

# Dream Merchant Realtors Pvt. Ltd vs Income Tax Officer Ward 7(1) Delhi & Anr on 28 March, 2022

**Author: Manmohan**

**Bench: Manmohan, Dinesh Kumar Sharma**

\$~33, 39, 46, 47, 49, 50, 52 to 54, 56 to 66, 70 to 78, 80, 81  
\* IN THE HIGH COURT OF DELHI AT NEW DELHI

33

+ W.P.(C) 5019/2022 & CM APPL.14956/2022, CM APPL.14957/20  
DREAM MERCHANT REALTORS PVT. LTD. .... Petitioner  
Through Mr. Gautam Jain with Mr  
Kumar, Advocates.

versus

INCOME TAX OFFICER WARD 7(1) DELHI & ANR.

..... Respondents  
Through Mr. Kunal Sharma, Sr. S  
Counsel with Ms. Zehra  
Standing Counsel with M  
Nargotra, Advocate.

39

+ W.P.(C) 5025/2022  
RAJINDER SOBTI  
Through Mr. Rishi Jaiswal with  
Jain and Ms. Tanya Mino  
Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-  
49(1),DELHI ..... Respondent  
Through Mr. Ajit Sharma, Advocate.

46

+ W.P.(C) 5040/2022 & CM APPL.14991/2022  
LATE ASHOK AGGARWAL THR. LEGAL REPRESENTATIVE  
Through Mr. Ajay Wadhwa with Mr  
Jha, Advocates.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

versus

INCOME TAX OFFICER, WARD 36(1) NEW DELHI AND ANR.

..... Respondents  
Through Mr. Kunal Sharma, Sr. Standing  
Counsel with Ms. Zehra Khan, Jr  
Standing Counsel with Mr. Shray  
Nargotra, Advocate.

47

+ W.P.(C) 5043/2022 & CM APPL.14993/2022, CM APPL.14994/2022  
M/S. UNIQUE INFOWAYS P LTD ..... Petitioners  
Through Mr. S. Krishnah, Advocate.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE -  
25 (1), DELHI AND ORS. .... Respondents  
Through Mr. Puneet Rai, Advocate.

49

+ W.P.(C) 5051/2022 & CM APPL.15011/2022, CM APPL.15012/2022  
KARMATH INFRASTRUCTURE PRIVATE LIMITED ... Petitioner  
Through Mr. Upvan Gupta, Advocate.  
versus

THE INCOME-TAX OFFICER WARD 14(1) DELHI .... Respondent  
Through Mr. Abhishek Maratha, Advocate.

50

+ W.P.(C) 5056/2022 & CM APPL.15021/2022, CM APPL.15022/2022  
MEHAK NAYER ..... Petitioners  
Through Mr. Abhishek Kaushik with  
Mr. Vishwa B. Gupta and  
Ms. Bhawna Piplani, Advocates.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

versus

ACIT, CIRCLE 70(1) & ANR. .... Respondents  
Through Mr. Puneet Rai, Advocate.

52

+ W.P.(C) 5059/2022 & CM APPL.15026/2022, CM APPL.15027/2022  
MPG BUILDCON PVT. LTD. .... Petitioners  
Through Mr. Gautam Jain with Mr. Piyu  
Kumar, Advocates.  
versus

INCOME TAX OFFICER WARD 17(1) DELHI & ANR.  
..... Respondents  
Through Mr. Abhishek Maratha, Advocate.

53

+ W.P.(C) 5061/2022 & CM APPL.15032/2022, CM APPL.15033/2022  
MONESH ISRANI ..... Petitioner  
Through Mr. Satyen Sethi with Mr. Arun  
Panda, Advocates.

versus

INCOME TAX OFFICER, WARD 28(1), & ORS. .... Respondents  
Through Mr. Abhishek Maratha, Advocate.

54

+ W.P.(C) 5062/2022 & CM APPL.15040/2022  
FLAME PROMOTERS PRIVATE LIMITED ..... Petitioner  
Through Mr. Piyush Goel, Advocate.

versus

UNION OF INDIA & ORS. .... Respondents  
Through Mr. Gaurav Sharma with Mr. Naresh  
Chawdhary, Advocates for UOI.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BHOOJ  
Signing Date:29.03.2022  
17:16:30

56

+ W.P.(C) 5065/2022 & CM APPL.15048/2022, CM APPL.15049/2022  
DELHIVERY LIMITED ..... Petitioner  
Through Mr. Prakash Kumar with Ms. Rashi  
Singh, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL  
CIRCLE 18, DELHI & ANR. .... Respondents  
Through Mr. Zoheb Hossain, Sr. Standing  
Counsel with Mr. Vipul Agrawal and  
Mr. Parth Senwal, Jr. Standing  
Counsel.  
Mr. Sanjeev Uniyal with Mr. Dhawan  
Uniyal, Advocates for respondent  
No.3.

