

# Md Overseas Private Limited vs Deputy Commissioner Of Income Tax, ... on 30 March, 2022

**Author: Manmohan**

**Bench: Manmohan, Dinesh Kumar Sharma**

\$~1, 26, 28, 36, 37, 39, 48-50, 55, 57, 58, 59, 65, 70, 71, 73  
82, 86, 90 & 93

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

1

+ W.P.(C) 5191/2022

MD OVERSEAS PRIVATE LIMITED

Through

Mr. Ved Jain, Advocate

versus

DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL

CIRCLE 14, DELHI & ORS.

..... Responde

Through Mr.Sanjay Kumar, Advcoate.

Mr. Ruchir Mishra and Mr. Mukesh

Kr. Tiwari, Advocates for R-4.

26

+ W.P.(C) 5221/2022, CM APPL. 15576/2022 (Stay) , CM APPL.  
15577/2022 (exemption)

GURVINDER SINGH

..... Petitioner

Through Mr. Gaurav Jain, Ms. Akshita Go

and Mr. Shubham Gupta, Advocate

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 49(1),

DELHI AND ANR.

..... Respondents

Through Mr. Abhishek Maratha, Advocate.

28

+ W.P.(C) 5233/2022, CM APPL. 15640/2022 (stay) , CM APPL.  
15641/2022 (exemption)

M/S. SHRI NIWAS PULSES (P) LTD

..... Pet

Through Mr. S. Kirishnan, Mr.Venketesh

Chaurasia, Advocates.

versus

INCOME TAX OFFICER & ORS.

..... Responde

Through Mr. Sanjay Kumar and Ms.Easha

Kadian, Advocates.

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36

+ W.P.(C) 5246/2022, CM APPL. 15670/2022 (stay) , CM APPL. 15671/2022 (exemption)  
RAM KALI ..... Petiti

Through Ms. Divya and Mr.Ruchesh Sinha,  
Advocates.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CIRCLE

43(1), DELHI & ANR. .... Responde

Through Mr. Sanjay Kumar and Ms.Easha  
Kadian, Advocates.

37

+ W.P.(C) 5247/2022, CM APPL. 15674/2022(stay), CM APPL. 15674/2022 (exemption)  
RENU MITTAL ..... Petiti

Through Ms. Divya and Mr.Ruchesh Sinha,  
Advocates.

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CIRCLE

43(1), DELHI & ANR. .... Responde

Through Mr. Sanjay Kumar and Ms.Easha  
Kadian, Advocates.

39

+ W.P.(C) 5250/2022, CM APPL. 15679/2022 (stay), CM APPL. 15680/2022 (exemption)  
KRISHAN MITTAL (HUF) ..... Petit

Through Ms. Divya and Mr.Ruchesh Sinha,  
Advocates

versus

ASSISSTANT COMMISSIONER OF INCOME TAX CIRCLE

43(1), DELHI & ANR. .... Responde

Through Mr. Sunil Agarwal, Mr. Tushar Gup

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and Mr.Samarth Chaud  
Advocates.

48

+ W.P.(C) 5262/2022, CM APPL. 15716/2022 (stay) , CM APPL. 15717/2022 (exemption)  
STRATEGIC DEVELOPERS (P) LTD. .... Petiti

Through Mr. Gautam Jain and Mr.Piysuh

Kumar Kamal, Advocates.

versus

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

Through Mr. Sunil Agarwal, Mr. Tushar Gupta  
and Mr. Samarth Chaudhari  
Advocates.

49

+ W.P.(C) 5263/2022, CM APPL. 15720/2022 (Stay), CM APPL.  
15721/2022(exemption)

SHRI. ANUP KUMAR HUF ..... Petitioner

Through Mr. S. Kirishnan, Mr. Venketesh  
Chaurasia, Advocates.  
Mr. Rakesh Kumar, Advocate.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX & ORS.

..... Respondent

Through Mr. Abhishek Maratha, Advocate.

50

+ W.P.(C) 5265/2022, CM APPL. 15724/2022 (stay), CM APPL.  
15725/2022(exemption)

SHRI. ANOOP KUMAR CHHAWCHHARIA ..... Petitioner

Through Mr. S. Kirishnan, Mr. Venketesh  
Chaurasia, Advocates.  
Mr. Rakesh Kumar, Advocate.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE -

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58 (1), DELHI AND ORS.

..... Resp

Through Ms. Vibhooti Malhotra, Advocate

55

+ W.P.(C) 5273/2022, CM APPL. 15742/2022 (interim relief),  
APPL. 15743/2022 (exemption)

RAMESH CHANDER KALRA ..... Petitioner

Through Mr. Ved Jain, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL  
CIRCLE-27, DELHI & ORS.

