IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,

ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.Nos.21460, 21464, 21472, 21474, 22632, 22633, 22639, 22643, 22706, 22713, 22722, 22726, 23332 and 23337 of 2021

Thiruvalluvar Transport Coporation Employee's
Co-operative Credit Society,
Represented by its Secretary, Mr. K.Jaya Sankar,
10, 23rd Street, Jai Nagar,
Arumbakkam,
Chennai – 600 106. .. Petitioner in WP.Nos.21460, 21464, 21472, 21474, 22632, 22633, 22639, 22643, 22706, 22713, 22722 & 22726 of 2021

Indian Co-Operative Network for Women Limited
Represented by its President Mrs. Nandhini Azad
No.55, Bheemasena Garden Road,
Mylapore, Chennai-600 004
PAN NO.AAAA14488B
... Petitioner in WP Nos.23332 & 23337 of 2021

vs

1. Central Board of Direct Taxes,
   Ministry of Finance,
   Department of Revenue,
   North Block,
   New Delhi – 110 001.

2. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer,
   National Faceless Assessment Centre,
   Delhi.

3. The Jurisdictional Assessing Officer,
Income Tax Department,
Non Corp. Ward 8(2) Che,
Nungambakkam,
Chennai. .. Respondents in WP.Nos.21460, 21464, 21472, 21474, 22632, 22633, 22639, 22643, 22706, 22713, 22722 & 22726 of 2021

1 Central Board of Direct Taxes,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi-110 001.

2 Additional / Joint / Deputy /
Assistant Commissioner of Income Tax,
Income Tax Officer,
National Faceless Assessment Centre, Delhi.

3 Income Tax Officer,
Non-Corporate Ward 1(2), Room No.306 ,
3rd Floor, 121, M.G.Road, Nungambakkam,
Chennai - 600 034.
... Respondents in WP No.23332 of 2021

1 Additional / Joint / Deputy /
Assistant Commissioner of Income Tax,
Income Tax Officer,
National Faceless Assessment Centre, Delhi.

2 Income Tax Officer,
Non-Corporate Ward 1(2), Room No.306 ,
3rd Floor, 121, M.G.Road, Nungambakkam,
Chennai - 600 034.
... Respondents in WP No.23337 of 2021

Prayer in WP.No.21460 of 2021: Petition filed under Article 226 of the Constitution of India praying for a Writ of Declaration declaring the 'Explanation to Clause A(a)' contained in the impugned Notification in Notification No. 20/2021/F. No. 370142/35/2020-TPL in S.O. 1432 (E) dated 31.03.2021 as modified by Notification in Notification No. 38/2021/F. No. 370142/35/2020-TPL in S.O. 1703 (E) of 2021 dated 27.04.2021 as unconstitutional, illegal and ultra vires the Constitution of India, the Taxation and Other Laws (Relaxation and Amendment of

Certain Provisions) Act, 2020 and Income Tax Act, 1961.

Prayer in WP No.21464 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records of the petitioner on the file of the 2nd respondent in PAN NO.AAIAT2044E and quash the impugned show cause notice reassessment dated 20.09.2021 issued under sec 143 (3) read with Sec 147 and 144 B of the Income Tax Act, 1961 for the Assessment Year 2013- 14 bearing DIN. ITBA/ AST/ F/ 147 (SCN)/ 2021- 22/ 1035740230 (1) and Notice U/s. 148 of the Income Tax Act, 1961 issued by the 3rd respondent dated 18.03.2020 DIN and Notice No. ITBA / AST/ S/ 148/ 2019- 20/ 1026752649 (1)

Prayer in WP No.21472 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to declare the Explanation to clause A (a) contained in the Impugned Notification in Notification No. 20/ 2021/ F.No. 370142/ 35/ 2020- TPL in S.O.1432 (E) dated 31.03.2021 as modified by Notification in Notification No.38/ 2021/ F. No. 370142/ 35/ 2020- TPL in S.O. 1703 (E) of 2021 dated 27.04.2021 as unconstitutional, illegal and ultra vires the constitution of India, the Taxation and other Laws (Relaxation and Amendment of certain Provisions) Act 2020 and Income Tax Act, 1961.