57

+ W.P.(C) 5066/2022 & CM APPL.15050/2022  
GLOBAL EMERGING MARKETS INDIA LIMITED ..... Petitioner  
Through Mr. Ram Avtar Bansal, Advocate

versus

ASSISTANT COMMISSIONER OF INCOME TAX ..... Respondent  
Through Ms. Vibhooti Malhotra, Advocate.

58

+ W.P.(C) 5067/2022 & CM APPL.15052/2022, CM APPL.15053/2022

JASPAL SINGH ..... Petitioner

Through Dr. Rakesh Gupta, Advocate.

versus

Signature Not Verified  
Digitally Signed  
By:KRISHNA BHOJ  
Signing Date:29.03.2022  
17:16:30

INCOME TAX OFFICER WARD 44(6) DELHI & ANR.

..... Respondent

Through Mr. Sunil Kumar Agarwal, Advocate.

59

+ W.P.(C) 5069/2022 & CM APPL.15056/2022, CM APPL.15057/2022

MONESH ISRANI ..... Petitioner

Through Mr. Satyen Sethi with Mr. Arta  
Panda, Advocates.

versus

INCOME TAX OFFICER, WARD 28(1), & ORS. .... Respondents

Through Mr. Abhishek Maratha, Advocate.

60

+ W.P.(C) 5070/2022 & CM APPL.15059/2022, CM APPL.15060/2022

MANOJ KUMAR JAIN ..... Petitioner

Through Mr. Shailesh Gupta with Mr. Shy  
Sundar, Advocates.

versus

INCOME TAX OFFICER, WARD 71(1) NEW DELHI AND ANR

..... Respondents

Through Mr. Sunil Kumar Agarwal, Advocate.

62

+ W.P.(C) 5075/2022 & CM APPL.15070/2022

LA PLASTPACKS PVT. LTD. .... Petitioner

Through Mr. Ajay Wadhwa with Mr. Sanchi  
Jha, Advocates.

versus

INCOME TAX OFFICER, WARD 15(1) & ANR. .... Respondents

Through Mr. Abhishek Maratha, Advocate.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

63

+ W.P.(C) 5076/2022 & CM APPL.15072/2022, CM APPL.15073/2022  
INDO GULF DIAGNOSTIC & RESEARCH CENTRE PRIVATE  
LIMITED ..... Petitioner  
Through Ms. Kanika Sinha with Ms. Maiteryi  
Joshi, Advocates.

versus

DCIT, CENTRAL CIRCLE-6, DELHI & ANR. .... Respondents  
Through Mr. Sunil Kumar Agarwal, Advocate

64

+ W.P.(C) 5079/2022 & CM APPL.15081/2022, CM APPL.15082/2022  
DEVAPRIYA MAJUMDAR ..... Petitioner  
Through Mr. Nitin Gultai, Advocate.

versus

INCOME TAX OFFICER, WARD-61(1), DELHI & ANR.  
..... Respondents  
Through Mr. Kunal Sharma, Sr. Standing  
Counsel with Ms. Zehra Khan, Jr.  
Standing Counsel with Mr. Shray  
Nargotra, Advocate.

65

+ W.P.(C) 5080/2022 & CM APPL.15090/2022  
BIRD TRAVELS PRIVATE LIMITED ..... Petitioner  
Through Mr. Mayank Nagi with Mr. Pulkit  
Verma, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 4(2)  
DELHI & ORS. .... Respondent  
Through Mr. Kunal Sharma, Sr. Standing  
Counsel with Ms. Zehra Khan, Jr.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

Standing Counsel with Mr. Shray  
Nargotra, Advocate.

66

+ W.P.(C) 5081/2022 & CM APPL.15092/2022 ..... Petition  
PREETI AGARWAL  
Through Mr. Ajay Wadhwa with Mr. Sanchi  
Jha, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 28(1)  
& ANR. .... Respondent  
Through Ms. Vibhooti Malhotra, Advocate.

70

+ W.P.(C) 5086/2022 & CM APPL.15109/2022 ..... Petition  
MANOJ KUMAR SAMDARIA  
Through Mr. P. Roychaudhuri with Mr. Ga  
Gupta, Advocates.

versus

ACIT CIRCLE 52-1 NEW DELHI & ANR ..... Respondent  
Through Mr. Zoheb Hossain, Sr. Standing  
Counsel with Mr. Vipul Agrawal and  
Mr. Parth Senwal, Jr. Standing  
Counsel.

