



\$~ SB-1 to 18, 20 to 29, 31 to 34, 36, 37, 39 to 76, 78 to 84, 86 to 93, 96 to 109

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

% *Decision delivered on: 05.01.2024*

+ **W.P.(C) 16524/2022**

TWYLIGHT INFRASTRUCTURE PVT LTD Petitioner
versus
INCOME TAX OFFICER WARD 25 3
DELHI AND ORS. Respondents

+ **W.P.(C) 119/2023**

ARUN GARG Petitioner
versus
INCOME TAX OFFICER WARD 35 1 DELHI Respondent

+ **W.P.(C) 387/2023**

R.P. BASIA & CO. Petitioner
versus
INCOME TAX OFFICER WARD 34(1) NEW DELHI... Respondent

+ **W.P.(C) 720/2023**

SUSHMA GOEL Petitioner
versus
INCOME TAX OFFICER, WARD 59(6),
DELHI & ORS. Respondents

+ **W.P.(C) 992/2023**

ADA NEWS IN SHORTS PVT LTD Petitioner
Versus
ASSISTANT COMMISSIONER OF
INCOME TAX & ORS. Respondents



- + **W.P.(C) 2735/2023**
NALINI GULATI Petitioner
versus
INCOME TAX OFFICER, WARD 70(1),
DELHI & ORS.
..... Respondents
- + **W.P.(C) 2812/2023**
SANGITA GARG Petitioner
versus
INCOME TAX OFFICER, WARD 59(3),
DELHI & ORS. Respondents
- + **W.P.(C) 2862/2023**
ARCHNA KHATRI Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME
TAX, CIRCLE 28(1), DELHI & ORS. Respondents
- + **W.P.(C) 2874/2023 & CM Appl.11170/2023**
GAMUT COMMERCIALS PRIVATE LIMITED Petitioner
versus
ITO WARD 10 (1) NEW DELHI & ANR. Respondents
- + **W.P.(C) 2876/2023**
SRKK ASSOCIATES PRIVATE LIMITED Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME
TAX CIRCLE 22(2), DELHI & ORS. Respondents
- + **W.P.(C) 2898/2023**
KHANNA COIR PRODUCTS LIMITED Petitioner
versus
INCOME TAX OFFICER, WARD 14(3),
DELHI & ORS. Respondents



+ **W.P.(C) 3335/2023**

VISHAL JEWELLERS

..... Petitioner

versus

ACIT CIRCLE 43(1) DELHI & ANR.

.... Respondents

+ **W.P.(C) 3338/2023**

SAURAV BANSAL

..... Petitioner

versus

ITO WARD 43(6) DELHI & ANR.

..... Respondents

+ **W.P.(C) 3414/2023**

AZAM AHMED

..... Petitioner

versus

INCOME TAX OFFICER, WARD 46(1),
DELHI & ORS.

..... Respondents

+ **W.P.(C) 3546/2023**

KAILASH RANI

..... Petitioner

versus

INCOME TAX OFFICER WARD 60(1) & ANR.

..... Respondents

+ **W.P.(C) 3677/2023**

RAKESH SINGLA HUF

..... Petitioner

versus

INCOME TAX OFFICER, WARD 58 -3 DELHI

..... Respondent

+ **W.P.(C) 3678/2023**

SUDERSHAN KUMAR SINGLA HUF

..... Petitioner

versus

INCOME TAX OFFICER, WARD 58 - 3 DELHI

..... Respondent



+ **W.P.(C) 3877/2023**

DEEPTI AHLAWAT

..... Petitioner

versus

INCOME TAX OFFICER, WARD 29-1 & ORS.

..... Respondents

+ **W.P.(C) 3880/2023**

BHARAT BHUSHAN

..... Petitioner

versus

ACIT, CIRCLE 43(1), DELHI & ANR.

..... Respondents

+ **W.P.(C) 3881/2023**

ATUL SINGLA HUF

..... Petitioner

versus

ITO WARD 43(6) DELHI & ANR.

..... Respondents

+ **W.P.(C) 3882/2023**

SAURAV BANSAL

..... Petitioner

versus

ITO WARD 43(6) DELHI & ANR.

