$~7-28 & 30-33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4098/2023

SHANJU RANI ..... Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Kavindra Gill, SPC for Resp./ UOI.
Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC & Mr. Utkarsh Tiwari, Adv.

8

\+ W.P.(C) 4743/2023

YOGEN KHOSLA ..... Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Kunal Sharma, Adv. for Resp./ Revenue.
Mr Kunal Sharma, SSC with Ms Zehra Khan and Mr Shubhendu Bhattacharya, Advs.

9

\+ W.P.(C) 4839/2023

SUNIL KUMAR ..... Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Manish Kumar, SPC for Resp./ UOI.
Mr. Shailendera Singh, SSC

with Ms. Dacchita Shahi & Ms. Anuja Pethia, Advs.

10

\+ W.P.(C) 4862/2023 & CM APPL.4313/2024 (60 Days Delay in C.A.)

MANOJ MITTAL HUF ..... Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Akash Vajpai, SPC for Resp./ UOI.
Mr. Vipul Agrawal, SSC with Ms. Sakshi Shairwal & Mr. Gibran Naushad, St. Counsels.

11

\+ W.P.(C) 4877/2023

ANJU KHOSLA ..... Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Vardhman Kaushik & Ms. Sanjana Mehrotra, Advs. for Resp./ UOI.
Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

12

\+ W.P.(C) 4881/2023

SANJAY BANSAL ..... Petitioner

Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

INCOME TAX OFFICER WARD 43(1) ..... Respondent
Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

13

\+ W.P.(C) 5244/2023

GAURAV CHOPRA ..... Petitioner
Through: Mr. Arjun Kakkar & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent
Through: Mr. Vinish Phoghat, SPC for Resp./ UOI.
Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

14

\+ W.P.(C) 5644/2023

AKSHI MARKETING PRIVATE LIMITED ..... Petitioner
Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Mr. Utkarsa Kumar Gupta & Ms. Ananya Kapoor, Advs.

versus

INCOME TAX OFFICER WARD 2-1 & ORS. ..... Respondent
Through: Mr. Zoheb Hossain, SSC with Mr. Sanjeev Menon, JSC.

15

\+ W.P.(C) 5657/2023

MAXWELL PROJECTS PRIVATE LIMITED ..... Petitioner
Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 16(1), DELHI & ORS. ..... Respondent

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Puneet Singhal, JSCs.

16

\+ W.P.(C) 5736/2023

UPENDRA GULATI ..... Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 28(1), DELHI & ORS. ..... Respondent

Through: Mr. Shlok Chandra, SSC with Ms. Madhavi Shukla, Ms. Priya Sarkar, JSCs & Mr. Ujjawal Jain, Adv.

17

\+ W.P.(C) 5764/2023

GAURAV CHOPRA ..... Petitioner

Through: Mr. Arjun Kakkar & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Vinish Phoghat, SPC for Resp./ UOI.
Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

18

\+ W.P.(C) 5778/2023

NISHITIKA INVESTMENT AND FINANCE PRIVATE LIMITED ..... Petitioner

Through: None

versus

ITO WARD 18 (3) DELHI & ANR. ..... Respondent

Through: Mr. Abhishek Maratha, Mr.

Parth Semwal & Ms. Nupur Sharma, Advs.

19

\+ W.P.(C) 5783/2023

VINOD KUMAR UPADHYAYA ..... Petitioner

Through: Mr. Salil Kapoor, Mr. Sumit Lalchandani, Mr. Utkarsa Kumar Gupta & Ms. Ananya Kapoor, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 21-2 & ORS. ..... Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

20

\+ W.P.(C) 5788/2023

NEETU GOEL ..... Petitioner

Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

INCOME TAX OFFICER, WARD 44(6), DELHI ..... Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

21

\+ W.P.(C) 5866/2023

ANITA AGARWAL ..... Petitioner

Through: Mr. Bhupinder Jit Kumar & Mr. Shreyansh Kushwaha, Advs.

versus

INCOME TAX OFFICER, WARD-36(1), DELHI & ANR. ..... Respondents

Through: Mr. Vipul Agrawal, SSC with

Ms. Sakshi Shairwal & Mr. Gibran Naushad, St. Counsels.

22

\+ W.P.(C) 5871/2023

CHHAVI TOURISTS PRIVATE LIMITED ..... Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 4(2), DELHI & ORS. ..... Respondent

Through: Mr. Kunal Sharma, Adv. for Resp./ Revenue.

23

\+ W.P.(C) 5878/2023

ANKU BALA GOEL ..... Petitioner

Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 70 1 DELHI ..... Respondent

Through: Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC & Mr. Utkarsh Tiwari, Adv.

24

\+ W.P.(C) 5881/2023

NEETU GOEL ..... Petitioner

Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

INCOME TAX OFFICER WARD 44 6 DELHI ..... Respondent

Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, St. Counsels.

25

\+ W.P.(C) 5883/2023

VISHWANATH GUPTA ..... Petitioner

Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

INCOME TAX OFFICER, WARD 60(5), DELHI & ORS. ..... Respondents

Through: Mr. Abhishek Maratha, Mr. Parth Semwal & Ms. Nupur Sharma, Advs.