71

+ W.P.(C) 5087/2022 & CM APPL.15112/2022 ..... Petition  
LALJI MAL OMKAR MAL  
Through Mr. Amit Goel, Advocate.

versus

INCOME TAX OFFICER & ANR. .... Respondents  
Through Mr. Abhishek Maratha, Advocate.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BHOJ  
Signing Date:29.03.2022  
17:16:30

72

+ W.P.(C) 5088/2022 & CM APPL.15113/2022 ..... Petition  
MADHUR KABRA  
Through Mr. Ajay Wadhwa with Mr. Sanchi  
Jha, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 70(1)  
& ANR. .... Respondent  
Through Advocate (appearance not given)

73

+ W.P.(C) 5089/2022 & CM APPL.15116/2022, CM APPL.15117/2022  
KLG SECURITIES LTD. .... Petition

Through Mr. Gautam Jain with Mr. Piyush  
Kumar, Advocates.

versus

INCOME TAX OFFICER WARD 14(3) DELHI & ANR.

..... Respondents

Through Mr. Ajit Sharma, Advocate.

74

+ W.P.(C) 5091/2022 & CM APPL.15121/2022, CM APPL.15122/2022  
REHANA BABY

..... Petition

Through Mr. Mudit Bansal, Advocate.

versus

INCOME TAX OFFICER WARD 63 -1 DELHI ..... Respondent

Through Mr. Zoheb Hossain, Sr. Standing  
Counsel with Mr. Vipul Agrawal and  
Mr. Parth Senwal, Jr. Standing  
Counsel.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

75

+ W.P.(C) 5092/2022 & CM APPL.15125/2022

MERU MINERALS PRIVATE LIMITED

..... Petition

Through Ms. Geeta Rani, Advocate.

versus

DY. COMMISSIONER OF INCOME TAX & ANR. .... Respondents

Through Ms. Vibhooti Malhotra, Advocate.

76

+ W.P.(C) 5093/2022 & CM APPL.15126/2022, CM APPL.15127/2022  
P.N CONSTRUCTION PVT. LTD.

..... Petition

Through Mr. Gautam Jain with Mr. Piyush  
Kumar, Advocates.

versus

INCOME TAX OFFICER WARD 19(1) DELHI & ANR.

..... Respondents

Through Mr. Puneet Rai, Advocate.

77

+ W.P.(C) 5094/2022 & CM APPL.15129/2022, CM APPL.15130/2022  
SANA REALTORS PVT. LTD.

..... Petition

Through Mr. Gautam Jain with Mr. Piyush  
Kumar, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 22(2)  
DELHI & ANR. .... Respondents  
Through Mr. Puneet Rai, Advocate.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

78

+ W.P.(C) 5096/2022 & CM APPL.15136/2022, CM APPL.15137/2022  
KARAM SINGH .... Petitioners  
Through Mr. Mudit Bansal, Advocate.

versus

THE ACIT CENTRAL CIRCLE 10 DELHI .... Respondent  
Through Mr. Ajit Sharma, Advocate.

80

+ W.P.(C) 5098/2022 & CM APPL.15141/2022, CM APPL.15142/2022  
NITU JAIN .... Petitioners  
Through Mr. Shailesh Gupta with Mr. Sh  
Sundar, Advocates.

versus

INCOME TAX OFFICER, WARD 58(3) NEW DELHI AND ANR  
..... Respondents  
Through Ms. Vibhooti Malhotra, Advocate.

81

+ W.P.(C) 5099/2022 & CM APPL.15143/2022, CM APPL.15144/2022  
PRIYANKA NAHATA, .... Petitioners  
Through Ms. Kanika Sinha with Ms. Mait  
Joshi, Advocates.

versus

ITO WARD 30 (1)DELHI & ANR. .... Respondents  
Through Mr. Ajit Sharma, Advocate.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022



17:16:30

84

+ W.P.(C) 5104/2022 & CM APPL.15153/2022, CM APPL.15154/2022  
RAPID BUILDCON PRIVATE LIMITED ..... Petition  
Through Mr. Upvan Gupta, Advocate.

versus

THE INCOME-TAX OFFICER WARD 21 (1), DELHI

..... Respondent  
Through Mr. Shailesh Gupta with Mr. Shy  
Sundar, Advocates.

86

+ W.P.(C) 5109/2022 & CM APPL.15162/2022, CM APPL.15163/2022  
MONESH ISRANI ..... Petition  
Through Mr. Satyen Sethi with Mr. Arta  
Panda, Advocates.

versus

INCOME TAX OFFICER, WARD 28(1), & ORS. .... Respondents  
Through Mr. Abhishek Maratha, Advocate.

89

+ W.P.(C) 5114/2022 & CM APPL.15170/2022, CM APPL.15171/2022  
M/S. FAITH BUILDTECH (P) LTD ..... Petition  
Through Mr. S. Krishnah, Advocate.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX & ORS.

..... Respondents  
Through Mr. Kunal Sharma, Advocate.