..... Respondents

+ **W.P.(C) 3893/2023 & CM Nos.15110-11/2023**

NITIN SAXENA

..... Petitioner

versus

INCOME TAX OFFICER, WARD 49-1, DELHI

..... Respondent

+ **W.P.(C) 3894/2023, CM Nos.15112/2023 & 42622/2023**

NEERAJ SINGLA

..... Petitioner

versus

ITO WARD 43(6) DELHI & ANR.

..... Respondents

+ **W.P.(C) 3896/2023 & CM No.30261/2023**

ANURADHA KHAN

..... Petitioner

versus

INCOME TAX OFFICER WARD 28(5) & ANR.

..... Respondents



+ **W.P.(C) 3997/2023 & CM No.743/2024**

C.E. INFO SYSTEMS LIMITED Petitioner
versus
DEPUTY COMMISSIONER OF INCOME TAX,
CIRCLE 4(2), NEW DELHI AND ORS Respondents

+ **W.P.(C) 4001/2023**

RAKESH KUMAR VERMA Petitioner
versus
DEPUTY COMMISSIONER OF INCOME TAX,
CIRCLE 4(2), NEW DELHI AND ORS Respondents

+ **W.P.(C) 4003/2023 & CM No.15556/2023**

SACHIT KUMAR SAHIJPAL Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX,
CIRCLE 49 1 DELHI AND ANR Respondents

+ **W.P.(C) 4177/2023**

MOHAMMAD SHAFIQUDDIN Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 46(1),
DELHI & ORS. Respondents

+ **W.P.(C) 4342/2023**

CHELSEA BLOCKS AND PIPES PRIVATE LIMITED..... Petitioner
versus
DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 4(2),
DELHI & ORS. Respondents

+ **W.P.(C) 4369/2023 & CM Appl.16844/2023**

DEVSHI EARTHMOVERS PRIVATE LIMITED Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL



- CIRCLE-8, DELHI & ANR. Respondents
- + **W.P.(C) 4377/2023**
MK JAIN HUF Petitioner
versus
INCOME TAX OFFICER, WARD 44(1),
DELHI & ORS. Respondents
- + **W.P.(C) 4403/2023**
JYOTI GUPTA Petitioner
versus
INCOME TAX OFFICER WARD 44(6)
NEW DELHI Respondent
- + **W.P.(C) 4440/2023**
RAJEEV KUMAR CHAHAL Petitioner
versus
INCOME TAX OFFICER WARD 44(6),
DELHI AND ORS. Respondents
- + **W.P.(C) 4443/2023**
ROOP DIAMOND HOUSE PRIVATE LIMITED Petitioner
versus
INCOME TAX OFFICER & ANR. Respondents
- + **W.P.(C) 4487/2023 & CM Appl.17171/2023**
MANOJ MITTAL Petitioner
versus
UNION OF INDIA & ORS. Respondents
- + **W.P.(C) 4564/2023 & CM Appl.17379/2023**
ANJANI STEELS LIMITED Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1),
DELHI & ORS. Respondents



- + **W.P.(C) 4573/2023 & CM Appl.17413/2023**
S A S FININVEST LLP Petitioner
versus
INCOME TAX OFFICER WARD 30(5), DELHI
& ORS. Respondents
- + **W.P.(C) 4607/2023 & CM Appl.17593/2023**
SHIV KUMAR GOEL Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 22(2)
DELHI & ANR. Respondents
- + **W.P.(C) 4614/2023 & CM Appl.17601/2023**
TANAY GAUR Petitioner
versus
INCOME TAX OFFICER WARD 50(1) & ORS. Respondents
- + **W.P.(C) 4636/2023 & CM Appl.17731/2023**
UMA GOEL Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 22(2)
DELHI & ANR. Respondents
- + **W.P.(C) 5121/2023 & CM Appl.20030/2023**
KRBL LIMITED. Petitioner
versus
DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13-1 &
ORS. Respondents
- + **W.P.(C) 5231/2023 & CM Appl.33987/2023**
RITIKA GARG Petitioner
versus
ACIT, CIRCLE 43(1) DELHI & ANR. Respondents
- + **W.P.(C) 5531/2023 & CM Appl.21637/2023**
NEERU JAIN Petitioner



versus

INCOME TAX OFFICER WARD 29(1), DELHI
& ORS.