26

\+ W.P.(C) 5885/2023

NEERU GOEL ..... Petitioner

Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 70 1, DELHI ..... Respondent

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary & Mr. Aditya Gupta, Advs.

27

\+ W.P.(C) 5900/2023

SULOCHNA GOEL ..... Petitioner

Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 431 DELHI ..... Respondent

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary & Mr. Aditya Gupta, Advs.

28

\+ W.P.(C) 6055/2023

RAJENDER KUMAR ARYA ..... Petitioner

Through: Mr. Bhupinder Jit Kumar & Mr.

Shreyansh Kushwaha, Advs.

versus

INCOME TAX OFFICER, WARD-35(1),
DELHI & ANR. ..... Respondents
Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Shairwal & Mr. Gibran Naushad, St. Counsels.

30

\+ W.P.(C) 6192/2023

R.S. OVERSEAS PRIVATE LIMITED ..... Petitioner
Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 19(1), DELHI & ORS. ..... Respondent
Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary & Mr. Aditya Gupta, Advs.

31

\+ W.P.(C) 6196/2023

POOJASMIT INVESTMENTS AND TRADING PRIVATE LIMITED THROUGH DIRECTOR SHIVANAND KUMAR ..... Petitioner
Through: Mr. S.K. Mukhi, Adv.

versus

ITO, WARD 21(1), DELHI & ANR. ..... Respondent
Through: Mr. Ruchir Bhatia, SSC with Ms. Deeksha Gupta, Adv.

32

\+ W.P.(C) 6215/2023

R.S. OVERSEAS PRIVATE LIMITED ..... Petitioner
Through: Mr. Ved Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 19(1), DELHI & ORS. ..... Respondent

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary & Mr. Aditya Gupta, Advs.

33

\+ W.P.(C) 6853/2023

ASHLAR COMMODITIES PRIVATE LIMITED ..... Petitioner

Through: Mr. Mani Bhadra Jain & Mr. Abhuday Sharma, Advs.

versus

UNION OF INDIA & ORS. ..... Respondent

Through: Mr. Kavindra Gill, SPC for Resp./ UOI.
Mr. Zoheb Hossain, SSC with Mr. Sanjeev Menon, JSC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **23.01.2024**

CM No. ____/2024 (condonation of delay of 60 days in filing C.A.) in WP(C) 6055/2023

This is an application filed by the respondent seeking condonation of 60 days delay in filing the reply to the petition. Registry is directed to number the application.

For the reasons stated in the application, the delay of 60 days in filing the reply to the petition is condoned.

Application is disposed of.

WP(C) Nos. 4098/2023, 4743/2023, 4839/2023, 4862/2023, 4877/2023, 4881/2023, 5244/2023, 5644/2023, 5657/2023, 5736/2023, 5764/2023, 5778/2023, 5783/2023, 5788/2023,

5866/2023, 5871/2023, 5878/2023, 5881/2023, 5883/2023, 5885/2023, 5900/2023, 6055/2023, 6192/2023, 6196/2023, 6215/2023 & 6853/2023

1. Learned counsels for respective parties are ad idem that insofar as the grant of approval for initiation of reassessment proceedings is concerned, the same would stand answered in favour of the assessee/ writ petitioners in light of the conclusions recorded in Paras 12.1 and 12.2 in the judgment of our Court in **Twylight Infrastructure Pvt Ltd. vs. Income Tax Officer Ward 25(3) Delhi & Ors.** [2024:DHC:259-DB]. The said paragraphs are extracted hereinbelow:-

> "**12.1.** Clauses (i) and (ii) of Section 151 of the amended Act (which has been extracted hereinabove) clearly specify the authority whose approval can trigger the reassessment proceedings. Thus, if three (3) years or less have elapsed from the end of the relevant AY, the specified authority who would grant approval for initiation of reassessment proceedings will be the Principal Commissioner or Principal Director or Commissioner or Director. However, if more than three (3) years from the end of the relevant AY have elapsed, the specified authority for according approval for reassessment shall be the Principal Chief Commissioner or Principal Director General or, where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General.
>
> **12.2.** That the approval is mandatory is plainly evident on perusal of the first proviso appended to Section 148 of the Act. the said proviso, at the risk of repetition, reads as follows:
>
> > "...*Provided that* ***no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice…."***
>
> **12.3.** In these cases, there is no dispute that although three (3) years had elapsed from of the end of the relevant AY, the approval was sought from authorities specified in clause (i), as against clause (ii) of Section 151.

xxxx xxxx xxxx

> **13.** Therefore, having regard to the aforesaid, the impugned notices and orders in each of the above-captioned writ petitions are quashed on the ground that there is no approval of the specified authority, as indicated in Section 151(ii) of the Act. The direction is issued with the caveat that the revenue will have liberty to take steps, if deemed necessary, albeit as per law."

2. In view of the aforesaid and since undisputedly, in the facts of the present cases, the approval had been granted by the Commissioner of Income Tax, we set aside the impugned notice on this short ground alone. The writ petitions shall consequently stand allowed on the aforesaid terms. The aforesaid shall be without prejudice to the rights and contentions of the respondents to initiate proceedings afresh, if so permissible in law.

3. All other rights and contentions of the writ petitioners are kept open.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 23, 2024/kk