Signature Not Verified  
Digitally Signed  
By:KRISHNA BH0J  
Signing Date:29.03.2022  
17:16:30

90

+ W.P.(C) 5117/2022 & CM APPL.15175/2022, CM APPL.15176/2022  
KIRAN JINDAL ..... Petition

Through Mr. Nitin Gultai, Advocate  
versus

INCOME TAX OFFICER, WARD-14(1), DELHI & ANR.

..... Respondent  
Through Mr. Ajit Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% 28.03.2022

1. Learned counsel for the parties admit that as the impugned notices in the present matters have been issued post 31st March, 2021 without following the procedure prescribed in the substituted Sections 147 to 151 w.e.f. 01st April, 2021, the present matters are covered by the judgment dated 15th December, 2021 passed by this Court in the case of Mon Mohan Kohli vs. Assistant Commissioner of Income Tax & Anr., W.P.(C) No.6176/2021.

2. The conclusion reached by this Court in Mon Mohan Kohli (supra) is reproduced hereinbelow:-

"CONCLUSION

97. This Court is of the view that as the Legislature has introduced the new provisions, Sections 147 to 151 of the Income Tax Act, 1961 by way of the Finance Act, 2021 with effect from 1st April, 2021 and as the said Section 147 is not even mentioned in the impugned Explanations, the reassessment notices relating to any Assessment Year issued under Section 148 after 31st March, 2021 had to comply with the substituted Sections.

98. It is clarified that the power of reassessment that existed prior to 31st March, 2021 continued to exist till the extended period i.e. till 30th June, 2021; however, the Finance Act, 2021 has merely changed the procedure to be followed prior to issuance of notice with effect from 1st April, 2021.

99. This Court is of the opinion that Section 3(1) of Relaxation Act empowers the Government/Executive to extend only the time limits and it does not delegate the power to legislate on provisions to be followed for initiation of reassessment proceedings. In fact, the Relaxation Act does not give power to Government to extend the erstwhile Sections 147 to 151 beyond 31st March, 2021 and/or defer the operation of substituted provisions enacted by the Finance Act, 2021. Consequently, the impugned Explanations in the Notifications dated 31st March, 2021 and 27th April, 2021 are not conditional legislation and are beyond the power delegated to the Government as well as ultra vires the parent statute i.e. the Relaxation Act. Accordingly, this Court is respectfully not in agreement with the view of the Chhattisgarh High Court in Palak Khatuja (supra), but with the views of the Allahabad High Court and Rajasthan High Court in Ashok Kumar Agarwal (supra) and Bpip Infra Private Limited (supra) respectively.

100. The submission of the Revenue that Section 6 of the General Clauses Act saves notices issued under Section 148 post 31st March, 2021 is untenable in law, as in the present case, the repeal is followed by a fresh legislation on the same subject and the new Act manifests an intention to destroy the old procedure. Consequently, if the

Legislature has permitted reassessment to be made in a particular manner, it can only be in this manner, or not at all.

101. The argument of the respondents that the substitution made by the Finance Act, 2021 is not applicable to past Assessment Years, as it is substantial in nature is contradicted by Respondents' own Circular 549 of 1989 and its own submission that from 1st July, 2021, the substitution made by the Finance Act, 2021 will be applicable.

102. Revenue cannot rely on Covid-19 for contending that the new provisions Sections 147 to 151 of the Income Tax Act, 1961 should not operate during the period 1st April, 2021 to 30th June, 2021 as Parliament was fully aware of Covid-19 Pandemic when it passed the Finance Act, 2021. Also, the arguments of the respondents qua non-obstante clause in Section 3(1) of the Relaxation Act, 'legal fiction' and 'stop the clock provision' are contrary to facts and untenable in law.

103. Consequently, this Court is of the view that the Executive/Respondents/Revenue cannot use the administrative power to issue Notifications under Section 3(1) of the Relaxation Act, 2020 to undermine the expression of Parliamentary supremacy in the form of an Act of Parliament, namely, the Finance Act, 2021. This Court is also of the opinion that the Executive/Respondents/Revenue cannot frustrate the purpose of substituted statutory provisions, like Sections 147 to 151 of Income Tax Act, 1961 in the present instance, by emptying it of content or impeding or postponing their effectual operation."

3. Keeping in view the aforesaid, Explanations A(a)(ii)/A(b) to the Notifications dated 31st March, 2021 and 27th April, 2021 are declared to be ultra vires the Relaxation Act, 2020 and are therefore bad in law and null and void.

4. Consequently, the impugned reassessment notices issued under Section 148 of the Income Tax Act, 1961 are quashed and the present writ petitions are allowed. If the law permits the respondents/revenue to take further steps in the matter, they shall be at liberty to do so. Needless to state that if and when such steps are taken and if the petitioners have a grievance, they shall be at liberty to take their remedies in accordance with law.

MANMOHAN, J DINESH KUMAR SHARMA, J MARCH 28, 2022 st