

W.P.(MD)Nos.10711 to 10716, 5709, 5710, 11470 to 11478 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 20.04.2026

ORDERS PRONOUNCED ON : 01.06.2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)Nos.10711 to 10716, 5709, 5710 and 11470 to 11478 of 2025
and W.M.P.(MD) Nos.4171, 4173, 8529 and 8530 of 2025

W.P. (MD)No.10711 of 2025:

M/s.Dhanalakshmi Srinivasan Sugars Private Limited
Represented by its Managing Director S.Jagatheesan
Udumbiyam Village
Viraganoor P.O., Veppanthattai (Taluk)
Perambalur – 621 116. ... Petitioner

Vs.

1.Deputy Commissioner of Income Tax
Central Circle 2, Madurai
Ground Floor, Income Tax Office – Madurai Me
Income Tax Staff Quarters Complex
Kulamangalam Main Road
Meenambalpuram, Madurai, Tamil Nadu – 625 002.

2.Assistant Commissioner of Income Tax
Central Circle 2, Madurai
Ground Floor, Income Tax Office – Madurai Me
Income Tax Staff Quarters Complex
Kulamangalam Main Road
Meenambalpuram, Madurai, Tamil Nadu – 625 002. ... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare the any assessment order of the 2nd respondent in ITBA/AST/F/17/2021-22/1033708650 (1) dated 24.06.2021 for the assessment year 2014 – 15 passed under Section 143 (3) r.w.s. 153 A of the Act, 1961 as arbitrary, illegal and unconstitutional and pass such further or other orders.

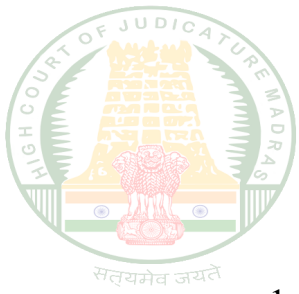
For the petitioners : Mr.R.Sivaraman

For the respondents : Mr.AR.L.Sundaresan
Additional Solicitor General of India
assisted by
Mr.N.Dilipkumar
Senior Standing Counsel

COMMON ORDER

A.The Petitions:

M/s. Dhanalakshmi Srinivasan Sugars Private Limited (DSSPL), incorporated under the Companies Act, 2013, and represented by its Managing Director, *S.Jegatheesan*, and M/s. V.V.Mineral (VVM), a registered partnership firm represented by its partner, *S.Jegatheesan*, have filed these Writ Petitions. Both entities claim to be part of M/s. V.V. Group is a conglomerate operating across various sectors.



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1.1 These Writ Petitions are connected to each other and, as such, are taken up and disposed of by this common order.

B. The Facts:

2. On 25.10.2018, the Income Tax Department conducted a search under Section 132 of the Income Tax Act, 1961 (in short, 'the Act') at the premises of DSSPL and VVM and yet another entity, and certain materials and documents were seized. Thereafter, on 28.11.2019, notices were issued to all three entities for the assessment years from 2013 – 2014 to 2018 – 2019. While the proceedings were pending, it is the case of DSSPL and VVM that they contemplated approaching the Income Tax Settlement Commission (ITSC) under Section 245(c) of the Act. During this period, the Government of India introduced a Finance Bill on 01.02.2021, proposing to discontinue the ITSC and constitute an Interim Board of Settlement (IBS) for pending cases. No new applications were filed with effect from 01.02.2021.

2.1. On 04.03.2021, feeling aggrieved by the proposal that no new applications shall be filed, the petitioners filed W.P.(MD) Nos. 4661, 4664, and



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4668 of 2021 to direct the IBS to take the petitioners' applications on file. A common interim order was passed on the petitioners' interim prayer, on the submission that mere receipt of the petitioners' applications would not confer any right on them, and the ITSC was directed to receive the petitioners' applications.

2.2. On 09.03.2021, DSSPL and VVM filed applications before the IBS seeking additional income. The following table contains the particulars of the assessment years, the original income disclosed by DSSPL in the returns, the additional income offered in the applications for settlement, and the total income:-

<i>Assessment Year</i>	<i>Returned Income</i>	<i>Additional Income before the ITSC</i>	<i>Total Income</i>
2013 – 14	(60,23,15,142)	7750	60,23,07,392
2014 – 15	(16,65,59,264)	2,10,28,278	14,55,30,986
2015 – 16	(9,48,42,237)	14,92,15,110	5,43,72,873
2016 – 17	22,93,300	7,11,69,295	7,34,62,595
2017 – 18	1,09,01,638	9,67,93,633	10,76,95,271
2018 – 19	82,65,261	1,64,77,818	2,47,43,079
2019 – 20	99,08,985	84,29,829	1,83,38,814
TOTAL	(83,23,47,459)	36,31,21,713	1,02,64,51,010



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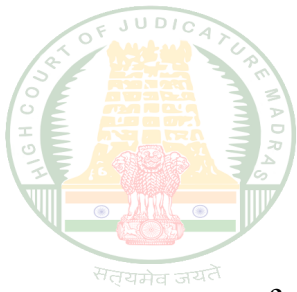
2.3. Thus, it is seen that, as against the already disclosed income of Rs.83,23,47,459/-, DSSPL offered a total income of Rs.1,02,64,51,010/-.

Similarly, the following table reflects the data with respect of VVM :

<i>Assessment Year</i>	<i>Returned Income</i>	<i>Additional Income before the ITSC</i>	<i>Total Income</i>
2012 – 13	79,79,120	19,69,057	99,48,117
2013 – 14	1,40,13,570	49,02,228	1,89,15,798
2014 – 15	95,45,710	26,80,229	1,22,25,939
2015 – 16	1,78,13,430	22,43,983	2,00,57,413
2016 – 17	1,52,58,760	11,60,145	1,64,18,905
2017 – 18	2,25,65,080	55,88,051	2,81,53,131
2018 – 19	(67,60,630)	0	(67,60,630)
2019 – 20	(43,41,889)	0	(43,41,889)
TOTAL	7,60,73,151	1,85,43,692	9,46,16,843

2.4. Thus, it is seen that, as against the original income of Rs.7,60,73,151/-, additional income was offered, totalling Rs.9,46,16,843/-.