..... Respondents

+ **W.P.(C) 5642/2023 & CM Appl.22121/2023**

UPENDRA GULATI AND SONS HUF

..... Petitioner

versus

INCOME TAX OFFICER, WARD 30(5),
DELHI & ORS.

..... Respondents

+ **W.P.(C) 5973/2023 & CM Appl.23465/2023**

VARUN DAHIYA

..... Petitioner

versus

INCOME TAX OFFICER WARD 34(5) & ORS.

..... Respondents

+ **W.P.(C) 5978/2023 & CM Appl.23474/2023**

PARVEEN DEVI

..... Petitioner

versus

INCOME TAX OFFICER WARD 44-1 & ORS.

..... Respondents

+ **W.P.(C) 5990/2023 & CM Appl.23498/2023**

VARUN DAHIYA

..... Petitioner

versus

INCOME TAX OFFICER WARD 34(5) & ORS.

..... Respondents

+ **W.P.(C) 6182/2023 & CM Appl.24308/2023**

GEETU BHATIA

..... Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 43(1),
DELHI & ORS.

..... Respondents

+ **W.P.(C) 6252/2023 & CM Appl.24583/2023**

WELCOME SHOES PVT. LTD.

..... Petitioner



- versus
INCOME TAX OFFICER, WARD-27(1),
DELHI & ORS. Respondents
- + **W.P.(C) 6256/2023, CM Nos.24591/2023 & 742/2024**
SANDEEP PAHWA Petitioner
- versus
INCOME TAX OFFICER WARD 35(1),
DELHI & ORS. Respondents
- + **W.P.(C) 6436/2023 & CM Appl.25325/2023**
NARULA CHEMIST AGENCIES Petitioner
- versus
ACIT, CIRCLE - 34(1) DELHI & ANR. Respondents
- + **W.P.(C) 6440/2023 & CM Appl.25332/2023, 33986/2023**
SANGEETA SAHNI Petitioner
- versus
INCOME TAX OFFICER & ANR. Respondents
- + **W.P.(C) 6450/2023 & CM Appl.25355/2023**
DEVSHI EARTHMOVERS PRIVATE LIMITED Petitioner
- versus
DEPUTY/ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE 8 & ORS. Respondents
- + **W.P.(C) 6453/2023**
OPEN ONLINE SECURITIES PVT. LTD. Petitioner
- versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE-19(1),
NEW DELHI & ANR. Respondents
- + **W.P.(C) 6532/2023 & CM Appl.25657/2023**
NITIN GARG Petitioner
- versus