..... Respondent

Through Mr. Abhishek Maratha, Advocate.  
Mr. Gigic George and Mr. Dheeraj  
Singh, Advocates for R-4/UOI

57

+ W.P.(C) 5277/2022, CM APPL. 15749/2022 (stay), CM APPL. 15750/2022 (exemption)  
POPULATION SERVICES INTERNATIONAL ..... Petitioner  
Through Mr. Ajay Vohra, Sr. Advocate with  
Mr. Aditya Vohra and Mr. Udit  
Naresh, Advocates.  
versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS.  
..... Respondent  
Through Ms. Vibhooti Malhorta, Advocate.

58

+ W.P.(C) 5279/2022, CM APPL. 15753/2022 (interim relief),  
APPL. 15754/2022(exemption)  
ISHWAR CHAND MITTAL (HUF) ..... Petiti  
Through Ms. Divya and Mr.Ruchesh Sinh  
Advocates.  
versus

ASSISSTANT COMMISSIONER OF INCOME TAX CIRCLE  
43(1), DELHI & ANR. .... Respondents

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Through Mr. Sunil Agarwal, Mr. Tush  
and Mr.Samarth Cha  
Advocates.

59

+ W.P.(C) 5281/2022, CM APPL. 15756/2022 (interim relief),  
APPL. 15757/2022 (exemption)  
AJAY JAIN ..... Pet  
Through Mr. Ved Jain, Advocate.  
versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-59-1,  
DELHI & ORS. .... Respondents  
Through Mr. Ajit Sharma, Mr. L. S. Hasan,  
Advocates.  
Mr. Ayush Kaushik, Advocates for  
UOI.

65

+ W.P.(C) 5289/2022, CM APPL. 15773/2022 (interim relief) ,  
APPL. 15774/2022 (exemption)  
NISHA GOEL ..... Petit  
Through Mr. Kanishk Agarwal, Ms.Nidhi  
Bhuwania and Ms. Dhriti Gupta

Advocates.

versus

INCOME TAX OFFICER, WARD 54(1), DELHI AND ANR

..... Respondent

Through Mr. Kunal Sharma, Advocate.

70

+ W.P.(C) 5296/2022, CM APPL. 15798/2022 (stay), CM APPL. 15799/2022 (exemption)

VIKAS TAYAL

..... Petition

Through Mr. Venketesh Chaurasaia and Ms. Rano Jain, Advocates.

versus

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ITO, WARD 47(1), DELHI

..... Re

Through Ms.Vibhooti Malhotra, Advoca

71

+ W.P.(C) 5297/2022, CM APPL. 15800/2022 (stay) , CM APPL. 15803/2022 (exemption)

KUBER PLANTERS LIMITED

..... Petiti

Through Ms. Ekakshra Mahajan Mandhar, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR.

..... Respondents

Through Ms.Vibhooti Malhotra, Advocate.

73

+ W.P.(C) 5299/2022, CM APPL. 15801/2022 (interim relief), APPL. 15804/2022(exemption)

VISHWANATH GUPTA

..... Pet

Through Mr. Ved Jain, Advocate.

versus

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

..... Respondent

Through Mr. Ajit Sharma, Mr. L. S. Hasan, Advocates  
Mr. Ved Prakash Tripathi, Advocate for UOI.

74

+ W.P.(C) 5300/2022, CM APPL. 15805/2022 (stay), CM APPL. 15806/2022 (exemption)  
NARESH KUMAR (HUF) ..... Petition  
Through Ms. Divya and Mr. Ruchesh Sinha,  
Advocates.  
versus

ASSISSTANT COMMISSIONER OF INCOME TAX CIRCLE

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43(1), DELHI & ANR. .... Res  
Through Mr. Puneet Rai, Mr. Karan Pan  
and Ms. Adeeba Mujahid, Advco

79

+ W.P.(C) 5305/2022, CM APPL. 15813/2022 (stay), CM APPL. 15814/2022 (exemption)  
AMBICA STEELS LIMITED ..... Petition  
Through Mr. Sanat Kapoor and Ms. Ananya  
Kapoor, Advocates.  
versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 1-1  
& ANR. .... Respondents  
Through Mr. Kunal Sharma, Advocate.

