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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9330/2021

ATS INFRASTRUCTURE PRIVATE LIMITED Petitioner
 Through Mr.Ritesh Bajaj and Mr.Harshit
 Batra, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS.

..... Respondent
 Through Mr.Zoheb Hossain, Sr. SC with
 Mr.Vipul Agrawal, Mr.Parth Semwal,
 Jr.SC for Revenue.
 Mr.Avnish Singh, Ms.Pushplata
 Singh, Advs. for UOI.

S~51

+ W.P.(C) 9391/2021

ARVIND SONI Petitioner

Through Mr.Ashish Middha, Adv

versus

PR COMMISSIONER OF INCOME TAX & ANR. Respondents
 Through Mr.Ajit Sharma, Sr.SC with
 Mr.Anant Ram Mishra, Adv

S~52

+ W.P.(C) 9404/2021

RITA SHARMA Petitioner

Through Mr.Ashish Middha, Adv.

versus

COMMISSIONER OF INCOME TAX & ANR. Respondents
 Through Ms.Vibhooti Malhotra, Sr. SC with



Mr.Shaliender Singh, Jr. SC, Mr.Udit
Sharma, Adv.

\$~54

+ W.P.(C) 9406/2021
BADRI DASS JAIN Petitioner
Through Ms.Kavita Jha and Mr.Deepanshu
Jain, Adv.

versus

INCOME TAX OFFICER WARD 47(1) AND ANR Respondents
Through Mr.Ajit Sharma, Sr.SC with
Mr.Anant Ram Mishra, Adv

\$~55

+ W.P.(C) 9408/2021
T R CHAWLA AND SONS -HUF- Petitioner
Through Mr Salil Kapoor, Ms Ananya Kapoor,
Ms Soumya Singh, Mr Sumit
Lalchandani, Mr Sanat Kapoor, Adv.

versus

INCOME TAX OFFICER WARD 29-1, DELHI & ANR. Respondents
Through Ms.Vibhooti Malhotra, Sr. SC with
Mr.Shaliender Singh, Jr. SC, Mr.Udit
Sharma, Adv.

\$~58

+ W.P.(C) 9414/2021
VIJAY SHANKER GOEL THROUGH LEGAL HEIR SURENDER
KUMAR GOEL Petitioner



Through Mr.K.Sampath and Mr.S.Krishanan,
Adv.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX & ORS.

..... Respondents

Through Mr.Abhishek Maratha, Sr.SC

\$~60

+ W.P.(C) 9416/2021

JINDAL ITF LIMITED

..... Petitioner

Through Mr.Shreya Jain & Mr.Gaurav
Tanwar, Advocates

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR.

..... Respondent

Through Mr.Ajit Sharma, Sr.SC with
Mr.Anant Ram Mishra, Adv

\$~65

+ W.P.(C) 9422/2021

MIDAS GLOBAL SECURITIES LIMITED

..... Petitioner

Through Mr.Ved Jain, Ms.Richa Mishra, Adv.

versus

INCOME TAX OFFICER, WARD 17-1 & ORS.

..... Respondent

Through Mr.Ajit Sharma, Sr.SC with
Mr.Anant Ram Mishra, Adv

\$~66

+ W.P.(C) 9424/2021

DAMANPREET SINGH KARTA

..... Petitioner

Through Mr.Ashish Middha, Adv.



versus

COMMISSIONER OF INCOME TAX & ANR. Respondents
Through Mr.Zoheb Hossain, Sr. SC with
Mr.Vipul Agrawal, Mr.Parth Semwal,
Jr.SC

\$~67

+ W.P.(C) 9427/2021
UJJWAL ARORA Petitioner
Through Mr Salil Kapoor, Ms Ananya Kapoor,
Ms Soumya Singh, Mr Sumit
Lalchandani, Mr Sanat Kapoor, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 59-1
DELHI Respondent
Through Ms.Vibhooti Malhotra, Sr. SC with
Mr.Shaliender Singh, Jr. SC, Mr.Udit
Sharma, Adv.

\$~69

+ W.P.(C) 9431/2021
NARINDER KUMAR BANSAL Petitioner
Through Mr.Nagesh Kr. Behl, Adv.

versus

ACIT CIRCLE 70(1) DELHI & ANR. Respondents
Through Mr.Ruchir Bhatia, Sr. SC

\$~70

+ W.P.(C) 9433/2021
SHANTILAL PORWAL (HUF) Petitioner



Through Mr.Amol Sinha and Mr.Nitin Gulati,
Advocates

versus

INCOME TAX OFFICER, WARD 36(2) DELHI & ORS.