INCOME TAX OFFICER WARD 43(1) DELHI Respondent

+ **W.P.(C) 6543/2023 & CM Appl.25674/2023**

GAURAV KUMAR KHANNA Petitioner
versus

ASSISTANT COMMISSIONER OF INCOME-TAX CIRCLE 70-1
DELHI ORS. Respondent

+ **W.P.(C) 6633/2023 & CM Appl.26032/2023**

HARSH VARDHAN BANSAL Petitioner
versus

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

+ **W.P.(C) 6644/2023 & CM Appl.26056/2023**

M/S ATULYA REALTY VENTURES PRIVATE LIMITED
..... Petitioner
versus

COMMISSIONER OF INCOME TAX & ORS. Respondents

+ **W.P.(C) 6656/2023 & CM Appl.26078/2023**

AKHIL SINGLA Petitioner
versus

ACIT CIRCLE 19(1), DELHI & ANR. Respondents

+ **W.P.(C) 6657/2023 & CM Appl.26080/2023**

MEENU BANSAL Petitioner
versus

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



- + **W.P.(C) 6660/2023 & CM Appl.26086/2023**
MAHIPAL SINGH Petitioner
versus
INCOME TAX OFFICER WARD 68 5 DELHI Respondent
- + **W.P.(C) 6668/2023 & CM Appl.26112/2023**
SANDHAR TECHNOLOGIES LIMITED Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 10(1),
NEW DELHI & ORS. Respondents
- + **W.P.(C) 6794/2023 & CM Appl.26541/2023**
VK GLOBAL PUBLICATIONS PRIVATE LIMITED.... Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 25(1),
DELHI & ANR. Respondents
- + **W.P.(C) 6894/2023 & CM Appl.26875/2023**
KAPIL GARG Petitioner
versus
INCOME TAX OFFICER WARD 43(6) DELHI Respondent
- + **W.P.(C) 6967/2023, CM Nos.27136/2023 & 741/2024**
RAJESH GUPTA Petitioner
versus
ITO WARD 35 (1) DELHI & ANR. Respondents
- + **W.P.(C) 6981/2023 & CM Appl.27176/2023**
M/S CHANDRAMAULI BUILDCON
PRIVATE LIMITED Petitioner
versus
INCOME TAX OFFICER WARD-6(1), DELHI Respondent



- + **W.P.(C) 7046/2023 & CM Appl.27413/2023**
TIA ENTERPRISES PVT LTD Petitioner
versus
INCOME TAX OFFICER WARD, 25(3) DELHI Respondent
- + **W.P.(C) 7050/2023 & CM Appl.27421/2023**
SONAM GARG Petitioner
versus
INCOME TAX OFFICER WARD 34(1)
DELHI & ANR. Respondents
- + **W.P.(C) 7085/2023 & CM Appl.27582, 35438/2023**
DHAWAN EXIM PRIVATE LIMITED Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-7(1),
DELHI & ANR. Respondents
- + **W.P.(C) 7096/2023 & CM Appl.27617/2023**
KATHURIA CASTINGS PRIVATE LIMITED Petitioner
versus
INCOME TAX OFFICER & ORS. Respondents
- + **W.P.(C) 7145/2023 & CM Appl.27869/2023**
VIKAS SPOOL PVT.LTD Petitioner
versus
INCOME TAX OFFICER, WARD-26(3) Respondent
- + **W.P.(C) 7146/2023 & CM Appl.27871/2023**
ROOP DIAMOND HOUSE PRIVATE LIMITED Petitioner
versus
INCOME TAX OFFICER WARD 21-1 DELHI
& ANR. Respondents



- + **W.P.(C) 7169/2023 & CM Appl.27935/2023**
KASHISH AGGARWAL Petitioner
versus
INCOME TAX OFFICER, WARD 36(1),
DELHI & ORS. Respondents
- + **W.P.(C) 7174/2023 & CM Appl.27952/2023**
SAKSHI GOEL Petitioner
versus
INCOME TAX OFFICER AND ANR Respondents
- + **W.P.(C) 7259/2023 & CM Appl.28256/2023**
KULDIP SINGH GULATI Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 25(1),
DELHI & ORS. Respondents
- + **W.P.(C) 7289/2023 & CM Appl.28334/2023**
RAJESH GUPTA HUF Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX
& ORS Respondents
- + **W.P.(C) 7326/2023 & CM Appl.28506/2023**
KANTA JAIN Petitioner
versus
INCOME TAX OFFICER, WARD- 30(5),
DELHI & ORS. Respondents
- + **W.P.(C) 7375/2023 & CM Appl.28730/2023**
VIRAT CREDIT AND HOLDINGS PVT LTD Petitioner
versus
ASSISTANT COMMISSIONER OF INCOME TAX OFFICER
CIRCLE 25(1) & ORS. Respondents
- + **W.P.(C) 7443/2023 & CM Appl.28932/2023**
ALPS INVESTMENTS PRIVATE LIMITED Petitioner
versus



