a justiciable issue;

viii) The relevance of the reasons for the formation of the belief is to be tested by the judicial restraint as in administrative action as the Court does not sit as a Court of appeal but merely



reviews the manner in which the decision was made. The Court shall not examine the sufficiency or adequacy thereof;

ix) In terms of the explanation inserted by the [Finance Act, 2017](#) with retrospective effect from 1.4.1962, such reasons to believe as recorded by income tax authorities are not required to be disclosed to any person or any authority or the Appellate Tribunal.

33. The files relating to the recording of 'information' and 'reasons to believe' were called for and I find that the officer has recorded cogent reasons for the initiation of the search itself. The records reveal that the officer has had information in his possession to lead to the belief that action under Section 132 was warranted. Reasons to believe have been recorded as have the reasons to suspect, based upon which the premises of connected entities/persons have been searched.

34. The files contain the narration of the 'information' leading to the 'reasons to believe' and 'reasons to suspect' that have been recorded by the authorities. I am of the considered view that the procedure to be followed in noting the information received as well as the recording of reasons is in line with the requirements of the Act. The sufficiency or the veracity of the same is not a matter for review by the Court and it would thus suffice for this issue to be closed with the aforesaid observations.

35. Reliance placed by one of the petitioners upon the judgment of the Delhi High Court in *Khem Chand Mukim* (supra) will not advance the case of



the petitioners. In that case, the Delhi High Court has clearly rendered a finding after verifying the seized material that there was neither the existence of information nor reasons prior to the impugned search. It was in that background that the Court proceeded to hold that the search warrant and the consequent search, as well as all actions taken thereafter was illegal. Paragraph 27, to aforesaid effect, reads as follows:

27. Before parting we may add that the opinion which has to be formed is subjective, and though the jurisdiction of the court to interfere is very limited, and we are not to act as an appellate court and meticulously examine the information in order to decide whether an action under section 132 is called for, yet at the same time we may emphasise that the power to search a person is a stringent power provided by law and this requires the officers to scrupulously follow the mandate and the rigor of the law prior to authorising such an action, and unless the conditions to exercise such power are shown to exist, we would have no hesitation in striking down such an action. We are compelled to interfere as there was complete lack of information prior to the action of search, exhibiting gross non-application of mind and arbitrariness by the appropriate authorities. The reason to believe in the present case was non-existent prior to the search. Even after the search, there was no material to conclude that no such disclosure had been made, or that no disclosure would be made so as to satisfy the pre-requisites of section 132 of the Act. The respondents have merely acted on the basis of surmises and conjectures, and without due authorisation. Their actions are in contravention of law, making the action of search and seizure bad in law.

III(d) – Conclusion



36. In fine, the challenge to the search is rejected and all writ petitions on this score, are dismissed. However, I am left with the impression that the search team had failed to display necessary response or urgency in the medical emergency leading to hospitalization of one of the children of the petitioner in W.P.Nos.19877 and 20056 of 2020 (name withheld in the interests of privacy).

37. As the Hon'ble Supreme Court has observed in the case of *Pooran Mal* (supra), search and seizure, by its very nature, is bound to cause some dislocation to the parties concerned. Some of this dislocation is also intended as a conscious measure to intimidate. However, there are limits that must be adhered to and in the present case, the exacerbation of the medical condition of the person concerned is a matter of hospital record.

38. The hospital has recorded the history taken on admission, in the discharge summary dated 11.08.2019, as follows:

Discharge Summary

.....

<i>Date of Admission</i>	<i>10-Aug-2019</i>
<i>Date of Discharge</i>	<i>11-Aug-2019</i>
<i>Diagnosis</i>	<i>BREAK THROUGH SEIZURES</i>

History of Present Illness
CHIEF COMPLAINTS

Ms.. a 22 year old lady, a known case of seizure disorder, was brought to Emergency room with history of seizures involving the right upper limb since 4 days, not associated with loss of



consciousness or up-rolling of eyes or deviation of angle of mouth or generalization of the seizures.

History of recent poor compliance of anti-epileptic medications leading up to the seizures present.

History of recent decreased sleep present.

No history of recent trauma, headache, vomiting, sensori-motor deficits, blurring of vision or bowel & bladder disturbances.

History of fever, associated with chills since 1 day and cough with expectoration since 2 days.

Admitted for further care.

.....

39. Whatever may be the compulsions of the search action, it does not excuse the denial of or delay in, access to medical care. Discharge summary dated 11.08.2019 makes it clear that the person had suffered an epileptic fit and had been admitted to the hospital on 10.08.2019 for treatment. There is a categorical assertion in the writ affidavit regarding the difficulties and resistance encountered by the family in seeking medical help for the person and these allegations have not, in my view, been met or addressed effectively either in counter or in the submissions advanced before me.

40. There is yet another aspect of the matter. The petitioner states that there are CCTV cameras that were disabled by the petitioners. According to the revenue, the cameras were disabled at the instance of the petitioners. This a question of fact but one that can be ascertained by examination of evidence. On



this aspect too, there are factual disputes as to both the coverage if any, that could have been provided, and the reasons for their disabling.

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41. Learned Standing counsel does not dispute the medical record. His attempt is to state that the person had a pre-existing medical condition and thus, the Department cannot be held responsible for the sudden distress needing hospital attention. There has been a specific allegation by the petitioner in regard to the delay in permitting the family to seek medical assistance. Though denied in general terms, I am unconvinced that the respondents did exercise necessary measures, as warranted, in such a situation.

42. The necessity for speculation in such a situation could have been avoided had the footage from CCTV cameras been available. In light of the discussion as above, I do find that the response of the officials in the medical emergency as above, is wanting, and leaves something to be desired.

43. Suffice it to say that on a wholistic appreciation of this aspect of the matter, I am inclined to give the benefit of doubt to the petitioner. Bearing in mind the factual disputes involved, this is not the appropriate forum to address this issue and I hence reserve the right of the petitioner to approach the Civil Courts/any other appropriate forum to establish (i) availability and disabling of CCTV in the searched premises and common areas and (ii) delay and



procrastination on the part of the respondents in permitting the family to seek medical assistance, and seek compensation/redressal, if so inclined.

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44. In *CCIT V. State of Bihar through Chief Secretary* (supra) the Patna High Court has held that where appropriate, the assessee may also choose to approach the human rights authority seeking redressal of its grievances. To be noted that similar allegations have been made by the petitioner in W.P.No.19877 of 2020 in regard to his relative, that have not been, in my view, been established and thus call for no directions from this Court.

IV. ISSUE - 2 – Centralization

IV (a) – submissions of the petitioners with case-law

45. Six petitioners have challenged the centralization of their assessments as being arbitrary, illegal and contrary to the provisions of Section 127 of the Act. There is one factor which resonates through these Writ Petitions being, that admittedly the orders of centralization have not been served upon the petitioners.

46. There is some variation from case to case in regard to whether the petitioners have filed objections to the show cause notices preceding the Writ Petitions and whether they have been heard and the details are captured below:

Objections Filed/Heard	Objections Filed/Not Heard	Objections Not Filed/Not Heard
SNJ Sugars		Srithar Sudha



Kandasamy Thirumoorthy		Manickam Karthikeyan
		Thirumoorthy Kala
		RamamoorthySrithar

47. The provisions of Section 127, insofar relevant to this case, read as follows:

Power to transfer cases.

127. (1)

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,

—

(a) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

.....

48. There is no dispute on the fact that reasons have been recorded by the officials prior to initiation of the proceedings for transfer and it is not the case of any of the petitioners before me that no reasons are recorded. The statutory



provisions are also clear to the effect that the assessee must be afforded a reasonable opportunity of being heard in the matter, wherever it is possible to do so.

49. The issue thus turns on whether i) the opportunity afforded to the petitioners is reasonable and ii) whether non-service of the orders of centralization upon the petitioners would invalidate/vitiate the proceedings fatally.

