

Sanjana Realcom Private Limited vs Acit, Circle 22(2), Delhi & Anr on 23 March, 2022

Author: Manmohan

Bench: Manmohan, Dinesh Kumar Sharma

\$~ 32, 34-41, 43-48, 50, 56, 58, 60, 63-65, 67, 69-72, 74, 75, 90, 91, 94-96, 98-101, 105-111, 113, 114, 117-120

* IN THE HIGH COURT OF DELHI AT NEW DELHI

32

+ W.P.(C) 4383/2022 & CM APPL.13637/2022, CM APPL.13638/2022
SANJANA REALCOM PRIVATE LIMITED
Through Mr. Naveen Kumar with Mr. Sahni, Advocates.

versus

ACIT, CIRCLE 22(2), DELHI & ANR. Respondent
Through Mr. Sunil Agarwal with Mr. Tushar Gupta and Mr. Samarth Chaudhary, Advocates.

34

+ W.P.(C) 4531/2022
SHREE BHAGWAN SAINI
Through Mr. Bhupesh Narula, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, DELHI
..... Respondent
Through Mr. Sunil Agarwal with Mr. Tushar Gupta and Mr. Samarth Chaudhary, Advocates.

35

+ W.P.(C) 4532/2022 & CM APPL.13571/2022
IPHITO REAL ESTATE PRIVATE LIMITED
Through Mr. Sagar Sharma, Advocate.

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versus

ASSITANT COMMISSIONER OF INCOME TAX AND ANR.

..... Respondent
Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Ud
Sharma, Advocates for
respondent No.1.
Mr. Jivesh Kumar Tiwari with
Ms. Samiksha, Advocates for
respondent No.3.

36
+ W.P.(C) 4630/2022 & CM APPL.13929/2022, CM APPL.13930/2022
PAISALO DIGITAL LIMITED Petition
Through Mr. Manu K. Giri with Mr. Deepa
Mallik, Advocates.

versus

INCOME TAX OFFICER AND ANOTHER Respondents
Through Mr. Puneet Rai, Advocate.

37
+ W.P.(C) 4632/2022 & CM APPL.13931/2022
INTERNATIONAL LAND DEVELOPERS PRIVATE LIMITED P
Through Mr. Mayank Negi with Mr. Pulkit
Verma, Advocates.

versus

INCOME TAX OFFICER WARD 12(1) DELHI & ANR.
..... Respondent
Through Mr. Abhishek Maratha, Advocate.

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38
+ W.P.(C) 4633/2022 & CM APPL.13932/2022, CM APPL.13933/2022
SUNIL KUKREJA Petition
Through Mr. Mayank Pachauri, Advocate

versus

ITO WARD 45(1) DELHI & ANR. Responde
Through Mr. Ruchir Bhatia, Advocate.

39
+ W.P.(C) 4635/2022 & CM APPL.13937/2022, CM APPL.13938/2022
SRINATH TOWNSHIP PVT LTD. Petition
Through Mr. Manu K. Giri with Mr. Dee

Mallik, Advocates.

versus

INCOME TAX OFFICER AND ANOTHER Respondents
Through Mr. Sunil Agarwal with Mr. Tushar
Gupta and Mr. Samarth Chaudhari,
Advocates.

40

+ W.P.(C) 4637/2022 & CM APPL.13941/2022, CM APPL.13942/2022
RAF STATIONARY MFG. CO. Petitioners
Through Mr. Akash Garg with Mr. Parth
Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 28(1)
DELHI Respondent
Through Mr. Abhishek Maratha, Advocate.

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41

+ W.P.(C) 4638/2022 & CM APPL.13943/2022, CM APPL.13944/2022
LT FOODS LIMITED Petitioners
Through Mr. Aniket D. Agrawal, Advocate

versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS.
..... Respondents
Through Mr. Abhishek Maratha, Advocate
respondent No.1.
Ms. Kamalaksi Singh and Mr. Sar
Bidawat, Advocates for responde
No.3.