2.5. On 29.03.2021, the Finance Bill, 2021 received the assent of the Hon'ble President and came into force on 01.04.2021, whereby the IBS was constituted to hear all applications pending before the ITSC as on 01.02.2021. Under these circumstances, when the Writ Petitions filed by DSSPL and VVM



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came for further hearing on 30.04.2021, particularly regarding the extension of interim orders, the following interim order was passed after considering the interim order passed by the Principal Bench of this Court. Paragraph Nos. 2, 3 and 4 of the said order dated 30.04.2021 are extracted hereunder for ready reference:-

“2.Today when the matter is taken up for hearing, the learned Special Government Pleader has produced a copy of the order dated 17.04.2021 passed by the Principal seat in similar matter in W.P.No.9467 of 2021 and the relevant portion is extracted hereunder:-

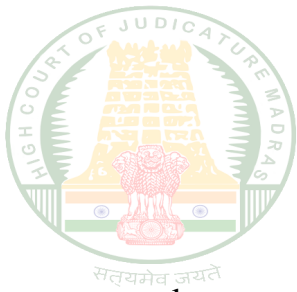
“The petitioner challenges the validity of certain amendments to the Income Tax Act, 1961. Simultaneously, the petitioner seeks a stay on the assessment proceedings on the ground that if the assessment is completed and the assessment order implemented, the writ petition may become infructuous.

2.It may not be appropriate to stop the assessment process midstream. However, the order of assessment and the steps taken pursuant thereto will abide by the result of the writ petition.”

3.She would further state that since the order of assessment is under progress, stopping of entire assessment would have a bearing on the limitation and therefore, suitable direction may be given.

4.In view of the said submission, based on the orders passed by the Division Bench of this Court, the assessment can go on. The order of assessment and the steps taken pursuant thereto will be subject to the result of the writ petition.”

2.6. On 07.06.2021, when the above Writ Petitions came up for hearing, it was reported by the learned counsel for the petitioners that the Writ Petitions had



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become infructuous. Accordingly, recording the same, the Writ Petitions were dismissed as infructuous. At this juncture, DSSPL has filed W.P.(MD) No. 10014 of 2021, and VVM has filed W.P.(MD) Nos. 10019 and 10020 of 2021, challenging the constitutional validity of the amendment made through the Finance Act, 2021. Interim prayers were also made for a direction to the IBS to treat the applications filed by them before the ITSC as pending applications. After considering the rival submissions, the following interim order was passed, and it is essential to extract paragraph Nos. 9 and 10 hereunder:-

“9. Be that as it may, the Assessee has a grievance before us that if the assessment proceedings are concluded, it would greatly prejudice their rights. In fact, the interim orders which we have referred above, have all been granted/predicted on the said grievance. The common thread, which passes through all these interim orders, is that it would not be appropriate to interdict an assessment proceedings. We may also add that the prayers sought for in the present writ petitions are for writs of declaration and the settled legal principle is that there is a presumption as to the validity of the statute until it is struck down. Therefore, essentially, the interim prayer does not flow from the main prayer, but the assessee seeks for interim protection on the ground of prejudice which may be caused to them, if the assessment proceeding is completed. Therefore, taking note of the interim orders referred above, this Court is of the view that the following interim protection would meet the ends of justice. The respective Assessing Officer under whom the petitioners/assesseees are granted liberty to proceed with the assessment proceedings and the petitioners/assesseees are directed to cooperate with the assessment proceedings which they have willingly agreed to do so as informed by the learned counsel for the petitioner and the Assessing Officer shall proceed to conclude the assessment, pass a final order and keep the order in a sealed cover and not publish the same or implement the same.

10. The learned counsel for the petitioners submitted that Section 153(C) of the Act gives sufficient protection in this regard and the



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circumstances which would stand saved have been clearly spelt out in the said provision. In any event, since the Courts have held that the assessment proceedings can go on, this Court is of the view that the assessment proceedings should not be interdicted and it should proceed and passing a final order, keeping it to a sealed cover is akin to not giving effect to the assessment order. If such procedure is adopted, the interest of not only the assessee as well as the Department will be protected, when a final decision is taken on the declaratory relief sought for.”

2.7. Thus, it can be seen that the respective assessing officers were granted liberty to proceed with the assessment proceedings, conclude the assessment, and pass the final order; however, to keep the order in a sealed cover and not to publish or implement the same. The order was passed after holding that until the Writ of Declaration is allowed, it is a settled legal presumption as to the validity of the statute.

2.8. However, on 24.06.2021 and 26.06.2021, assessment orders were passed in respect of the various years mentioned above, and they were communicated to DSSPL as well as VVM without being kept in a sealed cover. The following table depicts the returned income, the income originally assessed, the additions made, the income assessed as per the assessment order, and the additional tax that was demanded in respect of DSSPL :



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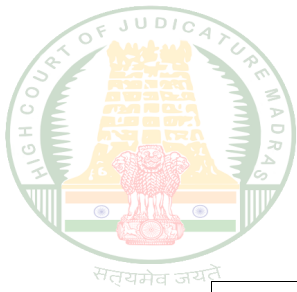
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AY	Returned Income	Income Assessed as per earlier Assessment Order	Additions made in Assessment Order	Income Assessed as per Order dated 24.06.2021	Tax demand as per Notice u/s 156
2013 – 14	93,50,46,010	1,28,23,95,290	5,39,91,43,223	6,68,15,38,513	3,85,91,26,188
2014 - 15	64,68,10,130	82,79,94,240	3,05,23,91,585	3,87,96,85,825	2,04,07,88,117
2015 - 16	26,59,25,080	26,59,25,080	1,18,42,83,414	1,45,02,08,494	73,76,32,725
2016 – 17	21,63,04,150	21,63,05,150	74,60,05,922	96,23,10,072	44,31,13,491
2017 - 18	3,53,93,760	3,53,93,760	35,93,80,602	39,47,74,362	16,32,03,161
2018 - 19	(1,02,17,663)	-	-	-	-
2019 – 20	(1,11,806)	-	-	-	-
TOTAL	2,99,37,24,374	2,62,80,12,520	13,38,90,28,598	13,36,85,17,266	7,24,38,63,682

2.9. Thus, it can be seen that through the assessment orders passed in respect of various years, the total income was arrived at Rs.13,36,85,17,266/- and the tax of Rs.724,38,63,682/- was demanded as per the notice under Section 156 of the Act.