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

+ **W.P.(C) 7471/2023**

E S P SAFETY PRIVATE LIMITED Petitioner
versus

INCOME TAX OFFICER Respondent

+ **W.P.(C) 7497/2023 & CM Appl.29093/2023**

SWIFT REALTECH PRIVATE LIMITED Petitioner
versus

INCOME TAX OFFICER, WARD-22(3),
DELHI & ANR. Respondents

+ **W.P.(C) 7529/2023 & CM Appl.29209/2023**

LNG AGRICOM PRIVATE LIMITED Petitioner
versus

UNION OF INDIA AND ORS. Respondents

+ **W.P.(C) 7576/2023 & CM Appl.33987/2023**

MIS MARS COMMODITIES PRIVATE LIMITED.... Petitioner
versus

INCOME TAX OFFICER, WARD 16(3),
DELHI & ANR. Respondents

+ **W.P.(C) 7598/2023 & CM Appl.29441/2023**

CARISSA INVESTMENTS PVT. LTD. Petitioner
versus

UNION OF INDIA AND ANR. Respondents

Counsel for Petitioners: Ms Kavita Jha and Mr Anant Mann, Advs in
WP(C) 7289/2023.

Mr Kapil Goel and Mr Sandeep Goel, Advs. in W.P.(C) 16524/2022,
1006/2023, 119/2023 & 387/2023.

Mr Ruchesh Sinha and Ms Monalisa Maity, Advs. in W.P.(C)



2558/2023, 2967/2023, 3009/2023, 3171/2023, 3546/2023 & 3896/2023.

Mr Salil Kapoor, Ms Ananya Kapoor, Mr Sanat Kapoor, Mr Sumit Lalchandani, Mr Tarun Chanana and Mr Shivam Yadav, Advs. in W.P.(C) 3877/2023, 3893/2023, 3997/2023, 4001/2023, 3677/2023 & 3678/2023.

Mr Ved Jain, Mr Nischay Kantoor and Mr Animesh Tripathi, Advs. in W.P.(C) 1543/2023, 1566/2023, 720/2023, 1705/2023, 1813, 2047/2023, 2449/2023, 2631/2023, 2735/2023, 2812/2023, 2862/2023, 2876/2023, 2898/2023 & 3414/2023.

Mr Akhilesh Kumar with Mr Vipin Garg, Advs. for petitioner in W.P.(C) 3160/2023 & W.P.(C) 3877/2023.

Mr Abhishek Garg, Mr Yash Gaiha and Mr Ramesh Mankotia, Advs. for petitioner in W.P.(C)No.3001/2023.

Mr Nagesh Kumar Behl, Adv. for petitioner in W.P.(C)Nos.3335/2023 & 3338/2023.

Mr Nitin Gulati, Adv. in W.P.(C) 4614/2023.

Mr Keshav Dwivedi, Adv. in W.P.(C) 3295/2023.

Mr Manibhadra Jain, Adv. in W.P.(C) 4487/2023.

Mr Mayank Pachauri, Adv. in W.P.(C) 3880-3882, 3893/2023.

Mr Gaurav Gupta, Adv. in W.P.(C) 4003/2023.

Mr T Shivakumar with Ms Kirti Kishore and Ms Sanjana, Advs. in W.P.(C) nos. 4607, 4636/2023.

Mr Pankaj Kumar Saxena, Adv. in W.P.(C) 3295/2023.

Mr Gautam Jain with Mr Piyush Kumar Kamal, Advs. in W.P.(C) 7174, 7279/2023.

Ms Ragini Handa with Mr Ujjwal Jain, Advs. in W.P.(C) 6453, 7497/2023.

Mr Manuj Sabharwal with Ms Shalini, Advs. in W.P.(C) 6543/2023.

Mr Ajay Wadhwa with Mr Snehil Jha and Mr Ujjawal Jain, Advs. in W.P.(C) nos.6453, 7085, 7497/2023.

Mr Anmol Jagga, Adv. in W.P.(C) 7529/2023.

Mr Varun Nagrath and Mr Abhishek Anand, Advocates for petitioner in WP(C) 7096/2023.

Counsel for Respondents: Mr Sunil Agarwal, Sr Standing Counsel with Mr Shivansh B. Pandya, Jr Standing Counsel and Mr Utkarsh Tiwari, Adv. in W.P.(C) 2631/2023, 16524/2022 & 1813/2023.