43

+ W.P.(C) 4641/2022 & CM APPL.13948/2022, CM APPL.13949/2022
SATISH CHAND JAIN Petitioners
Through Mr. Amol Sinha with Mr. Ashvini
Kumar, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 52(1),
DELHI & ANR. Respondents
Through Mr. Zoheb Hossain with Mr. Vipul
Agrawal and Mr. Parth Senwal,

Advocates.

44

+ W.P.(C) 4642/2022 & CM APPL.13950/2022, CM APPL.13951/2022
AMIT GARG Petition
Through Mr. Puneet Agarwal with
Ms. Hemlata Rawat, Mr. Yuvraj
Singh, Mr. Chetan Kumar Shukla
Mr. Ayushmann, Advocates.

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versus

ITO WARD 8(1) ,DELHI AND ANR Respondent
Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for respondent
No.1.

45

+ W.P.(C) 4643/2022 & CM APPL.13952/2022, CM APPL.13953/2022
AMIT GARG Petiti
Through Mr. Puneet Agarwal with
Ms. Hemlata Rawat, Mr. Yuvraj
Singh, Mr. Chetan Kumar Shukla
Mr. Ayushmann, Advocates.

versus

INCOME TAX OFFICER & ANR. Respondents
Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Udit
Sharma, Advocates.

46

+ W.P.(C) 4644/2022 & CM APPL.13954/2022, CM APPL.13955/2022
NEERAJ GUPTA Petiti
Through Mr. Nitin Gulati, Advocate.

versus

INCOME TAX OFFICER, WARD-36(1),DELHI & ANR.
..... Respondents
Through Mr. Sanjay Kumar with Ms. Eash
Kedian, Advocates for responde
No.1.

47

+ W.P.(C) 4645/2022 & CM APPL.13956/2022, CM APPL.13957/2022
MONIKA GOEL Petiti

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Through Mr. Puneet Agarwal with
Ms. Hemlata Rawat, Mr. Yuvraj
Singh, Mr. Chetan Kumar Shukla
Mr. Ayushmann, Advocates.

versus

INCOME TAX OFFICER & ANR. Respondents

Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Udit
Sharma, Advocates.

48

+ W.P.(C) 4646/2022 & CM APPL.13958/2022, CM APPL.13959/2022
BLUE BIRD ENTERPRISES PRIVATE LIMITED Petitioner
Through Mr. Nitesh Kumar Sinha, Advocate

versus

ASSISTANT COMMISSIONER OF INCOME TAX AND ORS.

..... Respondents

Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for respondent
No.1.
Mr. Pradeep Kumar Jha, Advocate
respondent No.3.

50

+ W.P.(C) 4648/2022 & CM APPL.13962/2022, CM APPL.13963/2022
CREATIVE GIFTING SOLUTIONS PRIVATE LIMITED

..... P

Through Mr. Nitin Gulati, Advocate.

versus

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INCOME TAX OFFICER, WARD-6(1),DELHI & ANR.

..... Respondents

Through Mr. Sanjay Kumar with Ms. Eas
Kedian, Advocates for respondent
No.1.

56

+ W.P.(C) 4654/2022 & CM APPL.13972/2022, CM APPL.13973/2022
AMIT GARG Petiti

Through Mr. Puneet Agarwal with
Ms. Hemlata Rawat, Mr. Yuvraj
Singh, Mr. Chetan Kumar Shukl
Mr. Ayushmann, Advocates.

versus

ITO WARD 8(1), DELHI AND ANR Respondent

Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for respondent
No.1.

58

+ W.P.(C) 4659/2022 & CM APPL.13976/2022, CM APPL.13977/2022
AMIT GUPTA (HUF) Petiti

Through Mr. Naveen Kumar with Mr. N.P
Sahni, Advocates.

versus

ITO, WARD 49(1), DELHI & ANR. Responde

Through Mr. Abhishek Maratha, Advocate.