..... Respondents
Through Mr.Kunal Sharma, Sr. SC with
Ms.Zehra Khan, Jr. SC and
Mr.Shubhendu Bhattacharyya, Adv

\$~71

+ W.P.(C) 9434/2021
SWAM SOFTWARE LIMITED Petitioner
Through Mr.Ved Jain, Ms.Richa Mishra, Adv.

versus

INCOME TAX OFFICER, WARD 22-3 & ORS.

..... Respondent
Through Mr.Sunil Agarwal, Sr. St. counsel
with Mr.Tushar Gupta, Jr.SC

\$~72

+ W.P.(C) 9437/2021
ASHOK KUMAR BANSAL Petitioner
Through Mr.Ved Jain, Ms.Richa Mishra, Adv.

versus

INCOME TAX OFFICER, WARD 59-6 & ORS. Respondents

Through Ms.Vibhooti Malhotra, Sr. SC with
Mr.Shaliender Singh, Jr. SC, Mr.Udit
Sharma, Adv. for Revenue.
Mr. Prakash Kumar, CGSC for UOI.



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\$~73

+ W.P.(C) 9439/2021
SHANTILAL PORWAL (HUF) Petitioner
Through Mr.Amol Sinha and Mr.Nitin Gulati,
Advocates

versus

INCOME TAX OFFICER, WARD 36(2) DELHI & ORS.

..... Respondent
Through Mr.Kunal Sharma, Sr. SC with
Ms.Zehra Khan, Jr. SC and
Mr.Shubhendu Bhattacharyya, Adv

\$~74

+ W.P.(C) 9441/2021
EXCELLENT FINCAP PVT LTD Petitioner
Through Mr.Ved Jain, Ms.Richa Mishra, Adv.

versus

INCOME TAX OFFICER, WARD 8-1 & ORS.

..... Respondent
Through Mr.Sanjay Kumar, Sr.SC, Ms.Easha
Kadian, Jr.SC for Income Tax
Department

\$~75

+ W.P.(C) 9443/2021
LSR MEDICAL PRIVATE LIMITED Petitioner
Through Mr.Sabhay Choudhary, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ANR.



..... Respondents
 Through Mr.Abhishek Maratha, Sr SC
 \$~76

+ W.P.(C) 9445/2021
 KIRAN MITTAL Petitioner
 Through Mr.Rishabh Ostwal, Adv.

versus

INCOME TAX OFFICER & ANR. Respondents
 Through Mr.Sanjay Kumar, Sr.SC, Ms.Easha
 Kadian, Jr.SC for Income Tax
 Department.
 Mr.Vinod Diwakar,CGSC, with
 Mr.B.N. Dubey, Adv. for UOI

\$~77

+ W.P.(C) 9446/2021
 SAKSHI DHAWAN Petitioner
 Through Mr.R.K. Handoo, Adv

versus

SECRETARY MINISTRY OF FINANCE AND ORS
 Respondents
 Through Ms.Vibhooti Malhotra, Sr. SC with
 Mr.Shaliender Singh, Jr. SC, Mr.Udit
 Sharma, Adv.

\$~78

+ W.P.(C) 9447/2021
 KALYAN EXTRACTION PRIVATE LIMITED Petitioner
 Through Mr. Rishabh Jain, Advocate

versus

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



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Through Mr. Abhishek Maratha, Sr. SC

\$~79

+ W.P.(C) 9449/2021
CHRISMATIC DEVELOPERS PVT LTD Petitioner
Through Mr. Ved Jain, Ms. Richa Mishra, Adv.

versus

INCOME TAX OFFICER, WARD 6-1 & ORS.

..... Respondent

Through Mr. Zoheb Hossain, Sr. SC with
Mr. Vipul Agrawal, Mr. Parth Semwal,
Jr. SC

\$~80

+ W.P.(C) 9451/2021
SWAM SOFTWARE LIMITED Petitioner
Through Mr. Ved Jain, Ms. Richa Mishra, Adv.

versus

INCOME TAX OFFICER, WARD 22-3 & ORS.

..... Respondent

Through Mr. Sunil Agarwal, Sr. St. counsel
with Mr. Tushar Gupta, Jr. SC

\$~81

+ W.P.(C) 9453/2021
HEEMALI EXPORTS PVT LTD Petitioner
Through Mr. Ved Jain, Ms. Richa Mishra, Adv.

versus

INCOME TAX OFFICER WARD 11(1) & ORS.

