



WEB COPY



W.P.Nos.12850 of 2021 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.12850, 13410, 14539 of 2021;
28810 and 28814 of 2023

W.P.No.12850 of 2021:

M/s.Shanthilal HUF,
rep. by its Karta Shanthilal Gandhi,
No.12, Godown Street,
Chennai-600 001.

.. Petitioner

Vs

1.Union of India,
rep. by its Secretary,
Ministry of Finance,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.

2.The Central Board of Direct Taxes,
rep. by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.



W.P.Nos.12850 of 2021 etc.

3. Interim Board of Settlement,
rep. by its Secretary,
Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai
Satguru Complex,
640, Anna Salai, Nandanam,
Chennai-600 035.

4. The Assistant Commissioner of Income Tax,
Central Circle-2(3)
Chennai-34.

.. Respondents

W.P.No.13410 of 2021:

Karuppaiah Chermuga Kani

.. Petitioner

Vs

1. Union of India,
rep. by its Secretary,
Ministry of Finance,
Department of Revenue,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi-110 001.

2. The Central Board of Direct Taxes,
rep. by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.



W.P.Nos.12850 of 2021 etc.

3. Interim Board of Settlement,
rep. by its Secretary,
Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai
Satguru Complex,
640, Anna Salai, Nandanam,
Chennai-600 035.

4. The Assistant Commissioner of Income Tax,
Central Circle-3(2)
No.46, 3rd Floor, Investigation Building,
Mahatma Gandhi Road,
Chennai-34.

.. Respondents

W.P.No.14539 of 2021:

Shankarlal Chunilal Shah

.. Petitioner

Vs

1. Union of India,
rep. by its Secretary,
Ministry of Finance,
Department of Revenue,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi-110 001.

2. The Central Board of Direct Taxes,
rep. by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.



W.P.Nos.12850 of 2021 etc.

3. Interim Board of Settlement,
rep. by its Secretary,
Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai
Satguru Complex,
640, Anna Salai, Nandanam,
Chennai-600 035.

4. The Assistant Commissioner of Income Tax,
Central Circle-1(1)
Chennai-34.

.. Respondents

W.P.No.28810 of 2023 :

M/s.Emjay Steel Udyog Private Limited,
rep. by its Director C.S.N.Mohan,
No.18/26, Loganathan Nagar,
IInd Street, Choolaimedu,
Chennai-600 094.

.. Petitioner

Vs

1. Union of India,
rep. by its Secretary,
Ministry of Finance,
Department of Revenue,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi-110 001.

2. The Central Board of Direct Taxes,
rep. by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.



W.P.Nos.12850 of 2021 etc.

3. Interim Board for Settlement,
rep. by its Secretary,
(Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai)
9th Floor, Lok Nayak Bhavan,
Khan Market,
New Delhi-110 003.

4. The Assistant Commissioner of Income Tax,
Central Circle-1(1)
No.46, 3rd Floor, Investigation Building,
Mahatma Gandhi Road,
Chennai-34.

.. Respondents

W.P.No.28814 of 2023 :

M/s.Durga Industries,
rep. by its Partner Rakesh Senapali,
No.18/26, Loganathan Nagar,
IInd Street, Choolaimedu,
Chennai-600 094.

.. Petitioner

Vs

1. Union of India,
rep. by its Secretary,
Ministry of Finance,
Department of Revenue,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi-110 001.

2. The Central Board of Direct Taxes,
rep. by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India,
New Delhi.



W.P.Nos.12850 of 2021 etc.

3. Interim Board for Settlement,
rep. by its Secretary,
(Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai)
Satguru Complex,
640, Anna Salai, Nandanam,
Chennai-600 035.

4. The Assistant Commissioner of Income Tax,
Central Circle-1(1)
No.46, 3rd Floor, Investigation Building,
Mahatma Gandhi Road,
Chennai-34.

.. Respondents

Prayer in W.P.Nos.12850, 13410 and 14539 of 2021 : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration declaring the amendment to the Income Tax Act, 1961 in Section 245A by inserting sub clause (da), (ea) and (eb), 245B, 245BC, 245BD, proviso to 245C, 245D, 245DD, 245F, 245G, 245H and insertion of new Section 245AA and 245M by way of Sections 62 to 73, Finance Act, 2021 with retrospective effect from 01.02.2021 and Explanation (iiia) to Section 245A(b) as amended by the Finance Act, 2010 and the consequential order under Section 119(2)(b) of the Income Tax Act, 1961 dated 28.09.2021 in F.No.299/22/2021-Dir (Inv.III)/174 as arbitrary, illegal and void and infringing the fundamental rights conferred under Article 14, 19((i)(g), 20, 20(2) and 21 of the Constitution of India, 1950 thus unenforceable and unconstitutional.