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60

+ W.P.(C) 4662/2022 & CM APPL.13983/2022, CM APPL.13984/2022
RAJ KUMAR VATS Petitio

Through Mr. Mudit Bansal, Advocate.

versus

ACIT CIRCLE 61 1 DELHI Responde

Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for responden
No.1.

63

+ W.P.(C) 4666/2022 & CM APPL.13989/2022, CM APPL.13990/2022
GALAX MINERALS PRIVATE LIMITED Petitio

Through Ms. Neha Gund, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ORS.

64
+ W.P.(C) 4667/2022 & CM APPL.13991/2022, CM APPL.13992/2022
GOLDSTAR FOOTWEARS PVT.LTD
Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Ud
Sharma, Advocates for responden
No.1.
Mr. Chiranjeev Kumar with
Mr. Mukesh Sachdeva, Advocates
UOI.
..... Respondents
..... Petition

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versus

INCOME TAX OFFICER, WARD 10 (1), NEW DELHI AND ANR.
Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Ud
Sharma, Advocates for responden
No.1.
Mr. Chiranjeev Kumar with
Mr. Mukesh Sachdeva, Advocates
UOI.
..... Respondents
..... Petition

65
+ W.P.(C) 4668/2022 & CM APPL.13993/2022
KARAN REALTECH PVT LTD
Through Mr. Mudit Bansal, Advocate.
versus

THE DEPUTY COMMISSIONER OF INCOME TAX ,CIRCLE 13
(1), DELHI.
Through Mr. Ajit Sharma, Advocate.
..... Respondent

67
+ W.P.(C) 4670/2022 & CM APPL.13996/2022, CM APPL.13997/2022
ANUJ MAHESHWARI
Through Mr. Vishu Langawat with Ms. Nid
Tomar, Advocates.
versus

OFFICE OF THE INCOME TAX OFFICER & ANR. ... Respondents
Through Mr. Kunal Sharma, Advocate.

69

+ W.P.(C) 4672/2022 & CM APPL.14000/2022, CM APPL.14001/2022
SHYAM LAL MITTAL Petition
Through Mr. Vishu Langawat with Ms. Nidhi

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Tomar, Advocates.

versus

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

70

+ W.P.(C) 4673/2022 & CM APPL.14002/2022, CM APPL.14003/2022
FANTABULOUS MARKETING PVT. LTD. Petition
Through Mr. Manu K. Giri with Mr. Deepa
Mallik, Advocates.

versus

INCOME TAX OFFICER AND ANOTHER Respondents
Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for respondent
No.1.

71

+ W.P.(C) 4674/2022 & CM APPL.14004/2022, CM APPL.14005/2022
AMIT GUPTA Petition
Through Mr. Naveen Kumar with Mr. N.P.
Sahni, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-19(1),
DELHI AND ANR. Respondents
Through Mr. Zoheb Hossain with Mr. Vipul
Agrawal and Mr. Parth Senwal,
Advocates.

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72

+ W.P.(C) 4675/2022 & CM APPL.14006/2022, CM APPL.14007/2022
OASIS REALTORS PVT. LTD Petitioner
Through Mr. K. Sampath with Mr. S.
Krishnan, Advocates.

versus

INCOME TAX OFFICER & ORS. Respondents
Through Mr. Puneet Rai, Advocate.

74

+ W.P.(C) 4677/2022 & CM APPL.14010/2022, CM APPL.14011/2022
SHEKHAR GUPTA Petitioner
Through Mr. Naveen Kumar with Mr. N.P.
Sahni, Advocates.

versus

ACIT, CIRCLE 28(1), DELHI & ANR. Respondent
Through Mr. Abhishek Maratha, Advocate.

75

+ W.P.(C) 4678/2022 & CM APPL.14012/2022
SURESH GARG Petitioner
Through Mr. Amit Kaushik, Advocate.

versus

INCOME TAX OFFICER, WARD 44(1), DELHI Respondent
Through Mr. Puneet Rai, Advocate.