..... Respondent

Through Mr. Ajit Sharma, Sr. SC with
Mr. Anant Ram Mishra, Adv.



\$~82

+ W.P.(C) 9456/2021
KIRAN MITTAL Petitioner
Through Mr.Rishabh Ostwal, Adv.

versus

INCOME TAX OFFICER & ANR. Respondents
Through Mr.Sanjay Kumar, Sr.SC, Ms.Easha
Kadian, Jr.SC for Income Tax
Department.

\$~83

+ W.P.(C) 9458/2021
KIRAN MITTAL Petitioner
Through Mr.Rishabh Ostwal, Adv

versus

INCOME TAX OFFICER WARD & ANR. Respondents
Through Mr.Sanjay Kumar, Sr.SC, Ms.Easha
Kadian, Jr.SC for Income Tax
Department.

\$~84

+ W.P.(C) 9459/2021
NARINDER KUMAR BANSAL Petitioner
Through Mr.Nagesh Kr. Behl, Adv.

versus

ACIT CIRCLE 70(1) DELHI & ANR. Respondents
Through Mr.Ruchir Bhatia, Sr. SC

CORAM:**HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE NAVIN CHAWLA****ORDER**

%

02.09.2021



CORAM:
 HON'BLE MR. JUSTICE MANMOHAN
 HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% 02.09.2021

CM No.28976 /2021 (Exemption) in WP(C) 9330/2021
CM No. 29217/2021 (Exemption) in WP(C) 9406/2021
CM No. 29221/2021 (Exemption) in WP(C) 9408/2021
CM No. 29239/2021 (Exemption) in WP(C) 9414/2021
CM Nos. 29243-44/2021 (Exemption) in WP(C) 9416/2021
CM No. 29262/2021 (Exemption) in WP(C) 9422/2021
CM No. 29299/2021 (Exemption) in WP(C) 9427/2021
CM No. 29307/2021 (Exemption) in WP(C) 9431/2021
CM No. 29372/2021 (Exemption) in WP(C) 9433/2021
CM No. 29312/2021 (Exemption) in WP(C) 9434/2021
CM No. 29316/2021 (Exemption) in WP(C) 9437/2021
CM No. 29319/2021 (Exemption) in WP(C) 9439/2021
CM No. 29322/2021 (Exemption) in WP(C) 9441/2021
CM No. 29326/2021 (Exemption) in WP(C) 9443/2021
CM No. 29330/2021 (Exemption) in WP(C) 9446/2021
CM No. 29332/2021 (Exemption) in WP(C) 9447/2021
CM No. 29335/2021 (Exemption) in WP(C) 9449/2021
CM No. 29340/2021 (Exemption) in WP(C) 9451/2021
CM No. 29376/2021 (Exemption) in WP(C) 9453/2021
CM No. 29351/2021 (Exemption) in WP(C) 9459/2021

Allowed, subject to all just exceptions.

Accordingly, applications stand disposed of.

WP(C) 9330/2021 & CM No. 28975/2021
WP(C) 9391/2021 & CM No. 29168/2021
WP(C) 9404/2021 & CM No. 29215/2021
WP(C) 9406/2021 & CM No. 29216/2021
WP(C) 9408/2021 & CM No. 29220/2021
WP(C) 9414/2021 & CM No. 29238/2021
WP(C) 9416/2021 & CM No. 29242/2021
WP(C) 9422/2021 & CM No. 29261/2021
WP(C) 9424/2021 & CM No. 29268/2021



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WP(C) 9427/2021 & CM No. 29298/2021
WP(C) 9431/2021 & CM No. 29306/2021
WP(C) 9433/2021 & CM No. 29310/2021
WP(C) 9434/2021 & CM No. 29311/2021
WP(C) 9437/2021 & CM No. 29315/2021
WP(C) 9439/2021 & CM No. 29318/2021
WP(C) 9441/2021 & CM No. 29321/2021
WP(C) 9443/2021 & CM No. 29325/2021
WP(C) 9445/2021 & CM No. 29328/2021
WP(C) 9446/2021 & CM No. 29329/2021
WP(C) 9447/2021 & CM No. 29331/2021
WP(C) 9449/2021 & CM No. 29334/2021
WP(C) 9451/2021 & CM No. 29339/2021
WP(C) 9453/2021 & CM No. 29343/2021
WP(C) 9456/2021 & CM No. 29346/2021
WP(C) 9458/2021 & CM No. 29349/2021
WP(C) 9459/2021 & CM No. 29350/2021