2.10. Similarly, in respect of VVM, the following table depicts the data,

AY	Returned Income	Income Assessed as per earlier Assessment Order	Additions made in Assessment Order	Income Assessed as per Order dated 24.06.2021	Tax demand as per Notice u/s 156
2012 – 13	79,79,120	2,31,85,480	6,93,08,950	9,24,94,430	3,72,18,954
2013 – 14	1,40,13,570	14,22,78,930	61,21,15,976	75,43,94,906	43,13,71,914
2014 - 15	95,45,710	4,42,33,560	22,73,62,454	27,15,96,014	16,50,59,478
2015 - 16	1,78,13,430	4,29,31,380	24,89,98,017	29,19,29,397	64,27,07,930
2016 – 17	1,52,58,760	-	46,39,20,622	47,91,79,382	27,52,00,069



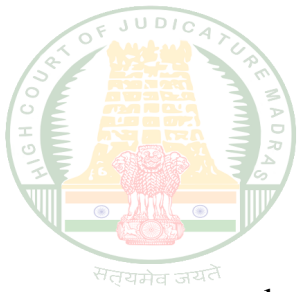
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<i>AY</i>	<i>Returned Income</i>	<i>Income Assessed as per earlier Assessment Order</i>	<i>Additions made in Assessment Order</i>	<i>Income Assessed as per Order dated 24.06.2021</i>	<i>Tax demand as per Notice u/s 156</i>
2017 - 18	2,25,65,080	-	1,80,09,21,190	1,82,34,86,270	99,09,87,858
2018 - 19	(67,60,630)	-	-	-	-
2019 - 20	(43,41,889)	-	-	-	-
TOTAL	7,69,73,151	25,26,29,350	3,42,26,27,207	3,17,39,01,002	2,54,25,46,203

Thus, it can be seen that a total income of Rs.317,39,01,002/- was assessed, and a tax liability of Rs.254,25,46,203/- was demanded.

2.11. On 09.07.2021, the Special Leave Petitions filed by DSSPL and VVM against the aforementioned interim order passed in W.P.(MD) Nos. 10014, 10019 and 10020 of 2021 came up for hearing before the Hon'ble Supreme Court of India. It was reported that assessment orders had already been passed, and liberty was sought to assail the assessment order. The SLP was sought to be withdrawn, and accordingly, the Hon'ble Supreme Court of India permitted the SLP to be withdrawn with the liberty prayed for.

2.12. Thereafter, contempt petitions were filed in Cont. Petn. Sr. Nos. 30488 and 30484 of 2021 for willful disobedience of the earlier interim orders. When the Contempt Applications came up for hearing, the Assessing Officer



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passed supplementary orders, categorically stating that the assessment orders shall not be given effect and the resultant demand shall be kept in abeyance, pending the finality of the Writ Petitions filed before this Court, and that the resultant demand will not be enforced until such time. The same was recorded, and upon further request of the assessee, it was clarified that the time limit for the assessee to challenge the said assessment orders will start only on the disposal of the Writ Petitions, and the period during the pendency of the Writ Petition was directed to be excluded. It is relevant to reproduce verbatim the extract of paragraph Nos. 5 to 9 of the said order, which reads as follows:-

“5.Pursuant to these observations, the learned Senior Standing Counsel sought for a days time, to get necessary instructions from the department and accordingly, today the learned senior standing counsel for the Revenue has produced an order passed by the Assessing Officer, dated 15.07.2021 and by way of illustration, we refer to the order in the case of the Assessee M/s.V.V.Minerals, Tirunelveli, dated 15.07.2021. The order reads as follows:

“ORDER

The Assessment Orders in the case of the assessee for the Assessment Years 2012 – 14 to AY 2019 – 20 were passed and uploaded in ITBA on 24/25.06.2021. There is an interim order of the Hon'ble Madurai Bench of Madras High Court dated 11.06.2021 (cited under ref) which clearly directed that - “Assessment proceedings should not be interdicted and it should proceed and passing a final order, keeping to a sealed cover is akin to not giving effect to the assessment order. If such procedure is adopted that the interest of not only the assessee as well as the department will be protected, when the



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final decision is taken on the declaratory relief sought for. "This direction was not brought to the attention of the Assessing Officer or other officers in the hierarchy. As a result, the above mentioned assessment orders were passed in ITBA and the assessment orders were communicated to the assessee, which was against the direction of the Hon'ble High Court.

When the matter came up before the Hon'ble High Court on 15.07.2021, the Hon. High Court has pronounced the orders that an order has to be passed to the effect that the assessment order shall not be given effect and the resultant demand shall be kept in abeyance pending the finality of the Writ Petitions filed by the assessee before the Hon'ble High Court challenging the abolition of Income Tax Settlement Commission. Under these circumstances, the above mentioned assessment orders shall not be given effect and the resultant demand shall be kept in abeyance pending the finality of the Writ Petitions (cited under ref) filed in the Hon'ble High Court and the resultant demand will not be enforced until such time."

6. In the light of the above order, this Court is of the considered view, the interest of the assessee has been sufficiently protected and as the Assessing Officer has in no uncertain terms stated that the assessment order shall not be given effect to and the resultant demand shall be kept in abeyance, pending the finality of the Writ Petitions filed before this Court and the resultant demand will not be enforced until such time.

7. It is submitted by the learned counsel for the petitioner that in the event, there arises a need for the assessee to challenge the assessment order, which have been passed and uploaded and now agreed to be not given effect to, then the assessee's interest should be protected.

8. We have heard Mr.T.R.Senthilkumar, learned senior standing counsel on the above submission.

9. The Assessee's request appears to be reasonable. Therefore, we make it clear that in the event, the assessee is required to challenge the assessment orders which have been now passed by the Assessing Officer and kept in abeyance, by way of filing an appeal or otherwise,



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the period from, the date of filing the writ petition i.e., on 09.06.2021 till the Writ Petitions are disposed of shall be excluded, while computing limitation.”