78

+ W.P.(C) 4681/2022 & CM APPL.14018/2022, CM APPL.14019/2022
M/S. MRITYUNJAY REAL ESTATE (P) LTD Petitioner
Through Mr. S. Krishnan, Advocate.

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versus

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

80

+ W.P.(C) 4683/2022 & CM APPL.14025/2022, CM APPL.14026/2022
YUVRAJ JASGEET SINGH Petitioner
Through Mr. Saurabh D. Karan Singh,
Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE (34)
1, DELHI Respondent
Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for respondent
No.1.

81

+ W.P.(C) 4684/2022 & CM APPL.14029/2022, CM APPL.14030/2022
M/S. ADSON SOFTWARE (P) LTD. Petitioner
Through Mr. S. Krishnan, Advocate.

versus

INCOME TAX OFFICER WARD -1 (1), DELHI AND ORS.
..... Respondents
Through Mr. Zoheb Hossain with Mr. Vipul
Agrawal and Mr. Parth Senwal,
Advocates.

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82

+ W.P.(C) 4685/2022 & CM APPL.14033/2022
HALDI RAM PRODUCTS PRIVATE LIMITED Petitioner
Through Mr. Ajay Wadhwa, Advocate.

versus

JOINT COMMISSIONER OF INCOME TAX OSD, CIRCLE 10 1
& ORS. Respondent
Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Udit
Sharma, Advocates.

83

+ W.P.(C) 4686/2022 & CM APPL.14036/2022
ACTUARIAL LEARNER ISLAND PRIVATE LIMITEDPetitioner
Through Mr. Mani Bhadra Jain, Advocate

versus

INCOME TAX OFFICER WARD 1(1) & ANR. Respondents
Through Mr. Zoheb Hossain with Mr. Vipul
Agrawal and Mr. Parth Senwal,

Advocates.

84

+ W.P.(C) 4687/2022 & CM APPL.14039/2022
RKK PORTFOLIO PRIVATE LIMITED Petition
Through Mr. Mani Bhadra Jain, Advocate

versus

INCOME TAX OFFICER WARD 20(3) & ANR. Respondents

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Through Mr. Ruchir Bhatia, Advocate.

85

+ W.P.(C) 4688/2022 & CM APPL.14041/2022
WHITE DIAMAND ENTERPRISES PRIVATE LIMITED P
Through Mr. Mani Bhadra Jain, Advocate.

versus

INCOME TAX OFFICER WARD 27(1), & ANR. Respondents
Through Mr. Sunil Agarwal with Mr. Tushar
Gupta and Mr. Samarth Chaudhari,
Advocates.

86

+ W.P.(C) 4689/2022 & CM APPL.14042/2022, CM APPL.14043/2022
ADITYA KUMAR BHANDARI Petition
Through Mr. Rishesh Sinha and Ms. Divya
Advocates.

versus

INCOME TAX OFFICER WARD 30(1), NEW DELHI & ANR.
..... Respondents
Through Mr. Abhishek Maratha, Advocate
respondent No.1.
Ms. Tejaswini, Advocate for
Mr. Srivats Kaushal, Advocate f
respondent No.2.

87

+ W.P.(C) 4690/2022 & CM APPL.14044/2022
LA PLASTPACKS PVT. LTD. Petition

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Through Mr. Ajay Wadhwa, Advocate.

versus

INCOME TAX OFFICER, WARD 15 1 & ANR. Respondents
Through Mr. Abhishek Maratha, Advocate.

90

+ W.P.(C) 4693/2022 & CM APPL.14049/2022
HALIDRAM ETHNIC FOODS PRIVATE LIMITED Petitioner
Through Mr. Ajay Wadhwa, Advocate.

versus

JOINT COMMISSIONER OF INCOME TAX (OSD), CIRCLE 10(1)
NEW DELHI AND ORS Respondent
Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Udit
Sharma, Advocates.

91

+ W.P.(C) 4694/2022 & CM APPL.14050/2022, CM APPL.14051/2022
PAISALO DIGITAL LIMITED Petitioner
Through Mr. Manu K. Giri with Mr. Deepa
Mallik, Advocates.

versus

INCOME TAX OFFICER AND ANOTHER Respondent
Through Mr. Puneet Rai, Advocate.