80

+ W.P.(C) 5306/2022, CM APPL. 15815/2022 (stay), CM APPL. 15816/2022 (exemption)  
SURESH KUMAR AGGARWAL ..... Petition  
Through Ms. Divya and Mr. Ruchesh Sinha,  
Advocates.  
versus

ASSISSTANT COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE 25, DELHI & ANR. .... Responde  
Through Ms. Vibhooti Malhotra, Advocate

81

+ W.P.(C) 5307/2022, CM APPL. 15819/2022 (stay), CM APPL. 15820/2022 (exemption)  
AMBICA STEELS LIMITED ..... Petition  
Through Mr. Sanat Kapoor and Ms. Ananya  
Kapoor, Advocates.  
versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 1(1)  
DELHI & ANR. .... Respondents

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Through Mr. Kunal Sharma, Advocate.

82

+ W.P.(C) 5308/2022, CM APPL. 15821/2022(stay) , CM APPL.  
15822/2022(exemption)  
MS.PRITIE THAPAR ..... Petitioner  
Through Mr. Bhuvnesh Satija, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ORS.

..... Respondent  
Through Mr. Ajit Sharma, Mr. L. S. Hasan,  
Advocates.

86

+ W.P.(C) 5312/2022, CM APPL. 15825/2022 (stay), CM APPL.  
15826/2022(exemption)  
SHANTI DEVI CHARITABLE TRUST ..... Petitioner  
Through Mr. Venketesh Chaurasai, Advocate

versus

ITO, WARD EXEMP 2(1), DELHI & ANR. .... Respondent  
Through Mr. Venketesh Chaurasai and Ms.  
Rano Jain, Advocates.

90

+ W.P.(C) 5316/2022, CM APPL. 15843/2022 (stay), CM APPL.  
15844/2022(exemption)  
KUBER PLANTERS LIMITED ..... Petitioner  
Through Ms. Ekakshra Mahajan Mandhar,  
Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR.

..... Respondent  
Through Ms. Vibhooti Malhotra, Advocate.

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93

+ W.P.(C) 5319/2022, CM APPL. 15836/2022 (stay), CM APPL. 15837/2022(exemption)  
POPULATION SERVICES INTERNATIONAL ..... Petition  
Through Mr. Ajay Vohra, Sr. Advocate with  
Mr. Aditya Vohra and Mr. Udit  
Naresh, Advocates.  
versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS.

..... Respondent  
Through Ms. Vibhooti Malhotra, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% 30.03.2022 CM APPL. 15413/2022 (exemption) in W.P.(C) 5191/2022 CM APPL. 15577/2022 (exemption) in W.P.(C) 5221/2022 CM APPL. 15641/2022 (exemption) in W.P.(C) 5233/2022 CM APPL. 15671/2022 (exemption) in W.P.(C) 5246/2022 CM APPL. 15674/2022 (exemption) in W.P.(C) 5247/2022 CM APPL. 15680/2022 (exemption) in W.P.(C) 5250/2022 CM APPL. 15717/2022 (exemption) in W.P.(C) 5262/2022 CM APPL. 15721/2022 (exemption) in W.P.(C) 5263/2022 CM APPL. 15725/2022 (exemption) in W.P.(C) 5265/2022 CM APPL. 15743/2022 (exemption) in W.P.(C) 5273/2022 CM APPL. 15750/2022 (exemption) in W.P.(C) 5277/2022 CM APPL. 15754/2022 (exemption) in W.P.(C) 5279/2022 CM APPL. 15757/2022 (exemption) in W.P.(C) 5281/2022 CM APPL. 15774/2022 (exemption) in W.P.(C) 5289/2022 CM APPL. 15799/2022 (exemption) in W.P.(C) 5296/2022 CM APPL. 15803/2022 (exemption) in W.P.(C) 5297/2022 CM APPL. 15804/2022 (exemption) in W.P.(C) 5299/2022 CM APPL. 15806/2022 (exemption) in W.P.(C) 5300/2022 CM APPL. 15814/2022 (exemption) in W.P.(C) 5305/2022 CM APPL. 15816/2022 (exemption) in W.P.(C) 5306/2022 CM APPL. 15820/2022 (exemption) in W.P.(C) 5307/2022 CM APPL. 15822/2022 (exemption) in W.P.(C) 5308/2022 CM APPL. 15826/2022 (exemption) in W.P.(C) 5312/2022 CM APPL. 15844/2022 (exemption) in W.P.(C) 5316/2022 CM APPL. 15837/2022 (exemption) in W.P.(C) 5319/2022 Exemptions allowed subject to all just exceptions. W.P.(C) 5191/2022 & CM APPL. 15412/2022 (interim relief), W.P.(C) 5221/2022 & CM APPL. 15576/2022 (Stay), W.P.(C) 5233/2022 & CM APPL. 15640/2022 (stay), W.P.(C) 5246/2022 & CM APPL. 15670/2022 (stay), W.P.(C) 5247/2022, CM APPL. 15674/2022(stay), W.P.(C) 5250/2022 & CM APPL. 15679/2022 (stay), W.P.(C) 5262/2022, CM APPL. 15716/2022 (stay), W.P.(C) 5263/2022, CM APPL. 15720/2022 (Stay), W.P.(C) 5265/2022, CM APPL. 15724/2022 (stay), W.P.(C) 5273/2022, CM APPL. 15742/2022 (interim relief), W.P.(C) 5277/2022, CM APPL. 15749/2022 (stay), W.P.(C) 5279/2022, CM APPL. 15753/2022 (interim relief), W.P.(C) 5281/2022, CM APPL. 15756/2022 (interim relief), W.P.(C) 5289/2022, CM APPL. 15773/2022 (interim relief), W.P.(C) 5296/2022, CM APPL. 15798/2022 (stay), W.P.(C) 5297/2022, CM APPL. 15800/2022 (stay), W.P.(C) 5299/2022, CM APPL. 15801/2022 (interim relief), W.P.(C) 5300/2022, CM APPL. 15805/2022 (stay), W.P.(C) 5305/2022, CM APPL. 15813/2022 (stay), W.P.(C) 5306/2022, CM APPL. 15815/2022 (stay), W.P.(C) 5307/2022, CM APPL. 15819/2022 (stay), W.P.(C) 5308/2022, CM APPL. 15821/2022(stay), W.P.(C) 5312/2022, CM APPL. 15825/2022 (stay), W.P.(C) 5316/2022, CM APPL. 15843/2022 (stay), W.P.(C) 5319/2022, CM APPL. 15836/2022 (stay), By way of the present batch of petitions, this Court has been called upon