1. On 13th July, 2021, this Court in similar writ petitions being W.P.(C) Nos.6442/2021, 6443/2021 and 6451/2021 had issued notices and granted stay of the impugned notices. The relevant portion of the order passed in W.P.(C) Nos.6442/2021, 6443/021 and 6451/2021 is reproduced hereinbelow:-

“.....Learned counsel for the petitioners states that the impugned notices are invalid in the eyes of law and void from inception as they were issued without following the process of issuance of prior notice under section 148A of the Act. He submits that the impugned notices are invalid as they have been issued under the pre-amended provisions of the Act, which were no longer in force on the date of the impugned notices. He emphasises that the amendments are applicable to all the notices issued under Section 148 of the Act post 01st April, 2021.

Learned counsel for the petitioners states that the impugned notifications issued by the Respondent-2 are



ultra vires the Act insofar as they contain the 'explanation' clarifying that the pre-amended Sections 148, 149 and 151 of the Act shall govern the issue of notice under Section 148 post 01st April, 2021. According to him, Section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 authorizes the Central Government to only extend the time limits and nothing more.

He further states that the respondents cannot indirectly extend the operation of the old provisions of the Act beyond 31st March, 2021 in the guise of a clarification under delegated legislation.

He also relies upon interim stay orders passed by the Bombay High Court as well as by the learned predecessor Division Bench of this Court in *Mon Mohan Kohli vs. Assistant Commissioner of Income Tax & Anr.*, W.P. (C) 6176 2021 dated 07th July, 2021.

Issue Notice. Mr. Sanjay Kumar, Advocate, Mr. Ajit Sharma, Advocate and Mr. Kunal Sharma, Advocate accept notice on behalf of the respondents in W.P.(C) Nos. 6442 2021, 6443 2021 and 6451 2021 respectively.

Learned counsel for the respondents state that in the present cases, the time limit for issuing the notices under Section 148 of the Act stood expired and, therefore, any action under Section 148 would have been time barred by virtue of the proviso to Section 149(1) of the Act. They submit that by virtue of introduction of Section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the time limit for taking action under Section 148 has been extended till 30th June, 2021. Consequently, according to them, the impugned notifications only provide that as the time limit for issuing notice under Section 148A of the Act has been extended by deemed fiction, the procedure to be followed till 30th June, 2021 would be the old procedure mentioned under the Act. In support of their submission, they also rely upon Section 6 of the General Clauses Act, 1897.



Having heard learned counsel for the parties, this Court is of the prima facie view that the impugned notification is contrary to settled principle of statutory interpretation, namely, that any action taken post the amendment of a procedural section would have to abide by the new procedures stipulated in the amended Act.

Further, this Court is of the prima facie view that by virtue of a notification, which is a delegated legislation, the date for implementation of statutory provision, as stipulated in the Act, cannot be varied or changed.

This Court is also of the prima facie opinion that Section 6 of the General Clauses Act, 1897 offers no assistance to the respondents as the new Section 148A demonstrates an intent 'to destroy' the old procedure.

Consequently, following the interim orders passed by the learned predecessor Division Bench in Mon Mohan Kohli vs. Assistant Commissioner of Income Tax & Anr., W.P. (C) 6176 2021 dated 07th July, 2021 as well as similar interim order passed by the Bombay High Court, this Court directs that there shall be a stay of the operation of the impugned notices dated 09th June, 2021, 30th June, 2020 and 28th June, 2020 passed in W.P. (C) 6442 2021, 6443 2021 and 6451 2021 respectively.

Let counter-affidavits be filed within three weeks. Rejoinder Affidavits, if any, be filed before the next date of hearing.

List on 28th September, 2021."

2. Consequently, issue notice. Notice is accepted by the counsel for the respondents as mentioned hereinabove. They pray for and are permitted to file their counter-affidavits within two weeks. Rejoinder affidavits, if any, be filed before the next date of hearing.
3. Till further orders, the respondents are restrained from continuing with the reassessment proceedings, in any manner, pursuant to the impugned notices.



4. List along with WP(C) No. 6442/2021 on 28th September, 2021.
5. Ms.Kavita Jha, Advocate and Mr.Sunil Agarwal, Advocate are directed to file their short written submissions on behalf of the petitioner(s) and respondent(s) respectively not exceeding five pages each within two weeks along with the judgments that they wish to rely upon.
6. It is made clear that no adjournment shall be granted on the next date of hearing.
7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.


MANMOHAN, J


NAVIN CHAWLA, J

SEPTEMBER 2, 2021/Arya