50. The petitioners rely upon the following decisions:

- i) *Ajantha Industries V. Central Board of Direct Taxes* (102 ITR 281)
- ii) *Loganathan V. District Collector* (2019 SCC OnLine Mad 14546)
- iii) *Government Wood Works V. State of Kerala* (ILR1986 (2) Kerala 112)
- iv) *General Exporters V. Commissioner of Income Tax and ors.* (Manu/TN/0388/1997)

51. In one voice, they cite the judgment of the Hon'ble Supreme Court in *Ajantha Industries* (supra) that settles the proposition that a transfer order under Section 127(1) is not just required to be a reasoned one, but must also be communicated to the assessee.

IV (b) – Submissions of the I T Department with case-law

52. Per contra, Mr.A.P.Srinivas relies upon a decision of the Division Bench of the Allahabad High Court in the case of *M.K.Industries V. Union of India* (119 ITR 286). In that case, notice under Section 127 of the Act has been



served upon the assesseees calling upon them to show cause why their cases not be transferred to the Kanpur Circle from Hapur. None had appeared on the date of hearing.

53. Though an application was received by post praying for an adjournment, the request for accommodation was rejected and transfer orders were passed that came to be challenged by way of Writ Petitions. The counter affidavits had defended the orders stating that voluminous enquiries were required to be made that would be delayed if the assesseees were spread out.

54. Hapur fell within Central Circle, Meerut and came under the administrative charge of the Commissioner of Income Tax, Delhi, which was overburdened. That is the reason that was set out for centralization and which appealed to the Court, that proceeded to dismiss the Writ Petitions.

55. The judgment in the case of *Ajantha Industries* (supra) was distinguished by saying that in that case, the assessee had duly appeared and objected to the transfers, whereas in the present case, there was no appearance and neither were objections filed. The Court thus was of the view that it would be an idle formality to quash the orders merely for their non-communication upon the assesseees. The revenue counsel undertook that a copy would be furnished to the petitioners and that was recorded.

IV (c) Discussion



56. Learned counsels have been heard and files were summoned to peruse the orders passed. The files contain, inter alia, Notification 13/2020 in C.No.142/2020-21/PCIT-1/CBE dated 29.12.2020 that has been issued recording the fact that Ramamoorthy Srithar and Kandasamy Thirumoorthy have not responded to the notices and hence it is presumed that they have no objections in the transfer of their assessments to Chennai.

57. The reasons set out, are, to facilitate comprehensive and coordinated assessment proceedings. However, there is subsequent Notification bearing No.27/2021 dated 09.02.2021, wherein the objection of Kandasamy Thirumoorthy is recorded. His objection was that since the proposal for transfer was during the pandemic period, travel between Coimbatore and Chennai would prejudice him, quite apart from involving substantial time and cost.

58. Therefore, he has requested that his file not be transferred '*in entirety*' from Commissioner of Chennai. The request has been rejected in the interests of coordinated examination and assessment.

59. Likewise under Notification 26/2021 dated 09.02.2021, proposals were sent to Srithar Sudha, Thirumoorthy Kala and Manickam Karthikeyan and the Principal Commissioner of Income Tax records their absence and continues the proposal for transfer.



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60. I am of the considered view that the non-grant of opportunity in the cases of the five petitioners above is not fatal to the centralization of the assessments, as show cause notices have been issued in all matters to which, in four out of the five cases, there has been no response. The provisions of Section 127(2)(a) do mandate adherence to the principles of natural justice and with the issuance of the show cause notices that have admittedly been served upon the petitioners, this requirement stands met.

61. Kandasamy Thirumoorthy who has filed a reply to the notice, only requests that the assessment not be transferred in full and cites the pandemic and attendant difficulties in travel to object to the proposal for centralization. Though he has not been heard in person prior to the passing of the order, the objection has been considered, in that, it was only the search assessment that was centralized and subsequent assessments are expected to be conducted by the erstwhile assessing officer only as per the request of this petitioner.

62. As far as the case of SNJ Sugars is concerned, records have been summoned and examined. The petitioner has proceeded on the basis that the transfer of file from R4 to R5 is violated by lack of opportunity, since its assessment, according to it, has been transferred from Tirupathi to Chennai.

63. It is the stand of the respondent in counter that, in fact, the assessment of SNJ Sugars had been transferred to Chennai long prior to the



issuance of Section 153 A notice, vide Notification in F.No.127/CIT/TPT/2019-20 dated 30.01.2020, passed by the Principal Commissioner of Income Tax, Tirupathi.

64. The aforesaid order has been passed after due opportunity and after taking note of the submissions and objections of the petitioner. That order had also been duly served upon the petitioner. The subsequent transfer was thus an internal transfer from R3 to R4, being Deputy Commissioner of Income Tax, Central Circle 2(1) to Assistant Commissioner of Income Tax, Central Circle 3(2). This does not warrant opportunity or any other procedural formality as the transfer is internal, from one officer to another, within the Central Circle.

65. This leaves the aspect of non-service of the orders upon the petitioners and I discuss below the decisions cited at the Bar. The relevant portion of the judgment in re. *Ajanta Industries* (supra) reads thus:

The reason for recording of reasons in the order and making these reasons known to the assessee is to enable an opportunity to the assessee to approach the High Court under its writ jurisdiction under [article 226](#) of the Constitution or even this Court under [Article 136](#) of the Constitution in an appropriate case for challenging the order, inter alia, either on the ground that it is based on irrelevant and extraneous condonations Whether such a writ or special leave application ultimately fails is not relevant for a decision of the question

We are clearly of opinion that the requirement of recording reasons under [section 127\(1\)](#) is a mandatory direction under the law and non-communication thereof is not saved by



showing that the reasons exist in the file although not communicated to the assessee.

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When law requires reasons to be recorded in a particular order affecting prejudicially the interests of any person, who can challenge the order in court, it ceases to be a mere administrative order and the vice of violation of the principles of natural justice on account of omission to communicate the reasons is not expiated

.....

66. In conclusion, the Bench states as follows:

We are, therefore, clearly of opinion that non- communication of the reasons in the order passed under [section 127\(1\)](#) is a serious infirmity in the order for which the same is invalid. The judgment of the High Court is set aside. The appeal is allowed and the orders of transfer are quashed. No costs.

67. The decision of the Division Bench of this Court in the case of *Loganathan V. District Collector* (supra) was rendered in the context of the computation of limitation for filing of appeal before the Debt Recovery Appellate Tribunal. The limitation had been computed from the date of order, whereas, it was the contention of the party that it should have been computed from the date of receipt of the order.

68. The judgment of the Hon'ble Supreme Court in the case of *State of West Bengal and Others and R.K.B.K.Ltd and another* ((2015) 10SCC 369), particularly paragraphs 26, 28 and 29 have been extracted by the Division Bench to conclude that communication of an order is a mandatory ingredient to



bring to a logical conclusion the proceedings, so as to provide to a person the opportunity to take recourse to the law, if he is so aggrieved by that order.

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69. Paragraphs 26 and 28 are extracted hereunder:

26. We have referred to the aforesaid authority in extenso as the Division Bench has in one line stated that the said decision makes it clear that communication of an order is necessary ingredient for bringing an end result to a status or to provide a person an opportunity to take recourse to law if he is aggrieved thereby, then the said order is required to be communicated. To arrive at the said conclusion, as has been stated earlier, the Division Bench has found support from Rani Sati Kerosene Supply Co. [2004 SCC OnLine Cal 327 : (2005) 4 CHN 264] wherein it has been held that if an order is communicated after 30 days, an order of cancellation can easily be frustrated and, therefore, the phrase by an order in writing to be made appearing in the proviso to Para 9 of the Control Order is to be construed as by an order in writing to be communicated.

28. Keeping in view the aforesaid principles, if it is held that the order would become a nullity, it really does not serve the purpose of the Control Order. On the contrary, it frustrates it and, therefore, the interpretation placed by the High Court on Para 9 in juxtaposition with Para 10 to treat the order as null and void is neither correct nor sound. It is desirable that the authority shall pass an order within 30 days from the date of show-cause. Be it noted that there are two contingencies when the show-cause is issued for violation or when an order of suspension is passed. There can be no trace of doubt that the order will take effect from the date when it is served. The order, unless it is served, definitely neither the agent nor the dealer would suspend its activities or obey any order, for he has not been communicated.