2.13. On 17.09.2021, the Central Board of Direct Taxes (CBDT) issued a press release stating that taxpayers eligible to file applications before the ITSC as on 01.02.2021 could file the same on or before 30.09.2021. This was followed by a CBDT order bearing reference No. 299/22/2021 – Dir (Inv-III)/174, dated 28.09.2021, issued in exercise of its power under Section 119(2)(b) of the Act, thereby extending the period for filing applications up to 30.09.2021 for taxpayers eligible to file applications as on 31.01.2021.

2.14. It is stated that the report of the Principal Commissioner of Income Tax was called for with reference to the petitioners’ settlement application, and the same was submitted on 08.06.2022. Objections were made to the applications filed by the DSSPL and VVM. After filing the reply and rejoinder, etc., a common order dated 20.11.2023 rejected the applications as not admitted, on the ground that the applicants had failed to make full and true disclosure of their income. The order was passed under Section 245D(4) of the Act.



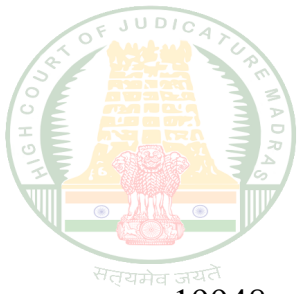
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2.15. On 17.11.2023, in a batch of Writ Petitions challenging the constitutional validity of the provisions of the Finance Act, 2021 and the CBDT circular, the Division Bench of this Court (to which I am a party rendering the Judgment) decided ***Jain Metal Rolling Mills Vs. Union of India***¹, holding the provisions of the Act, as well as the retrospective abolition of the ITSC, as valid, while reading down the circular and the provisions, and holding that all persons whose cases were pending up to 31.03.2021 will be eligible to approach the IBS as per the extended date.

2.16. When the Writ Petitions in W.P.(MD) Nos. 10014, 10019 and 10020 of 2021 came up for hearing on 21.08.2024, the Division Bench, noting the above ruling, held that the Writ Petitions are to be disposed of in terms of the aforementioned Judgment in ***Jain Metal Rolling Mills'*** case (cited *supra*). Even while disposing of the above Writ Petitions, it was contended by DSSPL and VVM that the assessment orders passed in the meanwhile would not survive. However, the request was turned down, keeping it open to the petitioners to urge the said contention before the learned Single Judge, where the rejection order of IBS is being questioned. It has to be noted that the petitioners have filed W.P. No.

¹ (2023 156 taxmann.com 513 Madras)



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19948 of 2024, challenging the order of rejection passed by the IBS. It is contended by the petitioners that since the order of the IBS was passed on 20.11.2023, further fresh orders relating to the assessment in respect of the respective years should have been passed on or before 20.11.2024, as per Section 245 H A (1) (2) of the Act.

2.17. Thus, it is contended that after the aforementioned limitation period expired on 16.12.2024, the petitioners were informed that the assessment orders were no longer kept in abeyance, in view of the disposal of the W.P.(MD) Nos. 10014, 10019 and 10020 of 2021, and that arrears of tax were demanded from the petitioners. On 12.12.2024, the petitioners submitted a reply stating that when the assessment orders were passed, disregarding the directions of the Court, and subsequently kept in abeyance, the orders had become *void ab initio*, and fresh orders had not been passed within a period of one year. The earlier assessment orders had all become infructuous, in view of the fact that the department did not choose to pass fresh assessment orders within the limitation period.



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2.18. According to the petitioners, the Writ Petition filed by them challenging the order of the IBS in W.P.(MD) No. 19948 of 2024 was withdrawn in view of the expiry of the limitation period. It is thereafter that the recovery notice was issued on 31.01.2024, stating that, since the application was not admitted by the IBS, the impugned assessment orders stood automatically restored and, as such, were given effect to.

2.19. Challenging the recovery order issued in respect of DSSPL, W.P.No. 5709 of 2025 was filed. Challenging the recovery notice issued to VVM, W.P.No. 11471 of 2025 was filed. This apart DSSPL had filed the following Writ Petitions for declaration of the assessment orders with reference to the various assessment years mentioned below, to declare the assessment order as arbitrarily illegal and unconstitutional and the following table depicts the same:-

Sl. No.	WP	Petitioner name	Prayer	AY	Assessed total income
1.	5709	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2013-2014	602,307,392
2.	5710	Dhanalakshmi Srinivasan Sugars	Certiorari Recovery order dated 31.12.2024	2013-2014	111,89,45,440



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3.	10711	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2014-2015	14,55,30,986
4.	10712	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2015-2016	5,43,72,873
5.	10713	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2016-2017	7,34,62,595
6.	10714	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2017-2018	10,76,95,271
7.	10715	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2018-2019	2,47,43,079
8.	10716	Dhanalakshmi Srinivasan Sugars	Declaration Assessment order dated 24.06.2021	2019-2020	1,83,38,814

2.20. Similarly, VVM has filed the following Writ Petitions in respect of the following years for the very same prayer of declaration as contained in the table below:-

Sl. No.	WP	Petitioner name	Prayer	AY	Assessed total income
1.	11470	VV Minerals	Declaration Assessment order dated 26.04.2021	2012-2013	9,24,94,430
2.	11471	VV Minerals	Certiorari Recovery notice dated 31.12.2024	2012-2013 to 2019-2020	362,05,85,969

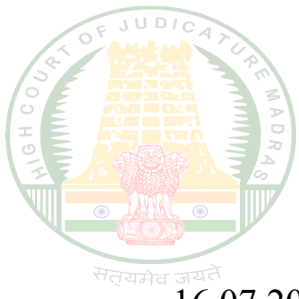


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3.	11472	VV Minerals	Declaration Assessment order dated 24.06.2021	2013-2014	75,43,94,906
4.	11473	VV Minerals	Declaration Assessment order dated 24.06.2021	2014-2015	27,15,96,014
5.	11474	VV Minerals	Declaration Assessment order dated 25.06.2021	2015-2016	29,19,29,397
6.	11475	VV Minerals	Declaration Assessment order dated 24.06.2021	2016-2017	47,91,79,382
7.	11476	VV Minerals	Declaration Assessment order dated 24.06.2021	2017-2018	182,34,86,270
8.	11477	VV Minerals	Declaration Assessment order dated 30.06.2021	2018-2019	NIL
9.	11478	VV Minerals	Declaration Assessment order dated 30.06.2021	2019-2020	NIL

C.Petitioners' Arguments:

3. *Mr. R. Sivaraman*, the learned counsel appearing on behalf of the DSSPL and VVM, would submit that these individual assessment orders were passed in contempt of the directions issued by this Court. Subsequently, on the basis of the orders passed in the contempt petitions, the orders were kept in abeyance on



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16.07.2021. Based on the CBDT circular, since the petitioners' cases were pending as of 31.01.2021, their applications are deemed valid. Thus, the petitioners were eligible assesseees, and their applications were taken on record and proceeded with under Section 245D of the Act.