94

+ W.P.(C) 4699/2022 & CM APPL.14062/2022, CM APPL.14063/2022
SAMAST VIKAS LIMITED Petitioner
Through Mr. Manu K. Giri with Mr. Deepa

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Mallik, Advocates.

versus

INCOME TAX OFFICER AND ANOTHER Respondent
Through Mr. Puneet Rai, Advocate.

95

+ W.P.(C) 4701/2022 & CM APPL.14066/2022, CM APPL.14270/2022
FEWBUCKS TRADERS PVT. LTD. Peti
Through Mr. Manu K. Giri with Mr. Deepa
Mallik, Advocates.

versus

INCOME TAX OFFICER AND ANOTHER Respondents
Through Mr. Sanjay Kumar with Ms. Easha
Kedian, Advocates for respondent
No.1.

96

+ W.P.(C) 4702/2022 & CM APPL.14067/2022, CM APPL.14068/2022
M/S. MRITYUNJAY REAL ESTATE (P) LTD Peti
Through Mr. S. Krishnan, Advocate.

versus

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

98

+ W.P.(C) 4704/2022 & CM APPL.14074/2022, CM APPL.14075/2022
PANDIT REALTOR PRIVATE LIMITED Peti
Through Mr. Rajeev Ahuja, Advocate.

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versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 19(1),
DELHI & ORS. Respondents
Through Mr. Puneet Rai, Advocate.

99

+ W.P.(C) 4705/2022 & CM APPL.14080/2022, CM APPL.14081/2022
M/S FEDERAL AGRO INDUSTRIES PRIVATE LIMITED
Through Mr. Zeeshan Khan, Advocate.

versus

UNION OF INDIA & ORS. Respond
Through Mr. Kunal Sharma, Advocate.

100

+ W.P.(C) 4707/2022 & CM APPL.14086/2022, CM APPL.14260/20
LT FOODS LIMITED Petiti
Through Mr. Aniket D. Agrawal, Advocat
versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS.

..... Respondents
Through Mr. Abhishek Maratha, Advocate
Ms. Kamlakshi Singh and Mr. Sa
Bidawat, Advocates for respond
No.3.

101

+ W.P.(C) 4709/2022 & CM APPL.14092/2022
RADHA KRISHAN AGARWAL AND SONS HUF Petitioner
Through Mr. Piyush Goel, Advocate.

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versus

UNION OF INDIA & ORS.

..... Respo
Through Mr. Gigi C. George, Advocate
respondent No.1.
Mr. Puneet Rai, Advocate

105

+ W.P.(C) 4713/2022 & CM APPL.14104/2022, CM APPL.14105/20
VIKAS AGGARWAL Petit
Through Mr. Sumit Lalchandani, Advoca
versus

ASSISSTANT COMMISSIONER OF INCOME TAX, CIRCLE
70(1) DELHI AND ANR.

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

106

+ W.P.(C) 4714/2022 & CM APPL.14106/2022, CM APPL.14107/20
SRINATH TOWNSHIP PVT. LTD. Petit
Through Mr. Manu K. Giri with Mr. Dee
Mallik, Advocates.
versus

INCOME TAX OFFICER AND ANOTHER Respondent
Through Mr. Sunil Agarwal with Mr. Tushar
Gupta and Mr. Samarth Chaudhari,
Advocates.

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107
+ W.P.(C) 4717/2022 & CM APPL.14111/2022, CM APPL.14112/20
CMCORPS LIMITED Petiti
Through Mr. Saurabh D. Karan Singh,
Advocate.

versus

INCOME TAX OFFICER, WARD (6) 1, NEW DELHI Respondent
Through Mr. Zoheb Hossain with Mr. Vip
Agrawal and Mr. Parth Senwal,
Advocates.