.....

70. In *Government Wood Works* (supra), Justice T.L.Viswanatha Iyer

decided the same issue holding that an order cannot be said to be passed unless



it is in some way pronounced or published or the party affected has the means of knowing it. Merely passing the order signing it and keeping it in the file would be irrelevant and cannot tantamount to issuance of the order. At paragraph 14, the Bench states as follows:

14. The order of any authority cannot be said to be passed unless it is in some way pronounced or published or the party affected has the means of knowing it. It is not enough if the order is made, signed, and kept in the file, because such order may be liable to change at the hands of the authority who may modify it or even destroy it, before it is made known, based on subsequent information, thinking or change of opinion. To make the order complete and effective, it should be issued, so as to be beyond the control of the authority concerned, for any possible change or modification therein. This should be done within the prescribed period, though the actual service of the order may be beyond that period. This aspect of the matter had not come up for consideration in the cases of Viswanaihan Chettiar [1954] 25 ITR 79 (Mad.) and Laxmi das & Co. [1969] 72 ITR 88 (Bom) where the only question dealt with was whether service of the order after the prescribed period rendered it invalid. Unless, therefore, the order of the Deputy Commissioner in this case had been so issued from his office within the period prescribed, it has to be held that the proceedings are barred by limitation. This question has not been considered by the Tribunal. The Tribunal, which passed the order, apparently did not have the benefit of the decision in Malayil Mills case (T. R. C. Nos. 15 and 16 of 1981 decided on 7th June, 1982-Kerala High Court) which, so far as we could see, remains, unreported. The matter has therefore to go back to the Tribunal for an examination of the records to ascertain whether the order of the Deputy Commissioner had been issued from his office within the period of four years prescribed in [Section 35\(2\)](#) of the Act. The Tribunal will adjudicate the matter in the light of the observations contained herein and in the judgment in the case of Malayil Mills (T. R. C. Nos. 15 and 16 of 1981 decided on 7th June, 1982-Kerala High Court) extracted earlier.



71. In *General Exporters* (supra), a learned single Judge of this Court held that the non-communication of reasons for issuance of a notice under Section 127 of the Act was fatal to the case of the revenue. In that case, the challenge was to an order of transfer of that assessee's file from New Delhi to Chennai.

72. The counter filed by the respondents in that matter was to the effect that the impugned order was passed based on certain reasons that had been recorded by the officer, and kept in the jurisdictional file. Since the note containing the reasons was very lengthy, the contents had not been incorporated in the notice or in the transfer order, the latter of which was challenged.

73. The Court has summoned the file and had perused the reasons, on the basis of which the impugned order had been passed. Ultimately, the order came to be set aside as being violative of principles of natural justice, since it was the reasons that form the substratum of the impugned decision and those reasons had, admittedly, not been furnished to that assessee.

IV(d) – Conclusion

74. The perusal of the files has left me in no doubt that sufficient opportunity has been afforded to the petitioners prior to the passing of the impugned orders. On the aspect of non-service, I am of the view that it constitutes an irregularity in procedure, but one that may be cured by supplying



a copy of the order now. The reasons for centralization have admittedly been communicated to the petitioners even in the notices. The majority have not responded to the notices (four out of five).

75. In my considered view, with the communication of the reasons and the opportunity granted to respond, the responsibility cast upon the Department by the provisions of Section 127 stands substantially discharged. No doubt, the orders of centralization ought to have been served upon the petitioners and the failure to do so constitutes a procedural irregularity. However, it is not, on balance, and in the present circumstances, where the petitioners have been afforded opportunity to respond and have, in all but one case, not so responded, so grave as to go to the root of the matter and vitiate the proceedings totally.

76. Relevantly, the petitioners have, by virtue of the present challenge demonstrated that there has been no prejudice caused to them by the non-service of the centralization orders as their grievances in that regard are being effectively aired and heard. In any event, the learned standing counsel is directed to issue the orders to the petitioners forthwith.

77. Moreover, the reasons for centralization do reveal that the consolidation proposed is for reasons of administrative efficiency and convenience and there has been no denial of this aspect of the matter by the petitioners. In light of the discussion above, these writ petitions are dismissed.

**V.ISSUE - 3 – 153A****V (a) – Submissions of the petitioners with case-law**

78. Section 153A notices have been issued that are challenged on several grounds. One of the primary grounds is that the notices are not based on material found in the course of search. For this purpose, great reliance is placed on the date of transfer of the documents which is several months after the issuance of notices itself.

79. The search was concluded on 11.08.2019 and notices under Section 153A were issued to all the petitioners on 03.02.2020. However, it was only on 10.09.2020 that the seized records had been handed over by the officers constituting the search team, to the jurisdictional Assessing Officer.

80. The first argument advanced in this regard is that the records ought to have been handed over within 60 days from the last of the authorizations executed for search. For this purpose, reliance is placed on Section 132(9A), extracted below:

Search and seizure.

132. (1) *Where the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that—*



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(9A) *Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.*

81. I have, in a batch of Writ Petitions in the case of *Agni Estates and Foundations Private Limited V. Deputy Commissioner of Income Tax* (W.P.Nos.35076 of 2019 etc. batch dated 17.03.2021), held that handing over of the documents beyond 60 days does not vitiate the notices, issued prior to the expiry of the overall limitation provided for completion of assessment. That order is stated to be pending in appeal, though parties confirm that, as on date there is no interim stay granted.

82. Faced with that order, learned Senior Counsel would make a distinction on facts. In that case, the notices had been issued on 01.11.2019 in respect of the seized material that had been handed over on 20.08.2019. Thus, the handing over had been prior to issuance of notices and hence the notices could be said to be based on the materials themselves, though handed over belatedly.



83. In the present case, the handing over of the documents was admittedly on 10.09.2020, whereas the notices had preceded such handing over by seven months and had been issued on 03.02.2020. The petitioners argue that this constitutes not just an irregularity, but an error that goes to the root of the matter, vitiating the very assumption of jurisdiction.

84. An assessment in the case of a search or requisition has to be based on seized material, since it is framed consequent upon the search. Thus, to issue a notice without even having the benefit of the seized documents would be a travesty of the scheme of such an assessment, they argue.

85. It is only upon receipt of the seized documents that the Assessing Officer is even aware as to whether there is any concealment of income, and consequently cause for an assessment to be framed. Till such time an officer receives the seized materials, no cause is made out for issuance of a notice under Section 153A, as the search may have yielded no result at all.

86. Since in this case, the notices under Section 153A have preceded the date of handing over of the seized material, they are attacked on the ground that they are premature and vitiated by lack of application of mind. Reliance is placed upon the decisions of the Delhi and Orissa High Courts in the case of i) *Commissioner of Income Tax V. Kabul Chawla* (380 ITR 573), ii) *Smt.Jami Nirmala V. The Principal Commissioner of Income Tax, Bhubaneswar and*



others (W.P.(C) No.2857 of 2018) dated 10.08.2021) and iii) *Smruti Sudha Nayak V. Union of India and others* (439 ITR 193).

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87. In the aforesaid decisions, the Courts have observed that though the provisions of Section 153A do not refer to evidence or material found in the course of the search or post-search material or information, whether incriminating or otherwise, relatable to the evidence found in the course of search, the provisions of Section 153A require that a search assessment be framed based only upon such seized material.

88. They also rely on Instruction in F.No.286/161/2006-IT dated 22.12.2006, as well as the Manual of the Income Tax Department, particularly Annexure 92 falling under Appendix V, setting out the procedure for conduct of assessments following searches.

89. Paragraph 1.3 of the Manual thereof states that upon receipt of the appraisal report and seized material, the Assessing Officer and Range Head must jointly scrutinize the same and prepare an examination note to decide upon which cases require the issuance of notices under Sections 153A/153C/148, segregate those cases where the seized materials pertain to persons other than the searched entities and the centralization of assessments.