3.1. The IBS is vested with jurisdiction over the files of the petitioners, and as per Section 245 F of the Act, all the powers of the Income Tax Authority stood vested in the IBS exclusively. Therefore, in view of the subsequent developments, including the CBDT circular and ultimately the Division Bench upholding the provisions and the CBDT circular, except to read down with reference to the period between 01.02.2021 to 31.03.2021, the applications having not been rejected at the outset, as mentioned in Section 245 D of the Act, and when the applications were allowed to be proceeded with, including calling for a report from the Principal Commissioner and after grant of hearing, the matter was being considered, the assessment authority completely lacked jurisdiction on the date on which the assessment orders were passed. Therefore, the assessment orders are *void ab initio* and were passed without jurisdiction.



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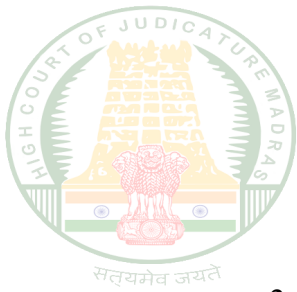
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3.2. The only course open to the assessing authority was to pass fresh orders within one year of the dismissal of the petitioners' applications on 20.11.2023, as prescribed under Section 245 HA read with Section 153 of the Act, which was not done in this case. Therefore, the petitioners are entitled to the prayers made in all these writ petitions.

3.3. The learned counsel would rely upon the Judgment of the Division Bench of the Delhi High Court in ***Rohit Kumar Gupta Vs. Principal Commissioner of Income-tax, Central-II***², more specifically paragraphs 42 to 45 and 50 to 58, to contend that unless and until the fresh orders were passed within a period of one year from the date of dismissal of the application by the Interim Settlement Commission, the Writ Petitions are liable to succeed. The learned counsel would rely upon the Division Bench Judgment of the Gujarat High Court in ***Yogeshwar Developers Vs. Union of India***³ to contend that when the matters were pending before the Settlement Commission, there would be no jurisdiction for the regular assessing authorities to proceed further. Paragraphs 6 and 8 of the said Judgment are specifically referred to.

² (2019) 109 taxmann.com 257 (Delhi)

³ (2022) 138 taxmann.com 469 (Gujarat)



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3.4. The learned counsel referred to the Judgment of the Division Bench in the ***Jain Metal Rolling Mills'*** case (cited *supra*) regarding the validity of the CBDT circular and the other provisions to contend that the petitioners' application shall be treated as an eligible application as per the CBDT circular. The Judgment of the Gujarat High Court in ***Sanjay Sevantilal Shah Vs. Interim Board for Settlement (IBS) – I⁴*** is also relied upon.

3.5. The learned counsel would take this Court exclusively to the discussions contained in the Judgment of the Hon'ble Supreme Court in ***Commissioner of Income Tax, Mumbai Vs. Damani Brothers⁵***, more specifically by pointing out paragraph No. 11, and would submit that it was a case where it was held that the commission had jurisdiction to deal with the income disclosed in the returns and being dealt with by the assessing officers. The same would not apply to the fact situation, and the Judgment itself categorically states that the Income Tax Authorities are free to proceed until the commission further decides to proceed with the petition. The same cannot be relied upon by the authorities to uphold the assessment order that is void.

⁴ (2024) 160 Taxmann.com 255 (Gujarat)

⁵ (2003) 3 SCC 86



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3.6. The learned counsel would rely on the decision of the ITSC itself in ***Om Metals & Minerals (P.) Ltd. In re Vs. S.K.Roy and others***⁶, to contend that only those orders passed before the decision of the Income Tax Settlement Commission to proceed with the matter alone would survive. Accordingly, it is his contention that the Writ Petitions praying for a declaration should be allowed.

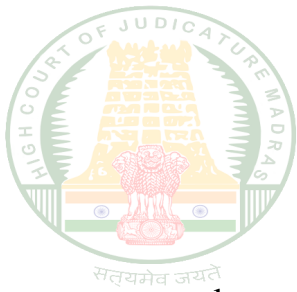
3.7. The learned counsel would rely upon the Judgment of the Hon'ble Supreme Court of India in ***Brij Lal Vs. Commissioner of Income Tax, Jalandhar***⁷ to contend that Sections 245 D (1) and (4) of the Act are two distinct stages and that the jurisdiction of the authorities is only up to the stage of Section 245 D (1) of the Act. For the same proposition, the Judgment in ***Commissioner of Income Tax v. Anjum M.H. Ghaswala and others***⁸ is also relied upon.

3.8. Alternatively, the learned counsel would submit that the interim order of this Court was originally to pass the assessment order and keep it in a sealed cover. When this was violated, the violation was directed to be rectified, and the

6 (1992) 193 ITR 57 (ITSC) (SB)

7 (2010) 194 Taxman 566 (SC)

8 (2001) 119 Taxman 352 (paragraph -27)



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order again went into abeyance. Once the right of the Income Tax authorities arose after the IBS dismissed the application on 20.11.2023, the Income Tax authorities ought to have communicated the assessment order to the petitioners. Without any communication, it cannot be said that the orders have been passed. If the orders were not communicated within the one-year limitation period available to the authorities, any subsequent communication of the orders or any further notice issued will have no effect.

