IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP Nos.2691, 2693, 4902 and 4906 of 2024

M/s Asvini Fisheries (P) Ltd.
Rep by its Director C.Selvam : Petitioner in WP No.2691, 2693 of 2024

Karuppaiah Chermuga Kani : Petitioner in WP No.4902, 4906 of 2024

versus

1.Principal Commissioner of Income Tax
Central 1, Chennai -600 034.

2.The Central Board Of Direct Taxes
Rep by its Chairperson
Department of Revenue Ministry of Finance
New Delhi

3.Interim Board For Settlement II
Rep. by its Secretary
(Replacing the Income Tax Settlement Commission
Additional Bench Chennai)
9th Floor, Lok Nayak Bhavan
Khan Market, New Delhi 110003

4.Assistant Commissioner Of Income Tax
Central Circle 3(2)
No.46, Mahatma Gandhi Road
Chennai 600034 : Respondents

Prayer: WP Nos.2691, 4902 of 2024 filed under Article 226 of the Constitution of India for 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 01.02.2021 and CBDT Instruction in F.No.299/22/2021- Dir. Inv-III 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.

Prayer: WP Nos.2693, 4906 of 2024 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for records on the file of the 3rd respondent in PAN AAACA2931P and AHUPK0504C and quash the impugned order u/s 245D(4) of the Income Tax Act 1961 inasmuch as it pertains to Settlement Application No.TN/CN 51/2020-21/56/ IT and TN/CN 51/2020-21/112/IT dated 24.11.2023 passed by the 3rd Respondent for the AY 2020-21 and AY 2014-15 to 2020-21 only.

For Petitioners	:	Mr.R.Sivaraman
For Respondents 1, 2 & 4	:	Mr.A.P.Srinivas Senior Standing Counsel

COMMON ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Sivaraman, learned counsel for the petitioners and Mr.A.P.Srinivas, learned Senior Standing Counsel for respondents 1, 2 and 4.

2. The petitioners have filed WP Nos.2691 and 4902 of 2024 for a writ of Declaration declaring the amendment made to Section 245A

of the Income Tax Act 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 as arbitrary, illegal and void.

3. WP Nos.2693 and 4906 of 2024 are filed to quash the order dated 24.11.2023 passed by the third respondent.

4. In similar matters, in the case of *M/s. Jain Metal Rolling Mills, Rep.by its Chief Financial Officer, vs. Union of India, Rep. by its Secretary, Ministry of Finance and others, in W.P.Nos.13455 of 2021, dated 17.11.2023*, this Court has passed the following order:

> "(i) Section 245C(5) of the Income Tax Act, 1961 (as amended by the Finance Act, 2021) is read down by removing the retrospective last date of 1st date of February, 2021 as 31st day of March, 2021;
>
> (ii) Consequently the last date of eligibility mentioned paragraph 4(i) of the impugned circular dated 28.09.2021 shall also be read as

31.03.2021;

(iii) All the applications in respect of the petitioners even in respect of the cases arising between 01.02.2021 to 31.03.2021 shall be deemed be pending applications and shall be deemed to be pending applications for the purposes of consideration by the Interim Board;

(iv) Wherever they are rejected on the ground that they did not have a case pending as on 31.01.2021, such orders shall stand set aside and the applications shall be deemed to be pending applications for the consideration by the Interim Board, if otherwise in order and eligible, and shall be dealt with in accordance with law on merits in accordance with the scheme that may be framed by the Central Government as in respect of the other cases which arose prior to 31.01.2021."

5. The Settlement Commissioner shall, in tune with the order passed by us and referred to above, pass orders.

6. The impugned orders are set aside. The writ petitions stand disposed of. There shall be no order as to costs. Consequently, WMP Nos.2969, 2970, 5374 and 5375 of 2024 are closed.

(S.V.G., CJ.) **(D.B.C., J.)**
26.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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To
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Department of Revenue Ministry of Finance, New Delhi

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

(tar)

WP Nos.2691 of 2024 etc. batch

26.03.2024