90. The above Instruction finds place at paragraph 6.41 of the search and seizure manual and reads thus:



Scrutiny of the appraisal report by the Assessing Officer and the Range head

6.41 On receipt of the appraisal report and seized material, the Assessing Officer and Range head should jointly scrutinise the same and prepare an examination note to decide:

- (i) Cases where notices under section 153 A are required to be issued.
- (ii) Cases where notices under section 153C are required to be issued.
- (iii) Cases where notices under section 148 are required to be issued
- (iv) Cases where seized material pertains to persons other than those whose cases have been centralised.

91. Proper procedure thus demands application of mind in regard to the seized material, as, if the officer, upon an examination of the material, finds nothing incriminating or that indicates evasion of tax, as a consequence, there is no necessity to issue notice under Section 153A at all. Thus, a proper reading and application of the applicable statutory provisions is that the materials must be in the possession of the Assessing Officer prior to him issuing notices under Section 153A of the Act.

V (b) - Submissions of the I T Department with case law

92. Section 153A, though titled as '*assessment in the case of search or requisition*', does not impose any pre-condition for the issuance of notices, including the necessity for incriminating materials found and seized in the course of search. Thus, the submission of the petitioners that Section 153A notices can be issued only after receipt of all seized materials is misconceived.

93. In fact, and on the contrary, Section 153A mandates that an officer issues notice under the respective provision to an assessee who was subject to a



search under Section 132. It is only in the case of an assessment under Section 153C that the officer has to examine the applicability of the seized documents to 'such other person', who is a third party to the search.

94. In the case of such third party, the receiving officer shall issue notice to the third party under Section 153C and proceed to assess/re-assess the income of such other person in accordance with the procedure set out under Section 153A, if that Assessing Officer were satisfied that the books of accounts or documents or assets seized or requisitioned have a bearing on the determination of the total income of the other person. The contrast between the two Sections is apparent.

95. They rely on the decisions of the Delhi, Kerala and Gujarat High Courts in the cases of (i) *Commissioner of Income Tax V. Anil Kumar Bhatia* (352 ITR 493), (ii) *Madugula Venu V. Director of Income Tax* (29 taxmann.com 200), (iii) *Commissioner of Income Tax V. St. Francis Clay* (385 ITR 624), (iv) *E.N.Gopakumar V. Commissioner of Income-tax (Central)* (390 ITR 131) and (v) *Amar Jewellers Ltd. V. Assistant Commissioner of Income-tax* (444 ITR 97).

V(c) - Discussion



96. The provisions of Section 153A, to the extent they are relevant to decide the issue on hand, read thus:

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153A. (1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 [but on or before the 31st day of March, 2021], the Assessing Officer shall

-

- (a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;*
- (b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years*

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years [and for the relevant assessment year or years]:

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years [and for the relevant assessment year or years] referred to in this "[sub-section] pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate":



97. With the insertion of Sections 153A, 153B and 153C by Finance Act, 2003, with effect from 01.06.2003, the concept of a single search assessment for a block of ten years stood dispensed with and substituted by a new scheme of assessment spanning six years. A significant difference is that while erstwhile Chapter XIVB of the Act provided for an assessment for ten years that related solely to incriminating materials found as a consequence of the search, the new scheme provides for individual and integrated orders of assessment to be passed for the six years prior to the year of search relating to the determination of total income of each assessment year.

98. There is thus no requirement for two orders, one, a regular assessment, and the other a search assessment and an order under section 153A/153C will deal with all issues touching upon the determination of total income of that assessee, whether emanating from the search or otherwise.

99. The provision also uses the word '*shall*' in the context of issuance of notice. Thus, it is incumbent upon the Assessing Officer to issue a notice under Section 153A to any person/entity searched, and in my view, irrespective of whether the seized material is received or otherwise. No doubt, it stands to reason that the materials seized must be analysed and forwarded to the receiving Assessing Officer at the very earliest to enable the officer to peruse



the same even prior to issuance of notice. However, it is not a statutory pre-condition.

100. This is amply demonstrated by a comparison of the provisions with Sections 153A and with Section 153C. Section 153A is direct and requires an Assessing Officer to compulsorily issue a notice in the case of any person searched calling for returns of income in the prescribed form.

101. The 4th proviso to Section 153A deals with assessments or re-assessments falling outside the block of 6 years and for which an additional condition is imposed. It states that notice may be issued only when the Assessing Officer has, in his possession, books of accounts, other documents or evidence that reveal that income, represented as an asset, of a pecuniary limit of Rs.50.00 lakhs or more, either for an assessment year or the aggregate of the assessment years, has escaped assessment. Thus, in such a situation, the existence of the seized materials is a sine qua non to the issuance of notice.

102. Section 153C, reads as follows:

Assessment of Income of any other person.

153C. (1)][Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, "belongs to; or

(b) any books of account or documents, seized or requisitioned, or pertains to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the



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books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or re-assess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and] for the relevant assessment year or years referred to in sub-section (1) of section 153A

103. The above provision requires the Assessing Officer to issue notices for assessment/re-assessment only if the receiving officer, i.e, the Assessing Officer of the third party, is 'satisfied' that the books of accounts or documents or assets seized or requisitioned would have a bearing on the determination of the total income of such other person.

104. The summary of legal position as set out in the case of *Kabul Chawla* is as follows:

Summary of the legal position

38. On a conspectus of Section 153A(1) of the Act, read with the provisos thereto, and in the light of the law explained in the aforementioned decisions, the legal position that emerges is as under:

i. Once a search takes place under Section 132 of the Act, notice under Section 153 A (1) will have to be mandatorily issued to the person searched requiring him to file returns for six AYs immediately preceding the previous year relevant to the AY in which the search takes place.



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ii. Assessments and reassessments pending on the date of the search shall abate. The total income for such AYs will have to be computed by the AOs as a fresh exercise.

iii. The AO will exercise normal assessment powers in respect of the six years previous to the relevant AY in which the search takes place. The AO has the power to assess and reassess the 'total income' of the aforementioned six years in separate assessment orders for each of the six years. In other words there will be only one assessment order in respect of each of the six AYs "in which both the disclosed and the undisclosed income would be brought to tax.

iv. Although Section 153 A does not say that additions should be strictly made on the basis of evidence found in the course of the search, or other post-search material or information available with the AO which can be related to the evidence found, it does not mean that the assessment "can be arbitrary or made without any relevance or nexus with the seized material. Obviously an assessment has to be made under this Section only on the basis of seized material.

v. In absence of any incriminating material, the completed assessment can be reiterated and the abated assessment or reassessment can be made. The word 'assess' in Section 153 A is relatable to abated proceedings (i.e. those pending on the date of search) and the word 'reassess' to completed assessment proceedings.

vi. Insofar as pending assessments are concerned, the jurisdiction to make the original assessment and the assessment under Section 153A merges into one. Only one assessment shall be made separately for each AY on the basis of the findings of the search and any other material existing or brought on the record of the AO.

vii. Completed assessments can be interfered with by the AO while making the assessment under Section 153 A only on the basis of some incriminating material unearthed during the course of search or requisition of documents or undisclosed income or property discovered in the course of search which were not produced or not already disclosed or made known in the course of original assessment.



105. The above conclusion supports the position that notice under Section 153A is to be mandatorily to be issued in the case of an assessee that has been searched (see sub-para (i) of paragraph 38 above). Neither Section 153A nor Section 153C provide for a time limit for the issuance of the notices and only limitation, for the completion of assessment under those sections, is set out under Section 153B.

106. The time limit for completion of assessment/re-assessment under Section 153A is 21 months from the end of the financial year in which the last of the authorisations for search under Section 132/requisition under Section 132A is issued, and in the case of Section 153C, is 9 months from the end of the financial year in which the books of accounts, documents or assets seized or requisitioned are handed over to the Assessing Officer having jurisdiction over the third party, whichever is later.

107. Section 153B reads as follows:

Time limit for completion of assessment under section 153A.