3.9. The learned counsel would rely upon the Division Bench Judgment of this Court reported in (1930) LW Volume XXXI 487 *Kavanna, Vana, Ena Swaminathan alias Chidambaram Pillai Vs. Lakshmanan Chettiar and Another*⁹, more specifically on page No. 494, where the phrase '30 days after making the order' was considered, and it was held that unless the order was pronounced in the presence of the parties, only the communication of the order would amount to making the order itself. The learned counsel would rely upon the Constitutional Bench Judgment of the Hon'ble Supreme Court of India in *State of Punjab Vs. Amar Singh Harika*¹⁰, more specifically paragraph No. 10, to

⁹ (1929) SCC OnLine Mad 218

¹⁰ (1966) SCC OnLine SC 48



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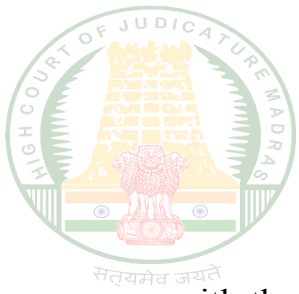
contend that the order has to be communicated to the person affected by it, and until the order is communicated, the authority can even challenge the order, and it cannot even be recorded as provisionally incorrect. The learned counsel would also rely upon the Constitution Bench Judgment of the Hon'ble Supreme Court in ***Bachhittar Singh Vs. State of Punjab and Another***¹¹, more specifically paragraph No. 10, where it has been categorically held that an order can only be effective after it is communicated to the officer or it is otherwise published.

3.10. Therefore, it is the contention of the learned counsel that even assuming for a moment that the assessment order was passed pending the proceedings, it was very much open to the authorities who communicated the said orders to do so within the period of limitation available to them, and since they did not, the Writ Petitioners are entitled to succeed.

D.Respondents' Arguments:

4. *Per contra*, Mr.AR.L.Sundaresan, the learned Additional Solicitor General of India, appearing on behalf of the respondents, would submit that this Court, by way of interim orders, permitted the assessment authorities to proceed

¹¹ (1962) SCC OnLine SC 11



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with the assessment. By the interim order dated 30.04.2021, after considering the plea made on behalf of the authority that the assessment should be completed within the period of limitation, permission was granted for the assessment to continue, and it would ultimately be subject to the result of the Writ Petition. When those Writ Petitions in W.P. (MD) Nos. 4661 of 2021, etc., were dismissed as infructuous, a second interim order was granted in W.P. (MD) No. 10014 of 2021, etc., whereby liberty was specifically granted to the assessing officer to proceed with the assessment, conclude it, pass the final order, and keep the order in a sealed cover, without publishing or implementing the same.

4.1. However, when the same was erroneously communicated to the petitioners and the contempt petition was filed, the demand of tax pursuant to the assessment order was directed to be kept in abeyance by an order dated 16.07.2021. Thus, it is clear that when the petitioners' applications before the commission were directed to be received and thereafter considered only on the strength of the interim orders of the Court, having relied upon one limb of the interim order, the petitioners cannot take exception to the other limb of the interim order. This Court has passed the above series of orders, balancing the



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rights of the revenue and the assesseees. As such, once the final decision of the IBS went against the petitioners, the orders came into force automatically, and as per the interim order, the petitioners should have filed a further appeal against the order within the time from the date of dismissal of the Writ Petitions by the Division Bench of this Court. The same has now become final, and accordingly, recovery notices were issued.

4.2. The learned Additional Solicitor General of India would rely on the Judgment of the Hon'ble Supreme Court of India in ***Hope Plantations Ltd Vs. Taluk Land Board, Peermade and another***¹² to contend that this is an issue estoppel against the petitioners. The learned ASG would thereafter submit that questions of bar or jurisdiction of the assessing officer should be raised at the earliest opportunity, and that a belated challenge to the same is barred by the statutory framework under Section 124 of the Act. Section 124 (3) mandates that the assesseees must raise an objection to the jurisdiction within one month of receipt of notice under Section 142 (1) of the Act, or before the completion of the assessment.

¹² (1999) 5 SCC 590



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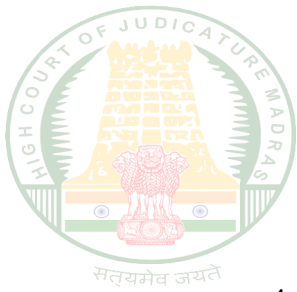
4.3. The learned ASG would rely upon the Judgment in ***Deputy Commissioner of Income Tax (Exemptions) and another Vs. Kalinga Institute of Industrial Technology***¹³ to contend that the conduct of the petitioners amounts to a waiver of the plea. He would rely upon the Judgment of the Hon'ble Supreme Court of India in ***Commissioner of Income-tax Vs. Damani Brothers***¹⁴ to contend that unless specific orders have been passed deciding to proceed with the application, the settlement authority does not assume jurisdiction. Until the orders of assessment were passed, no such order had been passed, and the assessment proceedings were completed on 24.06.2021 itself, and therefore, on the day when the assessment orders were passed, it cannot be said that the jurisdiction stood divested. Once the authority has jurisdiction, the assessment orders cannot be challenged by way of Writ Petition, and the petitioners have an effective alternative remedy under Section 246-A of the Act, and the Writ Petition should not be entertained in view of the dictum of the Hon'ble Supreme Court of India in ***Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal***¹⁵ and ***Kone Elevator India Pvt. Ltd. Vs. Assistant Commissioner of Income-tax***¹⁶.

13 (2023) 454 ITR 582

14 (2003) 259 ITR 475 (SC)

15 (2014) 1 SCC 603

16 (2013) 355 ITR 139



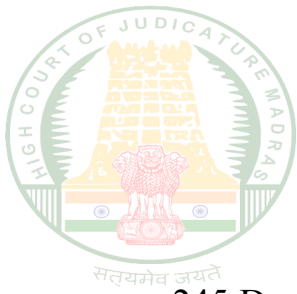
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4.4. The learned ASG would also submit that the petitioners are continuously litigating the matter. After suppressing their income, they have never approached the Court with clean hands. Therefore, the Writ Petitions are liable to be dismissed.