Prayer WP No.21474 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records of the petitioner on the file of the 2nd respondent in PAN NO.AAIAT2044E and quash the impugned show cause notice reassessment dated 20.09.2021 issued under sec 143 (3) read with Sec 147 and 144 B of the Income Tax Act, 1961 for the Assessment Year 2014- 15 bearing DIN. ITBA/ AST/ F/ 147 (SCN)/ 2021- 22/ 1035740292 (1) and Notice U/s. 148 of the Income Tax Act, 1961 issued by the 3rd respondent dated 18.03.2020 DIN and Notice No. ITBA / AST/ S/ 148/ 2019- 20/ 1026752611 (1)

Prayer in WP No.22632 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to declare the Explanation to Clause A(a) contained in the Impugned Notification in Notification No. 20/ 2021/F. No. 370142/ 35/ 2020-TPL in S.O. 1432 (E) dated 31.03.2021 as modified by Notification in Notification No. 38/ 2021/F. No. 370142/ 35/ 2020- TPL in S.O. 1703 (E) of 2021 dated 27.04.2021 as unconstitutional, illegal and ultra vires the Constitution of India, the Taxation and Other laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and Income Tax Act, 1961

Prayer in WP No.22633 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to declare the Explanation to Clause A(a) contained in the Impugned Notification in Notification No. 20/ 2021/F. No. 370142/ 35/ 2020-TPL in S.O. 1432 (E) dated 31.03.2021 as modified by Notification in Notification No. 38/ 2021/F. No. 370142/ 35/ 2020- TPL in S.O. 1703 (E) of 2021 dated 27.04.2021 as unconstitutional, illegal and ultra vires the Constitution of India, the Taxation and Other laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and Income Tax Act, 1961

Prayer in WP No.22639 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records of the Petitioner on the file of the 2nd respondent in PAN No. AAIAT2044E and quash the impugned Show cause notice reassessment dated 20.09.2021 issued under Sec. 143(3) read with Sec 147 and 144B of the Income Tax Act, 1961 for the Assessment Year 2018 -19 bearing DIN - ITBA/ AST/ F/ 147(SCN) / 2021- 22/ 1035740056(1) and Notice U/s. 148 of the Income Tax Act, 1961 issued by the 3rd respondent dated 06.03.2020 DIN and Notice No. ITBA/ AST/ S/ 148/ 2019- 20/ 1026247044(1)

Prayer in WP No.22643 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records of the Petitioner on the file of the 2nd respondent in PAN No. AAIAT2044E and quash the impugned Show cause notice reassessment dated 20.09.2021 issued under Sec. 143(3) read with Sec 147 and 144B of the Income Tax Act, 1961 for the Assessment Year 2017 -18bearing DIN - ITBA/ AST/ F/ 147(SCN) / 2021- 22/ 1035739942(1) and Notice U/s. 148 of the Income Tax Act, 1961 issued by the 3rd respondent dated 06.03.2020 DIN and Notice No. ITBA/ AST/ S/ 148/ 2019- 20/ 1026245123 (1)

Prayer in WP No.22706 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to declare the Explanation of Clause A(a) contained in the Impugned Notification in Notification No. 20 / 2021 / F. No. 370142 / 35 / 2020 - TPL in S. O. 1432 (E) Dated 31.03.2021 as modified by Notification in Notification No. 38 / 2021 / F. NO. 370142 / 35 / 2020 - TPL in S. O. 1703(E) of 2021 dated 27.04.2021 as unconstitutional, illegal and ultra vires the Constitution of India, the Taxation and other laws (Relaxation And Amendment of Certain Provisions) Act, 2020 and Income Tax Act, 1961

Prayer in WP No.22713 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records of the petitioner on the file of the 2nd respondent in PAN No. AAIAT2044E and quash the impugned show cause notice reassessment dated 21.09.2021 issued under Sec 143(3) read with Sec 147 and 144B of the Income Tax Act 1961, for the Assessment Year 2016-17 bearing DIN - ITBA / AST / F / 147(SCN) / 2021 - 2022 / 1035760290(1) and Notice U/s. 148 of the Income Tax Act, 1961 issued by the 3rd respondent dated 06.03.2020 DIN and Notice No. ITBA / AST / S / 148 / 2019-2020 / 1026243870(1)

Prayer in WP No.22722 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to declare the Explanation of Clause A(a) contained in the Impugned Notification No. 20 / 2021 / F. No. 370142 / 35 / 2020 - TPL in S. O. 1432 (E) Dated 31.03.2021 as modified by Notification in Notification No. 38 / 2021 / F. NO. 370142 / 35 / 2020 - TPL in S. O. 1703(E) of 2021 dated 27.04.2021 as unconstitutional, illegal and ultra vires the Constitution of India, the Taxation and other laws (Relaxation And Amendment of Certain Provisions) Act, 2020 and Income Tax Act, 1961