153B. (1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,

(a) in respect of each assessment year falling within six assessment years [and for the relevant assessment year or years] referred to in clause (b) of sub-section (1) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;



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(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

108. Circular No.3/2006 dated 27.02.2006 which explains the provisions of the Finance Act, 2005 contains the following paragraph explaining the purport of Section 153C(2):

A new sub-section (2) has been inserted in section 153C providing that in case of such other person for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, where (a) no return of income has been furnished by such person and no notice under sub-section (1) of section 142 has been issued to him, or (b) a return of income has been furnished by such person but no notice under sub section (2) of section 143 has been served and the limitation of serving the notice under sub-section (2) of section 143 has expired, or (c) assessment or re-assessment, if any, has been made, before the date of receiving of books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such assessing officer shall issue the notice and assess or re-assess total income of such other person for such assessment year in the manner provided in 153A. The provisions of the newly inserted sub-section (2) would apply where books of account or documents or assets seized or requisitioned referred to in sub-section (1) of the said section



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153C, have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income under sub-section (1) of section 139 for the assessment year relevant to the previous year in which search is conducted u/s 132 or requisition is made under section 132A.

109. Thus, in cases where the seized materials relating to a third party are received beyond the due date in relation to the year of search, a set of conditions have been prescribed, upon satisfaction of which, the year of search is added to the block period for assessment under Section 153C.

110. The fact that there are no statutory timelines for initiation of proceedings by issue of notices under Sections 153 A and C is thus apparent, though there are certain inferences that one can draw in this regard from the Statute in regard to certain specific conditions. In the case of notice under Section 153C, there is a pre-condition for the issuance of notice, which is the recording of satisfaction by the receiving officer. Such satisfaction cannot be recorded unless the seized material has been received by the officer.

111. In the case of assessment for the four years preceding the block period of six years, the pre-condition is the existent of an asset valued at Rs.50 lakhs or more. The ascertainment of this aspect also necessitates the existence of the seized material prior to the issuance of notice. Then again the inclusion of the seventh year, being the year of search under Section 153C(2) is also only after the receipt of books by the officer. In contrast, the only pre-condition for



issuance of the notice under Section 153A is the search itself. I am thus unable to accept the argument of the petitioners to the effect that the transfer of the seized material is a pre-condition to the issuance of the notice under Section 153A as such a conclusion would tantamount to re-writing of the provision to read in such a condition, which is legally impermissible.

112. Having said so, the report of the Comptroller and Auditor General of India for the year ended March 2019 (Report No.14 of 2020) makes a recommendation for setting of a time limit for issuance of notices under Sections 153 A and C and the relevant portion of the report is extracted below:

2.4.2 Absence of prescribed time limit for issue of notice u/s 153A/153C of the Act.

There is no specific time limit prescribed in the Act for issue of notice u/s 153A/153C of the Act. However, section 153B of the Act provides that the AO shall pass an order of assessment within a period of two years from end of financial year in which last authorization u/s 132 of the Act for search was executed.

The matter of non-specification of time limit for issue of notices under section 158BD was pointed out in CAG's earlier Audit Report No.7 of 2006 but the same was not resolved even in amended section 153A/153C of the Act.

We noticed 98 cases in three states where AO issued notices u/s 153A/153C of the Act to the assessee after period ranging from five months to 21 months from the end of previous year in which search was conducted. Further, in two out of 98 cases, notice u/s 153C of the Act was issued just before four days from the date of completion of assessment. Thus there were considerable delays in issue of notices. As a result, the time left for completion of assessment was not enough for in depth examination of all the issues pointed out



during search operations and also having risk of human error, which could eventually affect the quality of search assessments.

We reiterate that the CBDT may introduce a time limit for issuing notices under amended section 153A/153C of the Act.

The CBDT stated (June 2020) that the issue shall be examined by TPL Division.

113. As the Audit has recommended, it is necessary that the Legislature or the Board, administratively, fix such timelines, for the purpose of integrity of procedure, including compliance with the provisions of natural justice as well as to ensure quality in the framing of assessments in a timely manner. This is protect against, and prevent a situation where the notices are issued too proximate to the expiry of limitation leading to a hurried framing of assessment and that the assessment is not based upon incriminating material. Such arguments are indeed available to assessees, but subsequent to the framing of the assessment itself, that would enable an examination of the material brought on record in order to test such submissions.

V(d) – Conclusion

114. The challenge to notices issued under Section 153A is rejected.

VI.ISSUE - 4 – Challenge to notices in terms of Section 153 C

VI (a) - Submissions of petitioners with case-law

115. The challenge to Section 153 C notices is made by Ramamoorthy Srithar, Srithar Sudha, Nandhini Transports Pvt. Ltd., Kandasamy Thirumoorthy, Thirumoorthy Kala, Manickam Karthikayen, Kaycee Distillers,



Chandran Somasundaram, C. Mariappan, Shanmugakani Sivajothi,
Somasundaram Rishi Sharaan and Leela Distillers.

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116. These petitioners are in receipt of notices under Section 153 C of the Act on the basis of materials found in the course of search, that are stated to relate to them. The first submission made by the petitioners is that in some of the cases, panchanamas have been drawn in their name and hence the substratum for issuance of Section 153 C notices itself fails, as the Statute provides for the issuance of a notice under Section 153A in such cases. Reliance, in this regard, is placed upon the decision of the Delhi High Court in *Saraya Industries Ltd. V. Union of India* ((2008) 306 ITR 189).

117. However, I am, on a perusal of the search records, unable to locate any panchanama relating to the petitioners to whom Section 153C notices have been issued. At best, I have been able to locate panchanamas drawn in the names of the employees of some of the aforesaid concerns, but not the concerns themselves. Thus, reliance on the decision of the Delhi High Court in the case of *Saraya Industries* (supra) does not advance the case of the petitioners in light of the distinction in facts as noticed aforesaid.

118. The second submission is that the seized material must be relatable to each of the assessment years for which notices under Section 153C have been issued. For this purpose, reliance is placed on the judgment of the



Hon'ble Supreme Court in the case of *Commissioner of Income Tax V. Sinhgad*

Technical Education Society ((2018) 11 SCC 490) and of the Delhi High Court

in *Principal Commissioner of Income Tax (Central 2) V. Index Securities*

Private Limited and ors. ((2018) 304 CTR (Delhi) 67). The satisfaction notes,

according to the petitioner, do not reveal the existence of seized material qua

each year, and this, according to the petitioner, establishes their argument as

aforesaid.

VI (b) - Submissions of respondents with case-law

119. The respondents rely on the plain language of Section 153C to argue that the provision requires the officer to mandatorily issue notice for the 6 years comprising the block period as stipulated for the main assessee, that is, the searched person, subject only to the recording of satisfaction of the officer that the seized material related to the third party. Upon satisfaction being recorded, as has admittedly been done in these cases, there is no further discretion provided in this regard.

120. They would, for their part, rely upon two decisions of the Kerala High Court in the cases of *Commissioner of Income-tax, Thichur V. ST. Francis Clay Décor Tiles* (385 ITR 624) and *E.N.Gopakumar V. Commissioner of Income-tax (Central)* (390 ITR 131) that support their stand that issuance of notices for all 6 years is mandatory. The use of the words 'incriminating', the



Kerala Bench has observed, does not flow from a reading of the statutory provision, and all material found would constitute valuable material upon which the officer may base the assessment.

VI (c) - Discussion

121. The provisions of Section 153C have been extracted earlier, at paragraph 102 and require the receiving officer, that is, the jurisdictional assessing officer of the assessee concerned, to issue notice, if he is 'satisfied' that the books of account/documents/assets seized or requisitioned have a bearing on the determination of total income of such other person for the block period.

122. The satisfaction recorded must state that the seized materials relate or pertain to such other person, and to the period in question, that is, the block of six years as stipulated under Section 153A.

123. I extract a sample satisfaction note in the case of Anitha Bottles a sole proprietary of C. Mariappan, petitioner in W.P.No.19414 of 2021, to examine whether the satisfaction arrived at by the authority may be said to be perverse or contrary to law.