E. Consideration and Findings:

5. I have considered the rival submissions made on either side and perused the material records of the case.

5.1. It is essential to advert to the relevant provisions before proceeding to consider the issues in the present cases. Section 245 A (b) of the Act defines the term 'Case'. Case means any proceedings for assessment under this Act of any person in respect of any assessment year or years which may be pending before the assessing officer on the date on which the application under sub-section (1) of Section 245 C of the Act is made. A person whose case is pending is entitled to make an application under Section 245 C of the Act at any stage of the case, make a full and true disclosure of his income which was not disclosed before the assessing officer, and have the case settled by the settlement commission. Section



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245 D prescribes the procedure on receipt of the application under Section 245 C of the Act, which mandates that the ITSC, within 7 days from the date of receipt of the application, issue a notice to the applicant requiring him to explain why the application made by him be allowed to be proceeded with, and, on hearing the applicant, within a period of 14 days from the date of application, by an order in writing, reject the application or allow the application to be proceeded with. Even if no order has been passed, the application will be deemed to have been proceeded with. In respect of the applications being proceeded with, reports have to be called for from the Principal Commissioner, and after examining the records and giving the applicant an opportunity to be heard, the ITSC/IBS is entitled to pass such orders. It is essential to extract Section 245 F (1) and (2) of the Act, along with the provisos on which reliance is placed by the learned counsel for the petitioners.

“245F.Powers and procedure of Settlement Commission. (1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in an income-tax authority under this Act.

(2) Where an application made under section 245C **has been allowed to be proceeded with under section 245D**, the Settlement Commission shall, until an order is passed under sub-section (4) of section 245D, have, subject to the provisions of sub-section (3) of that section, **exclusive jurisdiction to exercise the powers and perform the functions of an income-tax authority** under this Act in relation to the case:



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[Provided that where an application has been made under section 245C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

Provided further that where

(1) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D; or

(ii) an application is not allowed to be proceeded with under sub-section (2A) of section 245D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or

(iii) an application is not allowed to be further proceeded with under sub section (2D) of section 245D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction upto the date on which the application is rejected, or, nor allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.]”

(Emphasis supplied)

5.2. Section 245 HA of the Act relates to the abatement of proceedings before the settlement commission. The dates on which the proceedings will abate are mentioned in Section 245 HA of the Act, which gives the assessing officer liberty to dispose of the case in accordance with the provisions of the Act, as if no application had been made at all. It is essential to extract Sections 245 H A (1) and (2) of the Act for ready reference:

“245HA.Abatement of proceeding before Settlement Commission. (1) Where



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(i) an application made under section 245C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 245D; or

(ii) an application made under section 245C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 245D; or

(ii) an application made under section 245C has been declared as invalid under sub-section (2C) of section 245D; or

[(iiia) in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement; or]

(iv) in respect of any other application made under section 245C, an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D,

the proceedings before the Settlement Commission shall abate on the specified date.

Explanation. For the purposes of this sub-section, "specified date" means-

(a) in respect of an application referred to in clause (1), the day on which the application was rejected;

(b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;

(c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;

[(ca) in respect of an application referred to clause (iiia), the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement;]

(d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 245D expires.

(2) **Where a proceeding before the Settlement Commission abates,**



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the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.”
(Emphasis supplied)

5.3. The proviso to Section 153 (2) of the Act prescribes the limitation period of one year from the date of abatement of proceedings for completion of the assessment proceedings.

5.4. Adverting to the case on hand, it can be seen that the proceedings against the petitioners commenced with a search and seizure in 2018 and the issue of notices under Section 153 A of the Act in 2019. As such, as of 31.01.2021, the petitioners had a case pending. However, until the Financial Bill was introduced with effect from 01.02.2021, and thereafter, no applications for settlement were made by these petitioners. For the first time, they approached this Court by way of W.P.(MD) Nos. 4661 of 2021, etc., and by an interim order dated 04.03.2021, their applications were directed to be received. Thereafter, by an order dated 30.04.2021, the assessment authorities were permitted to proceed with the assessment, and it was observed that the assessment would ultimately be subject to the result of the Writ Petitions. It must be noted that the interim order was only to receive the application and not to proceed with it.



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5.5. After the said interim orders, the Finance Act, 2021 came into force with effect from 01.04.2021, retrospectively abolishing the ITSC with effect from 01.02.2021 and constituting an IBS. Only those applications that were pending up to 31.01.2021 were directed to be transferred to the IBS. Thus, when the Act came into force, the petitioners had no opportunity to file an application with the ITSC for consideration by the IBS. When they challenged the constitutional validity of the provisions, an interim order was granted on 11.06.2021, which is extracted *supra*.

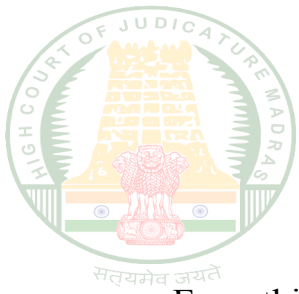
5.6. The Division Bench specifically considered that until the provisions are set aside, the constitutional validity should be presumed, and in that context permitted the assessing authority to go ahead and complete the assessment; however, it directed that the final order be kept in a sealed cover and not to publish or implement the same. Accordingly, when the final orders were passed on 24.06.2021, they were communicated to the petitioners on 25.06.2021. Obviously, the said act was directly in violation of the interim order. When the contempt petition was filed, further orders were passed undertaking that the



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assessment orders would not be given effect and the demands would be kept in abeyance, pending the Writ Petition. The same was expressly approved. Not stopping with that, it was further held that the limitation period would start only from the date of disposal of the Writ Petition. The entire order dated 16.07.2021 was extracted *supra*. Therefore, it can be seen that the order was passed on 24.06.2021 and communicated to the petitioners, and the communication also received the seal of approval of this Court, with the further embargo to keep the demand alone in abeyance and safeguard the petitioners' rights with reference to limitation.

5.7. Thus, it can be seen that on the date on which the assessment orders were passed, the applications were not made as per the provisions of the Act before the ITSC or IBS. The right was expressly curtailed by Section 245C only up to 31.01.2021, and no application was made by the petitioners until the allowed date. Thus, by exercise of extraordinary Writ Jurisdiction, the applications were directed to be received. The applications were just received, and no orders were passed rejecting the applications or proceeding with them further as per the Scheme of the Act. No such exercise could have been done.

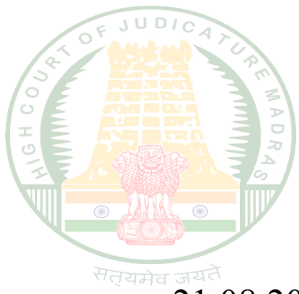


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Everything was dependent upon the interim directions that were issued by the Courts of Law. Therefore, on the date the assessment orders were passed, it cannot be said that the exclusive jurisdiction with reference to assessment also vested with the ITSC/IBS rather than with the respective authorities.

