

# Anita Kathuria vs Assistant Commissioner Of Income Tax ... on 23 September, 2022

**Author: Manmohan**

**Bench: Manmohan, Manmeet Pritam Singh Arora**

\$~21 to 23, 1& 2 and 4 to 6.

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

21

+ W.P.(C) 13725/2022 & C.M.No.41890/2022  
ANITA KATHURIA

Through: Mr.Varun Nagrath with  
Dodeja, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 28(1),  
NEW DELHI & ANR. .... Respo

Through: Mr.Abhishek Maratha, Sr.Standi  
Counsel for the Revenue.

22

+ W.P.(C) 13728/2022 & C.M.Nos.41894-41895/2022  
KRISHNA KUMAR AGRAWAL .... Petit

Through: Mr.Ruchesh Sinha, Advocate.

versus

ITO, WARD 43(6) DELHI & ORS. ....

Through: Mr.Puneet Rai, Sr.Stan  
for the Revenue.

23

+ W.P.(C) 13744/2022 & C.M.Nos.41954-41955/2022  
JHAWAR LAL JAIN .

Through: Mr.Mayank Pachauri, Ad

versus

ACIT CIRCLE 49(1) DELHI & ANR. ...

Through: Mr.Abhishek Maratha, S  
Counsel for the Revenue

Signature Not Verified  
Digitally Signed By:JASWANT  
SINGH RAWAT  
Signing Date:26.09.2022  
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1

+ W.P.(C) 13464/2022 & C.M.No.40951/2022

SAMTA EDUCATIONAL MINORITY TRUST .....  
Through: Mr.Ruchesh Sinha, Advocate.

versus

INCOME TAX OFFICER WARD EXEMPTION 2(1) DELHI &  
ORS. .... Respond  
Through: Mr.Abhishek Maratha, Sr.Standing  
Counsel for the Revenue.

2

+ W.P.(C) 13580/2022 & C.M.Nos.41385-41386/2022  
KARTIK INFRATOWN PRIVATE LIMITED ...  
Through: Mr.Ruchesh Sinha, Advocate.

versus

ITO, WARD 14(1) NEW DELHI & ORS. .... Res  
Through: Mr.Abhishek Maratha, Sr.Sta  
Counsel for the Revenue.

4

+ W.P.(C) 13318/2022 & C.M.No.40420/2022  
DEVESH ANAND .....  
Through: Mr.V.P.Gupta with Mr.Anunav  
Kumar, Advocates.

versus

INCOME TAX OFFICER ..... Res  
Through: Mr.Sunil Agarwal, Sr.Standi  
Counsel for the Revenue wit  
Mr.Tushar Gupta and Mr.Utk  
Tiwari, Advocates.

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SINGH RAWAT  
Signing Date:26.09.2022  
19:19:04

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+ W.P.(C) 13389/2022 & C.M.Nos.40654-40655/2022  
SUNIL NOSARIA ..  
Through: Mr.Salil Kapoor, Advocat  
Mr.Sumit Lalchandani, Ms  
Kapoor, Mr.Sanat Kapoor  
Mr.Vibhu Jain, Advocates

versus

INCOME TAX OFFICER, WARD 21(1), DELHI ....  
Through: Mr.Ruchir Bhatia, Sr.Sta  
Counsel for the Revenue  
Ms.Mansie Jain, Advocate

6

+ W.P.(C) 13397/2022 & C.M.Nos.40680-40681/2022  
RITA SOMANI

Through: Mr.Manu K.Giri with Ms.S  
Dodeja, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX AND ANR

Through: Mr.Abhishek Maratha, Sr.  
Counsel for the Revenue.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 23.09.2022 C.M.No.41895/2022 in W.P.(C) 13728/2022 C.M.No.41955/2022 in W.P.(C) 13744/2022 C.M.No.41386/2022 in W.P.(C) 13580/2022 C.M.No.40655/2022 in W.P.(C) 13389/2022 C.M.No.40681/2022 in W.P.(C) 13397/2022 Exemption allowed, subject to all just exceptions. Accordingly, the applications stand disposed of. W.P.(C) 13725/2022 & C.M.No.41890/2022 W.P.(C) 13728/2022 & C.M.No.41894/2022 W.P.(C) 13744/2022 & C.M.No.41954/2022 W.P.(C) 13464/2022 & C.M.No.40951/2022 W.P.(C) 13580/2022 & C.M.No.41385/2022 W.P.(C) 13318/2022 & C.M.No.40420/2022 W.P.(C) 13389/2022 & C.M.No.40654/2022 W.P.(C) 13397/2022 & C.M.No.40680/2022 Present writ petitions have been filed challenging the orders passed under Section 148A(d) of the Income Tax Act, 1961 (the 'Act') and notices issued under Section 148 of the Act as well as subsequent proceedings initiated pursuant thereto. In some of the petitions, petitioners have also challenged the CBDT Instruction No.1 of 2022 dated 11th May, 2022 authorizing the revenue to initiate the re-assessment proceedings for the Assessment Years 2016-17 and 2017-18 even when the income alleged to have escaped assessment is less than Rs.50 lakhs.

Learned counsel for the petitioners submit that the re-assessment proceedings are barred by limitation in terms of Section 149(1)(b) of the Act as the years under consideration are beyond the period of three assessment years in which notices were issued and the alleged income having escaped assessment is admittedly less than Rs.50 lakhs.

Issue notice. Learned senior standing counsel, as mentioned in the above memo of appearance, accept notice on behalf of the respondents- revenue. They pray for and are permitted to file their counter affidavits within four weeks. Rejoinder affidavits, if any, be filed before the next date of hearing.

List on 28th November, 2022 along with connected matters. Though the Assessing Officers are permitted to pass the assessment orders, yet it is directed that the same shall not be given effect to and shall be subject to further orders to be passed by this Court. Accordingly, the interim applications stand disposed of.

The contesting parties shall file their short written submissions not exceeding five pages each, at least a week prior to the next date of hearing. Mr.Salil Kapoor, Advocate on behalf of the petitioners and Mr.Puneet Rai, senior standing counsel on behalf of the respondents-revenue shall ensure that a compilation of relevant documents is handed over to the Court Masters along with the case law, at least a week in advance.

It is made clear that no adjournment shall be granted on the next date of hearing.

MANMOHAN, J MANMEET PRITAM SINGH ARORA, J SEPTEMBER 23, 2022 KA