*Satisfaction Note u/s 153C of the Income Tax Act, 1961,
in the case of M/s.Anitha Bottles (ASMPM9473H)
AY 2019-20*



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A search and seizure action u/s 132 of the Income Tax Act, 1961, was conducted in the case of Shri. N.Jayamurugan, Smt.J.Geetha, M/s.SNJ Distilleries Pvt. Ltd., M/s.SNJ Breweries Pvt. Ltd. M/s.SNJ Sugars & Products Ltd, on 06.08.2019. In connection with the same, the business premises of M/s.Anitha Bottles (Prop. Shri C.Mariappan), at No.192/1060/1. Venkateswara Rice Mill, G.S.T. Road, Madhuranthakam – 603 306, was also covered.

The SNJ group was notified to this office for making search assessments and coordinates investigation vide PCIT (Central-1) Chennai notification No.8/2020-21 dated 07.09.2020. The case of the assessee was also notified to this office vide Notification No.60/2019-20 dated 18.10.2019 of PCIT, Chennai-6, Chennai.

During the course of search proceedings conducted at the factory premise of M/s.Anitha Bottles at No.192/1060/1, Venkateswara Rice Mill, G.S.T.Road, Madhuranthakam – 603 306 on 06.08.2019, certain incriminating material in the form of loose sheets, Books & Documents, Electronic devices were found and seized vide annexures-ANN/MA/AB/B&D/S(1-3), ANN/MA/AB/LS/S and ANN/MA/AB/ED/S which contain details of inflation in sale of empty old bottles to M/s.SNJ Distillers Pvt Ltd (SNJDL in short) & M/s.SNJ Breweries Pvt. Ltd (SNJBL, in short) by M/s.Anitha Bottles.

During the course of search, it was seen that the assessee has supplied empty bottles by inflating the rate of bottles during the period prior to GST and by doubling the number of bottles after the implementation of GST. The weekly filling data, i.e. the bottles supplied by the assessee and consumed at SNJ distilleries Pvt. Ltd. was found maintained in the desk top of Shri K.Rajkumar, Supervisor and printouts of the same has been seized vide sheets numbers from 6 to 39 in aNN/MA/AB/LS/S. When asked to explain Shri K.Rajkumar, in his answer to question no.25 in the sworn statement recorded u/s 131 on 08.08.2019, has stated that he has maintained the weekly filling data of bottles accepted by M/s.SNJ, as instructed by Mr.C.Mariappan, Proprietor of M/s.Anitha Bottles. He further stated that in the billing made to SNJ, the quantity of bottles will be doubled for which the consideration will be received in the bank account of the assessee and he confirmed that this is the total sale



which is recorded as GST Sales in Tally, 50% of which are only book entries.

On perusal of the books of account (maintained in tally) for the FY:2018-19 kept at the office in the factory premise of M/s.Anitha Bottles, it was noticed that there were two accounts with names 'GST Purchases' and 'Bottle purchase account'. When it was asked to provide the evidences for the purchase accounts ledgers in the tally for one month, Shri K.Raj Kumar, provided the invoices for the purchases under the head 'GST Purchases' and the hand written bought notes for the purchases mentioned under the head 'Bottle Purchase account' as Annexure to his sworn statement. On verification of the bought notes, it was noticed that they have mentioned only names in the bill without any other details and it was also noticed that seller copy was retained with them. When it was asked to explain the same, Shri K.Rajkumar in the sworn statement recorded from him u/s 131 on 08.08.2019 stated in his answer to question number 22 of the statement that the purchases booked under the head 'Bottle Purchase Account' are bogus and no actual purchase were made for such bills. The names mentioned in the bought notes are dummy names and hence no contact details or addresses can be provided.

Thus, in order to match the inflated sales invoices with the books of account (sale invoices), M/s.Anitha bottles was booking bogus purchases with the handwritten purchase vouchers (bogus bought notes), in his answer to question number 21 of the statement recorded on 08.08.2019, Shri K.Rajkumar as instructed by Shri C.Mariappan, he had to book twice the quantity of bottles in the purchase register in order to match the inflated sales invoices raised in the name of SNJ group.

Further, it was noticed that before implementation of GST, in order to match the books of account for inflated invoices, the assessee was preparing self made purchase vouchers by inflating the price per bottle. For example, the actual purchase price of 650 ml Green beer bottle purchased from M/s.NIHA International Pvt. Ltd. is Rs.3.15 as per invoice no.189 available in ANN/MA/AB/B&D/S-1 (page number 222) whereas, the purchase value of similar beer bottle is recorded as Rs.6.10 in the self made purchase voucher purchased from others as can be seen from seized material vide ANN/MA/AB/B&D/S-2.



The financial year wise bogus purchases booked under the head 'Bottle Purchase Account' for the FYs 2017-18 to 2019-20 (till July) worked out to Rs.26,99,80,939/- as below:

S.No	FY	Amount as mentioned in tally (in Rs)
1	2019-20	1,72,51,444/- (April to 3 rd Aug 2019)
2	2018-19	11,86,73,835/-
3	2017-18	13,40,55,660/-
	TOTAL	26,99,80,939/-

Further, when it was asked to provide the inflated sale invoices raised by M/s.Anitha Bottles to M/s.SNJ group Shri K.Rajkumar has provided the FY wise inflated sales invoices raised by M/s.Anitha Bottles to M/s.SNJ Group which amounts to Rs.25,81,70,751/- for the FYs 2016-17 to 2019-20 (till July) in his answer to question no.35 in the sworn statement.

S.No	FY	Value of surplus sale booked under the head GST sales (in Rs)
1	2019-20 (April to July)	1,20,73,517
2	2018-19	7,54,06,274
3	2017-18	8,32,11,217
4	2016-17	8,74,79,743
	TOTAL	25,81,70,751

Further, it was noticed that on receipt of the payments from the M/s.SNJ group for the inflated invoices, M/s.Anitha Bottles has withdrawn cash of Rs.28.18 crore from their bank accounts for the FYs 2017-18 to 2019-20 (till July). The loose sheets containing monthly cash withdrawal from bank accounts, being printout of tally ledger account, have been seized vide ANN/MA/AB/LS/S. When it was asked to explain, the assessee could not provide any reason for withdrawal of such huge amounts of cash and has also not provided the evidences for the cash expenses. The FY wise withdrawals of cash are tabulated below:

S.No	FY	Cash withdrawal (in cr)
1	2019-20	1,437 (Apr-June 19)
2	2018-19	13,484 Cr

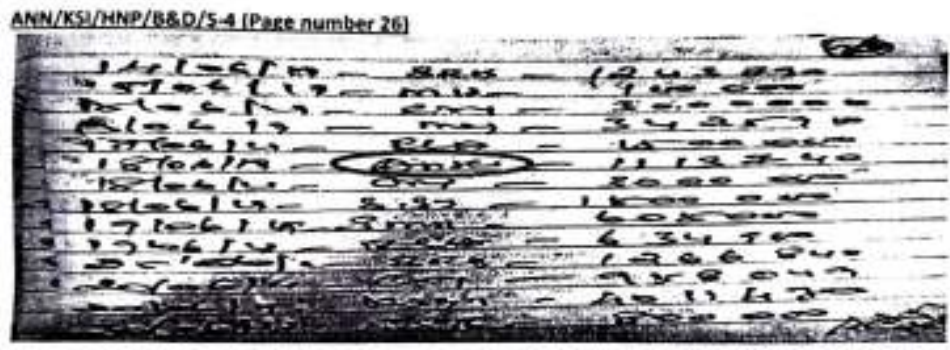


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3	2017-18 (ICIC Bank)	10,520 Cr
4	2017-18 (SBI Bank)	2,577 Cr
	TOTAL	28.18

Shri C.Mariappan, Prop: M/s.Anitha Bottles also confirmed in the sworn statement u/s 132(4) recorded from him on 09.08.2019 that they are not maintaining any inward, outward and stock register. During the course of search proceedings, when it was asked to provide the details of the unregistered dealers from whom bottles were purchased which the assessee could not produce the same. He has not produced any evidences regarding the quantity of purchases booked under the head 'Bottle Purchase Account' along with the details of unregistered dealers. Further, huge cash withdrawal equal to amount of inflated bottle purchase shows the inflation in sales of old bottles made to SNJ group and equal amount of inflation in bottle purchases by the assessee. The assessee could not provide evidence for cash expenses vis-à-vis the cash withdrawal.