5.8. Though subsequently, when the CBDT issued the press release on 07.09.2021 and the subsequent circular as per the provisions under Section 119 (2) (b) of the Act, the time for filing the applications was extended until 30.09.2021. Still, as per Section 245C of the Act, as originally enacted, no application could have been made on or after 01.02.2021. Only by virtue of the Judgment in *Jain Metal Rolling Mills'* case (cited *supra*), the said provision was read down by reading the last date of 01.02.2021 as 31.03.2021, and the petitioners' right to make an application got crystallized. The petitioners' contention that, even otherwise, the petitioners had a right cannot be accepted.

5.9. It is only in that context that the petitioners' Writ Petitions challenging the very same provisions came up for hearing, and Writ Petitions were also disposed of on the same terms by the Division Bench of this Court on



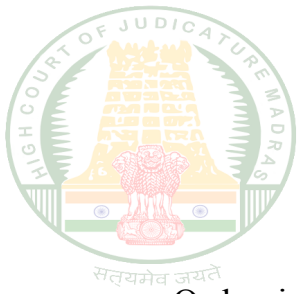
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21.08.2024. A prayer was made to hold that the assessment orders would not survive. The said prayer was not granted. However, liberty was granted to the petitioners to agitate the said issue in the Writ Petitions filed by them challenging the order of the IBS.

5.10. However, for reasons best known to them, the petitioners chose to withdraw the Writ Petitions, and the assessment orders were never challenged in those proceedings. Thus, the petitioners' applications were received only on the strength of the interim order, and when the impugned order of assessment was passed, exclusive jurisdiction never vested in the ITSC/IBS. With the Finance Act, 2021, coming into force, Section 245C (5) read as follows:

“(5). No application shall be made under this Section on or after 01/02/2021”.

5.11. The petitioners' applications were not made before 01.02.2021. The right to make the application itself crystallized only after the Judgment dated 17.11.2023 in ***Jain Metal Rolling Mills'*** case (cited *supra*), whereby the aforesaid provision was read down and made “on or after 31.03.2021”. By that time, the assessment orders had already been passed. In those specific writ petitions filed by the petitioners, the assessment orders were never set aside. Earlier, by the



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Order in the contempt petition, they were validated, the demand was kept in abeyance, and the petitioners' limitation was saved until the disposal of the writ petition. Thus, the petitioners and the department will be bound by the Orders inter-parties. For the petitioners to file an appeal, the limitation period will run from the date of disposal of the writ petitions. As a matter of fact, under Section 245HA (2) of the Act, which is extracted *supra*, it can be seen that once the proceedings stood abated, the authorities are entitled to proceed as if the applications were never made.

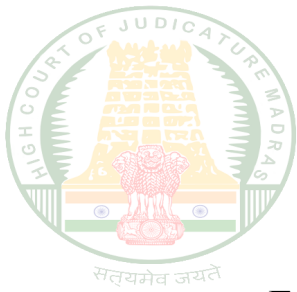
5.12. Therefore, in this case, jurisdiction never became exclusively vested, and in view of the peculiar scenario, there was never a case for following the procedure of rejecting the application or allowing it to proceed further under Section 245D (1) of the Act. In such a scenario, when the assessment authority was expressly empowered by the interim orders of the Court, which permitted the petitioners also to make an application, while directing the authorities to receive the same, the petitioners, having accepted said orders of the Court, will be bound by the liberty that is granted by the very same orders of the Court. As such, when the order of assessment has been passed based on the express liberty that is



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granted by the Court, it cannot now be contended that the authority did not have jurisdiction.

5.13. With reference to the argument relating to the communication of the order within a period of one year, the orders were already communicated, and, in fact, the contempt petition itself was filed aggrieved of the same. The order passed in the contempt petition does not undo the communication, nor does it direct the authorities to re-communicate the order after the disposal of the Writ Petition. On the other hand, only the demand and enforcement are kept in abeyance, and, in fact, the petitioners were given the right to challenge the order immediately after the disposal of the Writ Petitions. A proper reading of the order passed in the contempt petition shows that the period of limitation for filing the appeal, etc., would start from the date of disposal of the Writ Petitions in W.P.(MD)Nos.10014, 10019 and 10020 of 2021. Thus, even though there can be no quarrel over the proposition that an order would come into effect only after service, in this case, the orders have been served, and the Court only directed that the demand alone be kept in abeyance. Therefore, the said contention made by the learned counsel for the petitioners is without any merit.



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F. The Result:

6. For all the above reasons, these Writ Petitions are bound to fail and accordingly stand dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

01.06.2026

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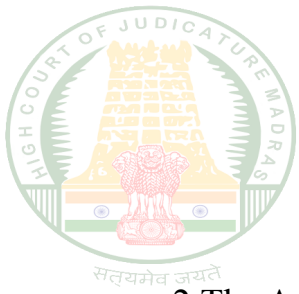
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Neutral citation : Yes

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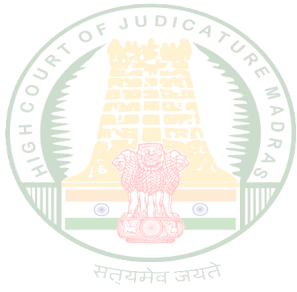
To

1.The Deputy Commissioner of Income Tax
Central Circle 2, Madurai
Ground Floor, Income Tax Office – Madurai Me
Income Tax Staff Quarters Complex
Kulamangalam Main Road
Meenambalpuram, Madurai, Tamil Nadu – 625 002.



W.P.(MD)Nos.10711 to 10716, 5709, 5710, 11470 to 11478 of 2025

2. The Assistant Commissioner of Income Tax
Central Circle 2, Madurai
Ground Floor, Income Tax Office – Madurai Me
Income Tax Staff Quarters Complex
Kulamangalam Main Road
Meenambalpuram, Madurai, Tamil Nadu – 625 002.



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D.BHARATHA CHAKRAVARTHY, J.

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Pre-Delivery Order made in
W.P.(MD)Nos.10711 to 10716, 5709, 5710 and 11470 to 11478 of 2025
and W.M.P.(MD) Nos.4171, 4173, 8529 and 8530 of 2025

01.06.2026
(2/2)

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