Mr Ghanshyam Mishra, CGSC for R-3 in W.P.(C) 16524/2022.
Mr Abhishek Maratha, Sr Standing Counsel with Mr Akshat Singh, Jr Standing Counsel in W.P.(C)Nos.1566/2023, 720/2023, 1705/2023, 2812/2023, 3171/2023, 3546/2023, 3893/2023 & 3896/2023.
Mr Gaurav Gupta, Sr Standing Counsel with Mr Puneet Singhal and Mr Shivendra Singh, Jr Standing Counsels in W.P.(C)Nos.2876/2023, 2898/2023, 3677/2023 & 3678/2023.
Mr Kunal Sharma, Sr Standing Counsel with Ms Zehra Khan, Jr Standing Counsel along with Mr Shubhendu Bhattacharya, Adv. in W.P.(C)Nos.2967/2023, 3009/2023 & 4001/2023
Mr Aseem Chawla, Sr Standing Counsel with Ms Anuja Pethia, Mr Subhasish Kumar and Ms Pratishtha Chaudhary, Adv. in W.P.(C)No.3001/2023 & 2449/2023.
Mr Shailendra Singh, Sr Standing Counsel with Ms Dacchita Shahi and Mr Akash Saxena, Adv. in W.P.(C) 3414/2023.
Mr Sanjay Kumar, Sr Standing Counsel with Ms Easha, Adv. for respondent in W.P.(C)No.3160/2023, 1006/2023, 119/2023 & 387/2023.
Mr Zoheb Hossain, Sr Standing Counsel with Mr Sanjeev Menon, Standing Counsel for respondent in W.P.(C)No.1543/2023 & 992/2023.
Mr Vipul Agrawal, Sr Standing Counsel with Mr Gibran Naushad and Ms Sakshi Shairwal, Adv. for W.P.(C) nos.992, 3997, 5973, 5990, 6256, 6967, 7169, 7443/2023.
Mr Ruchir Bhatia, Sr Standing Counsel with Ms Deeksha Gupta, Adv.
Mr Shlok Chandra, Sr Standing Counsel with Ms Priya Sarkar, Standing Counsel.
Ms Dacchita Shahi, Standing Counsel for revenue in W.P.(C) 7529/2023.
Mr Puneet Rai, Sr Standing Counsel with Mr Ashvini Kumar and Mr Rishabh Nangia, Standing Counsels in W.P.(C)Nos.2876/2023, 3335/2023, 3338/2023, 4377/2023, 4443/2023, 6440/2023, 6453/2023, 6532/2023, 6657/2023, 6660/2023, 6794/2023, 7146/2023 & 7497/2023.
Mr Akash Vajpai, Adv. for UOI in W.P.(C) 4487/2023.
Mr Santosh Kumar Pandey, Adv. for UOI in W.P.(C) 7529/2023.
Mr Siddharth Khatana, Adv. for UOI in W.P.(C) 7096.
Mr Rakesh Kumar Dudeja, Adv. for UOI in W.P.(C) 7529/2023.



CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE TARA VITASTA GANJU
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. The above-captioned writ petitions concern Assessment Year (AY) 2016-17 and AY 2017-18.
2. The core issue involved in the writ petitions is whether the impugned notices and orders are sustainable in law, having regard to the contention of the petitioners that they are not backed by the approval of the specified authority.
3. Since the issue is common to the above-captioned writ petitions, the broad facts concerning one of the matters i.e., WP(C) 7289/2023, titled ***Rajesh Gupta HUF v Assistant Commissioner of Income Tax and Ors.*** are noted hereafter.
 - 3.1. The petitioner/Hindu Undivided Family (HUF) filed its return of income (ROI) *qua* AY 2017-18 on 09.06.2017 declaring an income of Rs.66,88,500/-. The ROI was processed by the revenue and an intimation was issued to the petitioner/HUF under Section 143(1) of the Act on 21.11.2017.
 - 3.2. In the aftermath of the judgement in ***Union of India v Ashish Agarwal*** (2023) 1 SCC 617, the revenue issued a notice dated 26.05.2022 under Section 148A(b) of the Act to the petitioner.
 - 3.3. The petitioner filed a reply dated 14.06.2022 *qua* the said notice.
 - 3.4. Thereafter, the revenue passed an order under Section 148A(d) of the Act dated 29.07.2022 holding that income amounting to Rs.4,37,56,000/- had escaped assessment. A consequential notice of even date i.e.,



29.07.2022 was also issued to the petitioner under Section 148 of the Act.