to decide the validity of E-notices issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as „the Act ). The petitioners have classified the matters in the following categories:

1. Category A: is in respect of writ petitions where Notice is dated 31st March, 2021 or before but digitally signed on or after 1 st April, 2021, however sent and received on or after 1st April, 2021.
2. Category B: is in respect of writ petitions where Notice is dated 31st March, 2021 or before digitally not signed, however sent and received on or after 1st April, 2021.
3. Category C: is in respect of writ petitions where Notice is dated 31st March, 2021 or before digitally signed on or before 31 st March, 2021, however sent and received on or after 1st April, 2021.
4. Category D: is in respect of writ petitions where Notice is dated 31st March, 2021 or before digitally signed on or before 31 st March, 2021, no service either by e-mail or by post or any other mode and assessee came to know later on through Portal or receipt of subsequent notice under Section 142(1).
5. Category E: is in respect of writ petitions where Notice is dated 31st March, 2021 or before manually signed, no service by e-mail but dispatched through speed post on or after 1st April, 2021.

It is pertinent to mention that the Allahabad High Court in Daujee Abhushan Bhandar Pvt. Ltd. vs. Union of India and 2 Others, Writ Tax No.78/2022 has held as under:-

" xxx xxx xxx

29. ....Section 13(1) of the Act, 2000 provides that unless otherwise agreed, the dispatch of an electronic record occurs when it enters into computer resources outside the control of the originator. Thus, the point of time when a digitally signed notice in the form of electronic record is entered in computer resources outside the control of the originator i.e. the assessing authority that shall the date and time of issuance of notice under section 148 read with Section 149 of the Act, 1961.

30. In view of the discussion made above, we hold that mere digitally signing the notice is not the issuance of notice. Since the impugned notice under Section 148 of the Act, 1961 was issued to the petitioner on 06.04.2021 though e-mail, therefore, we hold that the impugned notice under section 148 of the Act, 1961 is time barred. Consequently, the impugned notice is quashed. ...."

Keeping in view the aforesaid judgment, this Court is of the view that the present batch of matters requires detailed examination.

Issue notice. Mr.Sanjay Kumar, Mr. Ruchir Mishra, Mr. Abhishek Maratha, Mr. Sunil Agarwal, Ms. Vibhooti Malhorta, Mr. Ajit Sharma, Mr. Kunal Sharma, Mr. Gigic George, Mr. Ved Prakash

Tripathi and Mr.Dheeraj Singh, Advocates accept notice on behalf of respondents.

As the deadline for passing the assessment order is 31st March, 2022, this Court is of the view that it would not be possible to pass a judgment prior thereto. Accordingly, proceedings pursuant to the impugned reassessment notices are stayed till further orders.

Parties are given liberty to complete the pleadings before the next date of hearing.

List on 11th April, 2022.

MANMOHAN, J DINESH KUMAR SHARMA, J MARCH 30, 2022 Pallavi