$~49 to 58

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

\+ W.P.(C) 4973/2024 & CM APPL. 20362/2024 (Interim Relief)

MAXWELL PROJECTS PRIVATE LIMITED (THROUGH DIRECTOR) .....Petitioner

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

versus

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

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

50

\+ W.P.(C) 6179/2024 & CM APPL. 25694/2024 (Stay)

VARUN DAHIYA .....Petitioner

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

versus

INCOME TAX OFFICER WARD 34(5) DELHI .....Respondent

Through: Mr. Vipul Agrawal, Mr. Gibran Naushad and Ms. Sakshi Shairwal, JSCs.

51

\+ W.P.(C) 6221/2024 & CM APPL. 25932/2024 (Interim Relief)

SRKK ASSOCIATES PRIVATE LIMITED (THROUGH DIRECTOR) .....Petitioner

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

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 22(2) DELHI & ORS. .....Respondents

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

52

\+ W.P.(C) 6720/2024 & CM APPL. 27975/2024 (Stay)

RAJEEV KUMAR CHAHAL .....Petitioner

Through: Ms. Ananya Kapoor & Mr. Sumit Lalchandani, Advs.

versus

INCOME TAX OFFICER WARD 44-6 & ANR. .....Respondents

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary, Adv.

53

\+ W.P.(C) 7216/2024 & CM APPL. 30090/2024 (Interim Relief)

RANDHAWA HIRE PURCHASE PRIVATE LIMITED, THROUGH DIRECTOR RAKESH KUMAR GARG .....Petitioner

Through: Mr. S.K. Mukhi, Adv.

versus

ITO, WARD 21(1), DELHI .....Respondent

Through: Mr. Sunil Kumar Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya, JSCs & Mr. Utkarsh Tiwari, Adv.

54

\+ W.P.(C) 7220/2024 & CM APPL. 30096/2024 (Interim Relief)

VIKRAM KAPAHI .....Petitioner

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

versus

ASSISTANT COMMISSIONER OF INCOME
TAX CIRCLE 19(1) DELHI & ORS. .....Respondents
Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, JSCs.

55
\+ W.P.(C) 7306/2024 & CM APPL. 30534/2024 (Interim Relief)

OSS INFOCOM PRIVATE LIMITED .....Petitioner
Through: Mr. Ved Kumar Jain, Mr. Nischay Kantoor & Ms. Soniya Dodeja, Advs.

versus

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

56
\+ W.P.(C) 7405/2024 & CM APPL. 30922/2024 (Stay)

ABHINAV JINDAL .....Petitioner
Through: Mr. Kapil Goel & Mr. Sandeep Goel, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME
TAX CIRCLE 52 1 .....Respondent
Through: Mr. Sanjay Kumar, SSC.

57
\+ W.P.(C) 7858/2024 & CM APPL. 32508/2024 (Interim Relief)

ANJU KHOSLA .....Petitioner
Through: Mr. Apoorv Upmanya, Adv. for Mr. Mani Bhadra Jain, Adv.

versus

INCOME TAX OFFICER WARD 70 1

DELHI & ANR. .....Respondents
Through: Mr. Puneet Rai, SSC with Mr. Ashvini Kumar & Mr. Rishabh Nangia, JSCs.

58

\+ W.P.(C) 8464/2024 & CM APPL. 34895/2024 (Interim Relief)

JITEN SURTANI .....Petitioner
Through: Mr. Sparsha Bhargava, Ms. Ishita Farsaiya & Ms. Vanshika Taneja, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 28 1, DELHI AND ANR. .....Respondents
Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh & Mr. Yojit Pareek, JSCs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **23.09.2024**

W.P.(C) 4973/2024 & CM APPL. 20362/2024 (Interim Relief)
W.P.(C) 6179/2024 & CM APPL. 25694/2024 (Stay)
W.P.(C) 6221/2024 & CM APPL. 25932/2024 (Interim Relief)
W.P.(C) 6720/2024 & CM APPL. 27975/2024 (Stay)
W.P.(C) 7216/2024 & CM APPL. 30090/2024 (Interim Relief)
W.P.(C) 7306/2024 & CM APPL. 30534/2024 (Interim Relief)
W.P.(C) 7858/2024 & CM APPL. 32508/2024 (Interim Relief)

1. The present batch of writ petitions principally challenge the initiation of reassessment action pursuant to notices issued under Section 148 of the **Income Tax Act, 1961**[1] and pertaining to **Assessment Years**[2] 2016-17.

---

[1] Act
[2] A.Y.