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Prayer in W.P.Nos.28810 and 28814 of 2023 : Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration declaring the amendment made to Section 245A by inserting sub clause (da), (ea) and (eb), 245B, 245BC, 245BD, proviso to 245C, 245D, 245DD, 245F, 245G, 245H and insertion of new Section 245AA and 245M by the Finance Act, 2021 with retrospective effect from 01.2.2021 and CBDT Instruction in F.No.299/22/2021-Dir (Inv.III)/174 dated 28.09.2021 as arbitrary, illegal and void, as it infringes the fundamental rights conferred under Article 14, 19((i)(g), 20, 20(2) and 21 of the Constitution of India.

(Prayer in W.P.No.12850 of 2021 amended as per the order dated 11.10.2023 in WMP No.6079 of 2022; Prayer in W.P.No.13410 of 2021 amended as per the order dated 03.10.2023 in WMP No.6088 of 2022; Prayer in W.P.No.14539 of 2021 amended as per the order dated 3.10.2023 in WMP No.5113 of 2022).

For the Petitioner : Mr.R.Sivaraman
in all WPs along with Ms.Vandana Vyas

For the Respondents : Mr.AR.L.Sundaresan
in all WPs Addl. Solicitor-General
assisted by
Mr.Rajesh Vivekananthan
Dy. Addl. Solicitor-General
for respondent No.1



W.P.Nos.12850 of 2021 etc.

- : Mr.A.P.Srinivas
Sr. Standing Counsel
and Mr.ANR Jayapratap
Jr. Standing Counsel
for respondent Nos.2 and 4
- : No Appearance
for respondent No.3

COMMON ORDER

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

We have heard Mr.R.Sivaraman along with Ms.Vandana Vyas, learned counsel for the petitioners and Mr.AR.L.Sundaresan, learned Additional Solicitor-General, assisted by Mr.Rajesh Vivekananthan, learned Deputy Solicitor-General for the first respondent; and, Mr.A.P.Srinivas, learned Senior Standing Counsel and Mr.ANR Jayapratap, learned Junior Standing Counsel for respondents 2 and 4.

2. It is submitted that in these matters, the applications of the petitioners are referred to the Interim Board, however, the Interim Board has not yet passed any orders on the same.



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3. In view of the fact that the applications of the petitioners are referred to the Interim Board and the Interim Board has not passed orders on the same, it would be premature to consider the contentions of the petitioners in the present writ petitions. In case, the Interim Board passes orders adverse to the interest of the petitioners, then the petitioners are at liberty to assail the said order along with the challenge to the constitutional validity as is raised in the present writ petitions.

4. With the above observation and liberty, the writ petitions are disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.13650, 13651, 13652, 14267, 14268, 14270, 15432, 15435, 15437 of 2021; 28409 and 28413 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

11.10.2023

Index : Yes/No
Neutral Citation : Yes/No
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W.P.Nos.12850 of 2021 etc.

To

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- 1.The Secretary,
Union of India, Ministry of Finance,
Department of Revenue – Ministry of Finance,
Government of India, New Delhi.
- 2.The Chairperson,
Central Board of Direct Taxes,
Department of Revenue – Ministry of Finance,
Government of India, New Delhi.
- 3.The Secretary,
Interim Board of Settlement,
Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai
Satguru Complex, 640, Anna Salai, Nandanam,
Chennai-600 035.
- 4.The Secretary,
Interim Board for Settlement,
(Replacing the Income Tax Settlement Commission,
Additional Bench, Chennai)
9th Floor, Lok Nayak Bhavan,
Khan Market, New Delhi-110 003.
- 5.The Assistant Commissioner of Income Tax,
Central Circle-2(3), Chennai-34.
- 6.The Assistant Commissioner of Income Tax,
Central Circle-3(2), No.46, 3rd Floor, Investigation Building,
Mahatma Gandhi Road, Chennai-34.
- 7.The Assistant Commissioner of Income Tax,
Central Circle-1(1), No.46, 3rd Floor, Investigation Building,
Mahatma Gandhi Road, Chennai-34.



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W.P.Nos.12850 of 2021 etc.

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

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