The cash receipts notings of Shri A.Saravanan, employee of M/s.SNJ group who collects cash from suppliers on behalf of SNJ group in the packet dairies seized vide ANN/KSI/HNP/B&D/S from the premise of M/s.Hotel Nandhini Palace also contains the entries of receipts from M/s.Anitha Bottles and Shri A.Saravanan also stated that he was receiving back excess amounts of billed in cash from M/s.Anitha Bottles. The screen shot of one of the pages of note book maintained by Shri Saravanan which contains the cash collection from various vendors including M/s.Anitha Bottles is as below.





From the above, it is clear that the assessee is inflating the sales of bottles to SNJ group and is returning the inflated amount of sales to SNJ Group by cash once the same is received through banking channels.

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During the course of search in the residential premises of Shri C.Mariappan 881.600 gms of gold jewellery valued at Rs.29,56,097/- was seized vide ANN/NN/CM/Jew/S dated 16.09.2019. This is required to be assessed to tax for the A.Y.2020-21. Similarly, excess cash of Rs.8,77,500/- was seized vide ANN/NN/CM/CASH/S and the same is required to be brought to tax for the A.Y. 2020-21.

Thus, I am satisfied that the seized materials, jewellery and cash belong to the assessee and contain information relating to the assessee M/s.Anitha Bottles (Prop. C.Mariappan) and that the details in the seized materials have got a bearing on the computation of total income of the assessee for the A.Y. 2014-15 to 2020-21.

Section 153C(1) as amended with effect from 01.04.2017 provides that if any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or any books of account or document seized or requisitioned pertains or pertain to or any information contained therein relates to a person other than the person referred to in Section 153A, then the Assessing Officer of the other person shall proceed against each such other person and issue notice and assess, re-assess the income of the other person in accordance with the provisions of Section 153A, if that Assessing Officer is satisfied that the books of account or documents or asset seized or requisitioned have a bearing on the determination of the total income of such other person for six years immediately preceding the assessment year relevant to the previous year in which the search is conducted or requisition is made and for the relevant assessment year(s) referred to in sub-section 1 of Section 153A.

Notice u/s 153C has to be issued for six assessment years i.e. from the AY 2014-15 to AY 2019-20 i.e. six assessment years immediately preceding the AY relevant to the previous year in which the search is conducted. Accordingly, notice u/s 153C is issued for the AY 2014-15, 2015-16, 16-17, 17-18, 18-19 & 19-20). For A.Y. 2020-21 relevant to the previous year 2019-20 in which the search is conducted assessment has to be completed u/s.143(3)/144.



Accordingly, notice u/s 153C is issued for the A.Y. 2019-20.

124. In the case of *Ameeta Mehra V. Additional Director of Income Tax* ((W.P.(C) No.1471 of 2013 dated 16.05.2017), the Delhi High Court states thus:

14. The Satisfaction Note preceding the issuance of the search authorisation has been summarized earlier. The law in relation to searches under Section 132 of the Act has been explained in a large number of decisions of the Supreme Court and the High Courts. The jurisdictional facts that have to be established before a search under Section 132(1) of the Act can be authorised are that (i) the authority issuing the authorisation is in possession of some credible information, other than surmises and conjectures (ii) that the authority has reason to believe that the conditions stipulated in clauses (a), (b) and (c) of Section 132(1) qua the person searched exist; and (iii) the said information has nexus to such belief.

125. The sample satisfaction note extracted above is detailed and in my considered view, complies with all the statutory requisites. With this, the ingredients of Section 153C stand satisfied.

126. The judgement of the Hon'ble Supreme Court in the case of *Commissioner of Income Tax V. Sinhgad Technical Education Society* (397 ITR 344), has been rendered in statutory appeal. I have carefully studied the same along with the decisions of the High Court of Bombay as well as the Income tax Appellate Tribunal, Pune. The Tribunal, the final fact finding authority, has rendered therein, a categorical finding that there was no seized



material that was available as part of the records to justify the assessments framed in terms of Section 153C.

127. This finding has been confirmed by the High Court and thereafter the Hon'ble Supreme Court in statutory appeal. In the present case, the proceedings are, as on date, at a very preliminary stage and the petitioners have approached this Court challenging the very initiation of proceedings by notices. To intervene at this stage would require the establishment of legal error or a high degree of perversity in the proceedings, which threshold has not been achieved in this case, in my considered view.

128. The mahazar refers to certain sheets of paper that have been found in the course of search. The petitioners have argued that loose sheets of paper can hardly form the basis for initiation of assessment, relying upon the judgment of the Hon'ble Supreme Court in the case of *Manohar Lal Sharma V. Union of India* ((2017) 11 SCC 731).

129. While they may be in a position to prove the irrelevance of the loose sheets in the course of assessment, this Court, in exercise of writ jurisdiction is not privy to the entirety of the seized materials and cannot embark upon an exercise of fact finding to determine the veracity of a part of the material. It is thus for the parties to seek and obtain copies of the seized materials that are



relied upon by the respondents in the framing of the assessments and address the same in the course of the assessment proceedings.

130. Both the judgments relied upon the by the petitioners, i.e., *Singhad Technical Education Society* and *Index Securities Private Limited* have been rendered in statutory appeal. While dealing with statutory appeals, the Division Bench of the respective High Courts are bound to decide only the substantial questions of law that arise from the order of the Income Tax Appellate Tribunal, the order of the Tribunal being final on the questions of facts. Thus, barring any perversity in the recording of facts, what travels to the High Court are only the substantial questions of law.

131. In the cases relied upon, the Tribunals had rendered categoric findings that there were no seized materials in the case of those assesses relatable to the assessment years at issue. It is at the instance of the Income Tax Department that the matters had travelled to the Hon'ble Supreme Court and the substantial question of law was decided noticing, and based upon the facts found by the Tribunal.

132. This situation is hardly analogous to the situation before me. We are at a very preliminary stage where the materials found are yet to be assimilated and used, if at all, in an assessment. The petitioners have approached this Court even at this stage, crying foul.



133. This Court is of the categorical view that it is only the process of assessment that would bring to light inadequacies or perversities in the materials found. Be that as it may, and to assuage the grievance of the petitioners, records were summoned and the recording of satisfaction has been ascertained. It is not for this Court sitting in Article 226 jurisdiction to look into the sufficiency of the materials found or draw any conclusions on the facts of the matter.

134. As regards the judgment in the case of *Manohar Lal Sharma* (supra), that has been rendered in an entirely different context. Even there, the Hon'ble Supreme Court refers to its judgment in the case of *Central Bureau of Investigation V. V.C.Shukla* ((1998) 3 SCC 410), wherein, the litigation had stood the test of trial.

135. At paragraph 282 of the judgment, the Court no doubt states that loose sheets of paper are inadmissible as evidence under Section 34 of the Evidence Act. This finding has to be weighed as against the context of the lis before the Apex Court.

136. The judgment in the case of *Lalitha Kumari V. State of Uttar Pradesh* ((2014) 2 SCC 1), *Beni V. BisanDayal* (AIR 1925 Nagpur 445), *Mukundram V. Dayaram* (AIR 1914 Nagpur 44) and *State of Haryana V. Bhajan Lal* (1992 Supp (1) SCC 335) were discussed, the Court coming to the



opinion that the materials in question, being loose papers and electronic data were not good enough to constitute offences to direct the registration of a First Information Report (FIR) and investigation thereupon. They say that the materials found, must qualify as proper materials as per the decisions discussed by them. Thus, they reject the request for directing investigation by the Central Vigilance Commission.

137. In Income Tax proceedings, the test for the deployment of seized materials in an assessment is its credibility and the nexus between such materials and the ultimate conclusion sought to be drawn by the authorities. Such parameters may be applied only once the proceedings have gathered some momentum and facts have been marshaled, parties have applied their minds to the issues at hand and an assessment is framed. This is yet to happen in this case.

138. Alternatively, the material available must be palpably bereft of merit or the records reflect such total lack of reasonableness or application of mind, that the Court would decide to intervene even at this juncture. Neither of the aforesaid situations present themselves before me. The usefulness or otherwise of the materials seized is a matter of assessment and, needless to say, any materials proposed to be utilized by the respondents shall be supplied to the



petitioners who shall have full liberty to put forth their defence in regard to the same.