108
+ W.P.(C) 4718/2022 & CM APPL.14113/2022
RANDHAWA REALCON PRIVATE LIMITED Petitioner
Through Mr. Ram Avtar Bansal, Advocate

versus

INCOME TAX OFFICER WARD-21 (1) DELHI Respondent
Through Mr. Sunil Agarwal with Mr. Tushar
Gupta and Mr. Samarth Chaudhari,
Advocates.

109
+ W.P.(C) 4720/2022 & CM APPL.14116/2022, CM APPL.14117/20
MR. DHRUV SHARMA Petiti
Through Mr. S. Krishnan, Advocate.

versus

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INCOME TAX OFFICER WARD - 58 (3), DELHI AND ORS.

..... Respondent

Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr.
Sharma, Advocates.

110

+ W.P.(C) 4722/2022 & CM APPL.14120/2022, CM APPL.14121/20
SPECIALITY PAPER PRODUCTS Petitioner

Through Mr.Akash Garg with Mr. Parth
Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 52(1)
DELHI AND ANR. Respondents

Through Mr. Kunal Sharma, Advocate.

111

+ W.P.(C) 4724/2022 & CM APPL.14122/2022, CM APPL.14123/20
PARAMINDER SINGH KALRA (HUF) Petitioner

Through Mr. Ved Jain with Mr. Rich Mi
Advocates.

versus

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

Through Ms. Vibhooti Malhotra with
Mr. Shailendra Singh and Mr. Udi
Sharma, Advocates.

113

+ W.P.(C) 4726/2022 & CM APPL.14140/2022
RISHIKESH BUILDCON PRIVATE LIMITED Petitioner

Through Mr. Piyush Goel, Advocate.

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versus

UNION OF INDIA & ORS.

..... Respondent

Through Mr. Ghanshyam Mishra with
Ms. Sunaina Mishra, Advocates
UOI.
Mr. Sunil Agarwal with Mr. Tus
Gupta and Mr. Samarth Chaudhar
Advocates.

114

+ W.P.(C) 4727/2022 & CM APPL.14146/2022, CM APPL.14147/20
M/S FEDERAL AGRO INDUSTRIES PRIVATE LIMITED

Through Mr. Zeeshan Khan, Advocate.

versus

UNION OF INDIA & ORS. Respond

Through Mr. Kunal Sharma, Advocate.

117

+ W.P.(C) 4731/2022 & CM APPL.14160/2022, CM APPL.14161/20
PARMA TEXTILES (P) LTD. Petiti

Through Mr. Samyak Jain with Ms. Aasth
Gupta, Advocates.

versus

INCOME TAX OFFICER WARD 19(3), NEW DELHI AND ANR.

Through Mr. Sunil Agarwal with Mr. Tus
Gupta and Mr. Samarth Chaudhar
Advocates.

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118

+ W.P.(C) 4733/2022 & CM APPL.14164/2022
INTERNATIONAL LAND DEVELOPERS PRIVATE LIMITED

Through Mr. Mayank Negi with Mr. Pulki
Verma, Advocates.

versus

INCOME TAX OFFICER WARD 12(1) DELHI & ANR.

Through Mr. Abhishek Maratha, Advocate

119

+ W.P.(C) 4734/2022 & CM APPL.14165/2022, CM APPL.14166/20
ANIL SAXENA Petiti

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

versus

ASSTT. COMMISSIONER OFINCOME TAX, CIRCLE 70(1), &
ANR. Respondent

Through Mr. Puneet Rai, Advocate.

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+ W.P.(C) 4735/2022 & CM APPL.14167/2022

CNETLINGO MARKETING PRIVATE LIMITED Petitioner

Through Mr. Mani Bhadra Jain, Advocate

versus

INCOME TAX OFFICER WARD 6(1) & ANR. Respondents

Through Mr. Kunal Sharma, Advocate.

Signature Not Verified

Digitally Signed

By:KRISHNA BH0J

Signing Date:24.03.2022

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CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% 23.03.2022

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 23, 2022 st