Prayer in WP No.22726 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records of the petitioner on the file of the 2nd respondent in PAN No. AAIAT2044E and quash the impugned show cause notice reassessment dated 20.09.2021 issued under Sec 143(3) read with Sec 147 and 144B of the Income Tax Act 1961, for the Assessment Year 2015-16 bearing DIN - ITBA / AST / F / 147(SCN) / 2021 - 2022 / 1035740398(1) and Notice U/s. 148 of the Income Tax Act, 1961 issued by the 3rd respondent dated 06.03.2020 DIN and Notice No. ITBA / AST / S / 148 / 2019-2020 / 1026242190(1)

Prayer in WP No.23332 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call declare the explanation to clause A(a) contained in the Impugned Notification in Notification No.20/2021/F.No.370142/ 35 / 2020-TPL in S.O.1432 (E) dated 31.3.2021 as modified by Notification in Notification No.38/2021/F, No. 370142/ 35/2020-TPL in S.O. 1703 (E) of 2021 dated 27.4.2021 as modified by Notification No.74/2021/F.No.370142/ 35/2020-TPL dated 25.6.2021 as unconstitutional , illegal and ultra vires the constitution of India, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act 2020 and Income Tax Act 1961

Prayer in WP No.23337 of 2021

Writ Petition filed under Article 226 of the Constitution of India, praying to call for the records and quash the

Reassessment order in issued by 1st Respondent in PAN . AAAA14488B dated 8.9.2021 in DIN ITBA / AST / S/ 147 / 2021-22 / 1035383947(1) issued under section 147 of the Income Tax Act 1961 for the Assessment year 2013 - 14

For the Petitioner in all WP's	:	Mr. V.S. Jayakumar
For the Respondents in WP.Nos.21460,21464 21472, 21474 of 2021	:	Mrs. Hemamuralikrishnan, Senior Standing Counsel for CBDT
	:	Mr. A.P.Srinivas, Senior Standing Counsel for IT
For Respondents in WP.Nos.22632, 22633 22639, 22643 of 2021	:	Mr.D.Prabhu Mukunth Arunkumar for CBDT
	:	M/s. Hemamuralikrishnan for Income Tax
For Respondents in WP.Nos.22706, 22713 22722, 22726 of 2021	:	M/s. Hemamuralikrishnan for CBDT
	:	Mr.A.N.R.Jaya Prathap for Income Tax
For Respondents in WP.Nos.23332 & 23337 of 2021	:	Mr.R.Sankaranarayanan Asst.by Mr.D.Prabhu Mukunth Arunkumar for CBDT
	:	Mr.A.N.R.Jaya Prathap for Income Tax

COMMON ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

The writ petitions have been filed to challenge the constitutional validity of amended provisions of Section 148 of the Income Tax Act. The constitutional validity of the

Notification has been challenged on service of notice under Section 148 of the Income Tax Act, prior to 01.04.2021.

2. Learned Assistant Solicitor General had raised an objection about the maintainability of the writ petitions as the remedy of appeal lies with the petitioners and otherwise the notices are not effected or to be governed by the amended provisions of Section 148 of the Income Tax Act pursuant to the Notification under challenge.

3. Learned counsel for the petitioners could not contest the aforesaid because the notices in these cases were given on or before 01.04.2021 under the un-amended provisions. In view of the above, the subject-matter of the writ petitions cannot be governed by the judgment given by the Delhi High Court in Mon Mohan Kohli vs. Assistant Commissioner of Income Tax and another order dated 15.12.2021 in W.P. (C) No. 6176 of 2021 because notices under Section 148 of the Income Tax Act were given in that case subsequent to the amendment pursuant to the Notification under challenge.

4. In view of the above, we are dismissing the writ petitions in view of the availability of the remedy of appeal. The dismissal of the writ petitions would not take away the right of the assessee to avail of the statutory remedy as per the provisions of law. Consequently, W.M.P.Nos.22699, 22700, 22701, 22702, 22707, 22708, 22711, 22713, 23875, 23879, 23887, 23888, 23890, 23891, 23940, 23947, 23948, 23952, 23954, 23955, 24611, 24617, 24619, 26725, 26745, 26747, 26748, 26749 and 26750 of 2021 are closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vjt

To:

1. The Director,
Central Board of Direct Taxes,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.

2. The Additional/Joint/Deputy/Assistant Commissioner
of Income Tax/Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

3. The Jurisdictional Assessing Officer,
Income Tax Department,
Non Corp. Ward 8(2) Che,
Nungambakkam,
Chennai.

4. Income Tax Officer,
Non-Corporate Ward 1(2),
Room No.306 , 3rd Floor,
No.121, M.G.Road, Nungambakkam,
Chennai - 600 034.

+1cc to M/s.Hema Murali Krishnan, Senior Standing Counsel
for Income Tax, S.R.No.7553

W.P.No.21460 of 2021 etc., batch

NRJK(CO)
SU(15/02/2022)