2. The reassessment action represents the third round of litigation instituted by the writ petitioners as a result of the prior action coming to be annulled in terms of the judgement rendered by this Court in **Twylight Infrastructure (P) Ltd. v. CIT**[3].

3. The challenge in the present batch of writ petitions stands answered in favour of the writ petitioners in light of our judgement in **Manju Somani v. Income-tax Officer and others**[4], bearing in mind the First Proviso to Section 149(1) and in terms of which the impugned action of reassessment would not sustain since the reassessment action for A.Y. 2016-17 could have been commenced only on or before 31 March 2023. The relevant paragraphs of the aforenoted decision read as under:

> "**12.** As is manifest from the above, the proviso to section 149 clearly bids us to go back in point of time and examine whether a proposed reassessment pertaining to a period prior to April 1, 2021 would sustain based on the time frames as they existed prior to the promulgation of the Finance Act, 2021. The proviso embodies a negative command restraining the respondents from issuing a notice under section 148 in respect of an assessment year prior to April 1, 2021, if the period within which such a notice could have been issued in accordance with the provisions as they existed prior thereto had elapsed. This is manifest from the provision using the expression "no notice under section 148 shall be issued" if the time limit specified in the relevant provisions "….as they stood immediately prior to the commencement of the Finance Act, 2021" had expired. A reassessment which is sought to be commenced post April 1, 2021 would thus have to abide by the time limits prescribed by section 149(1)(b), 153A or 153B as may be applicable.
>
> **13.** Undisputedly, section 149(1)(b) as it stood prior to the introduction of the amendments by way of the Finance Act, 2021 ([2021] 432 ITR (St.) 52) prescribed that no notice under section 148 shall be issued if four years "but not more than six years" have elapsed from the end of the relevant assessment year. Thus the period of six years stood erected as the terminal point which when crossed would have rendered the initiation of reassessment

[3] 2024 SCC OnLine Del 330
[4] 2024 SCC OnLine Del 5292

impermissible in law.

> **14.** Viewed in the light of the above, the impugned notice when tested on the anvil of the preamendment section 149(1)(b) in order to be sustained would have to meet the prescription of six years. Undisputedly that period in respect of the assessment year 2016-2017 came to an end on March 31, 2023. We thus find ourselves unable to sustain the impugned action of reassessment and which was commenced pursuant to the notice dated April 29, 2024.
>
> **15.** It would be important to note that the respondents also do not attempt to sustain the initiation of action on any other statutory provision and which could be read as extending the time limit that applied. We also find ourselves unable to read Twylight Infrastructure as empowering them to reopen assessments contrary to the negative covenant which forms part of section 149 of the Act.
>
> **16.** We accordingly allow the present writ petition and quash the impugned order under section 148A(d) dated April 29, 2024 as well as the consequential notice under section 148 of even date."

4. Accordingly and for all the aforesaid reasons, we allow the instant writ petitions and quash the impugned notices issued under Section 148 dated 31 March 2024 [W.P.(C) 4973/2024], 16 April 2024 [W.P.(C) 6179/2024], 16 April 2024 [W.P.(C) 6221/2024], 22 April 2024 [W.P.(C) 6720/2024], 24 April 2024 [W.P.(C) 7216/2024], 23 April 2024 [W.P.(C) 7306/2024] and 22 April 2024 [W.P.(C) 7858/2024] for A.Y. 2016-17 and all consequential proceedings emanating therefrom.

W.P.(C) 7220/2024 & CM APPL. 30096/2024 (Interim Relief)
W.P.(C) 7405/2024 & CM APPL. 30922/2024 (Stay)

5. Mr. Rai and Mr. Kumar, learned counsels appearing for the respondents, pray for these two matters being de-tagged from the batch and draw our attention to an interim order that operated in an earlier round of litigation.

6. They thus seek to draw sustenance from Explanation 1 to Section 153 of the Act.

7. Since these two writ petitions raise independent questions, let both these matters be de-tagged from the batch to be called again on 15.01.2025.

8. We accord liberty to the writ petitioners to file their rejoinder affidavit on or before the next date fixed.

9. Interim orders granted earlier to continue till the next date of listing.

W.P.(C) 8464/2024 & CM APPL. 34895/2024 (Interim Relief)

10. Mr. Gupta, learned counsel appearing for the respondents, draws our attention to the notice under Section 148 and which pertains to A.Y. 2017-18.

11. In light of the independent facts which would govern the disposal of this writ petition, a prayer is made for the matter being de-tagged. Ordered accordingly.

12. Since parties are yet to complete pleadings, let this matter be placed before the concerned Joint Registrar on 29.10.2024.

13. Interim orders granted earlier to continue till the next date of listing.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J

SEPTEMBER 23, 2024/rw