VI (d) - Conclusion

139. The challenge to notices in terms of Section 153 C is decided against the petitioners.

VII. ISSUE – 5 – Challenge to notices under Section 281B of the Act

VII (a) – Submissions of the petitioner

140. The challenge to notices of provisional attachment under Section 281B of the Act are on the basis that the attachments are bad in law seeing as the proceedings upon which such notices are based, are themselves contrary to law. They also state that the attachments have been extended far beyond the time frame provided under statute.

VII(b) – Submissions of the I T Department

141. In counter, the respondents have disputed that the attachments are contrary to law. They point out, though in general terms, that the attachments have been extended from time to time, and also take benefit of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 enacted on account of the pandemic to extend statutory timelines.

VII(c) – Discussion and Conclusion



142. The provisions of Section 281 provide for an attachment of properties of an assessee to protect the interests of the revenue, pending proceedings for assessment, re-assessment or imposition of penalty. Sub-section (2) of Section 281 B states that every provisional attachment shall have effect only for a period of 6 months from date of order of provisional attachment, though the proviso permits the period to be extended for reasons to be recorded in writing. Such extensions, in total, are not to exceed two years pending proceedings or 60 days after the date of order of assessment/re-assessment, whichever is later.

143. Though the parties would agree that there has been some extension of the orders passed originally, there is lack of clarity on the number of extensions and the periods that such extensions covered. Thus, and in light of the aforesaid ambiguity, I would merely reiterate the provisions of Section 281B. As no material has been placed before the Court to the effect that the extensions are contrary to statute, the submissions of the petitioners are rejected.

144. These Writ Petitions are dismissed.

VIII. ISSUE 6 Challenge to notices under Section 143(2) and orders of assessment under 143(3)

VIII (a) Discussion and Conclusion



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145. W.P.Nos.9557, 9499, 17577, 17628, 17771 of 2021 challenge notices issued under Section 143(2) on various dates in the case of Ramamoorthy Srithar, Srithar Sudha, Kandasamy Thirumoorthy, Thirumoorthy Kala and Manickam Karthikeyan.

146. W.P.Nos.23586, 23577, 24584, 23588, 24525 and 23579 of 2021 challenge orders of assessment passed in terms of the provisions of Section 143(3) read with Section 153B(1)(b) of the Act on various dates in the case of SNJ Breweries, SNJ Distillers, Nandhini Transports, Kaycee Distillers, C.Mariappan and Leela Distillers.

147. In all the above Writ Petitions, the original challenge was to notices issued under Sections 153A, 153 C and the search itself under Section 132 of the Act. Since in some of the cases, there was no interim protection that has been granted by the Court, the authorities had proceeded to complete the assessments in order to save the limitation and it is challenging those notices and orders of assessment that the present Writ Petitions have been filed.

148. No arguments have been advanced by either party in regard to these Writ Petitions and in view of my decision above dismissing the challenge to notices under Section 153 A and 153 C as well as the Declaration sought challenging the search, there is no legal infirmity in the present impugned notices and orders of assessment and hence the same are confirmed.



149. These Writ Petitions are dismissed.

IX. Summary of conclusions

Issue 1 – Validity of Search under Section 132:

The challenge to the search is rejected and all writ petitions on this score, are dismissed. Having said so, I do find that the response of the officials in the medical emergency as discussed at paragraphs 40 to 43 above, is wanting, and grant liberty to the petitioners concerned to approach the civil courts/appropriate for a, seeking compensation, if they are so inclined. Any claim as aforesaid will be decided by the Court/forum concerned in accordance with law.

Issue 2 – Centralization – The challenge to centralization of assessments in is dismissed.

Issue 3 – 153 A Notice - The challenge to notices in terms of Section 153A is rejected.

Issue 4 – 153 C Notice - The challenge to notices in terms of Section 153 C is decided against the petitioners.

Issue 5 – Attachment orders under Section 281 B – The Writ Petitions are dismissed.

Issue 6 – Challenge to notices under Section 143(2) and orders of assessment under 143(3) - The Writ Petitions are dismissed.

No costs. Connected Miscellaneous Petitions are also dismissed.



150. The Court places on record its appreciation for the well-arranged, and instructive submissions of the parties that has enabled disposal of this batch of writ petitions, with ease.

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20.10.2022

Index: Yes/No
Speaking order/Non-speaking order
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To

- 1.The Principal Director of Income Tax,
67-A, Race Course Rd, Race Course,
Gopalapuram, Coimbatore,
Tamil Nadu 641 018.
- 2.The Deputy Director of Income Tax (Investigation),
Unit 2 (2),Chennai,
Uthamar Gandhi Salai,
No.46, Nungambakkam High Rd, Nungambakkam,
Chennai, Tamil Nadu 600034.
- 3.Deputy Commissioner of Income Tax, Coimbatore,
67-A, Race Course Rd, Race Course,
Gopalapuram, Coimbatore,
Tamil Nadu 641 018.
- 4.Assistant Commissioner of Income Tax,
Central Circle 3(2),
Uthamar Gandhi Salai,
No.46, Nungambakkam High Rd, Nungambakkam,
Chennai, Tamil Nadu 600034.



Dr.ANITA SUMANTH, J.

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WP.Nos.19379, 19382, 19386, 19388, 19390, 19392, 19396, 23586, 23577, 2140, 9511, 9519, 9520, 9523, 9527, 9557, 9561, 9567, 9294, 9495, 9499, 9501, 9515, 9518, 9526, 16717, 16721, 16725, 16729, 16731, 16750, 16752, 24584, 17572, 17574, 17576, 17680, 17675, 17670, 17662, 17577, 17617, 17628, 17639, 17644, 17648, 17652, 17765, 17656, 17747, 17752, 17755, 17760, 17768, 17769, 17771, 17773 18152, 18156, 18160, 18163, 18166, 18170, 18171, 23588, 19414, 19417, 19419, 19421, 19423, 19424, 23244, 24525, 20747, 20751, 20753, 20756, 20758, 20761, 20764, 20766, 21125, 21127, 21129, 21132, 21135, 21137, 21140, 20900, 20901, 20902, 20903, 20904, 20905, 20906, 23579, 2142, 2153, 2157, 2161, 2173, 2183, 2187 9505, 9296, 17573, 17621, 17750 and 9289 of 2021

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WMP.Nos.24729, 24730, 24716, 24719, 24667, 24668, 24669, 24670, 24671, 24672, 24722, 24723, 24539, 24538, 24732, 24731, 24736, 24734, 24713, 24715, 24708, 24701, 24703, 24710, 24717, 24718, 24721, 24720, 24725, 24727, 24541, 24542, 24545, 24544, 24733, 24735, 24739, 24737, 24742, 24743, 24746, 24749, 24757, 24758, 24748, 24750, 24751, 24753, 24756, 24759, 24763, 24764, 24766, 24767, 24774 & 24776 of 2020

and

WP.Nos.19996, 20050, 20030, 20048, 19876, 19877, 20056, 19998, 19999, 20000, 20038, 20041, 20046, 20028, 20033, 20036, 20039, 20040, 20045, 19867, 19871, 20051, 20055, 20057, 20061, 20060, 20063, 20064, 20065, 20068, 20071 & 20074 of 2020

and

WMP.Nos.24540, 17712, 24815, 24813, 24810, 24806, 24804, 24801, 24803, 24824, 24822, 24821, 24820, 24823, 24825, 24828, 24831, 24808, 24809, 24811, 24814, 24817, 24818, 24819, 24826, 24827, 24829, 24830, 24832, 24833, 24835, 24837, 24855, 25856, 25857, 25835, 25836, 25834, 18758, 10104, 10107, 18924, 19381, 19388, 19391, 19383, 19384, 19394, 19395, 19392, 19385, 19387, 19378, 19379, 22429, 22430, 22424, 22419, 22414, 22408, 22402, 22396, 22423, 22417, 22412, 22405, 22401, 22169, 22172,



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20.10.2022