3.5. A perusal of the order under Section 148A(d) and the notice under Section 148 would show that they have been passed/issued after obtaining the prior approval of the Principal Commissioner of Income Tax-10, Delhi.

3.6. The petitioner approached the court via the aforementioned writ petition on 18.05.2023, *inter alia*, raising the issue with regard the approval of the specified authority being absent.

3.7. The petition came up for hearing before a coordinate bench [which included one of us i.e., Rajiv Shakhder J.] on 25.05.2023 and it was directed that there shall be a stay on the continuation of reassessment proceedings.

3.8. Thereafter, the petition was listed with the above-captioned batch of petitions on several dates and arguments were heard on behalf of the assesseees and the revenue.

4. Counsel for the parties state that the reassessment proceedings were triggered by an authority not specified, as per the provisions of Section 151(ii) of the Income Tax Act, 1961 [in short, "Act"].

4.1. In defence of the writ petitions, the revenue, *inter alia*, has relied upon Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [in short, "TOLA"] and paragraphs 6.1 and 6.2(ii) of the Instruction No.1 of 2022 dated 11.05.2022 issued by the Central Board of Direct Taxes [in short, "CBDT"].

5. In *Ganesh Dass Khanna v. Income Tax Officer & Anr.* 2023: DHC: 8187-DB, we have ruled in favour of the assesseees and against the revenue insofar as the issue concerning limitation was concerned.

5.1 Insofar as the batch which was considered in the aforementioned judgment, the alleged escaped income was less than Rs.50,00,000/-. As far



as the current batch of writ petitions is concerned, concededly, the escaped income is more than Rs.50,00,000/-.

6. A faint argument is made on behalf of the revenue that the approval of the specified authority is not mandatory, which, in our opinion, is in the teeth of the provisions of the Act. In this behalf, the old Section 151 and the amended version of the provision (after Finance Act 2021) are made reference to.

6.1. For the sake of convenience, the provisions of Sections 148, 149 and 151, before and after amendment are extracted hereafter:

Prior to Finance Act 2021

“148. (1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139 :

Provided that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005 in response to a notice served under this section, and

(b) subsequently a notice has been served under sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to sub-section (2) of section 143, as it stood immediately before the amendment of said sub-section by the Finance Act, 2002 (20 of 2002) but before the expiry of the time limit for making the assessment, re-assessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice:

Provided further that in a case—



(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005, in response to a notice served under this section, and

(b) subsequently a notice has been served under clause (ii) of sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to clause (ii) of sub-section (2) of section 143, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice....

xxx

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xxx

149. (1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;

(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment....

xxx

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151. (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue



of such notice.

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.”

Post Finance Act 2021

“148. Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice...

xxx

xxx

xxx

149. (1) No notice under section 148 shall be issued for the relevant assessment year—

(a) if **three years** have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if **three years, but not more than ten years**, have elapsed from the end of the relevant assessment year **unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year...**

xxx

xxx

xxx



151. Specified authority for the purposes of section 148 and section 148A shall be,—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year...”

[Emphasis is ours]

7. A careful perusal of the above extract would show that after amendment, Section 151 has been split and the part which enjoins that the approval of the specified authority is mandatory stands embedded in the first proviso to Section 148.

7.1. The concerned specified authorities, depending on the applicable timeframe, are adverted to in Section 151 of the Act.

8. The first proviso to Section 148 and Section 151, when read conjointly, demonstrate the untenability of the submission made on behalf of the revenue.

9. We may also note that in *Ganesh Dass Khanna*, we were considering the provision of Section 149 of the Act and have taken the view that since the escaped income was less than Rs.50,00,000/-, the time limit as prescribed in Section 149(1)(a) of the Act would apply.

10. As indicated above, the specified authority changes depending on the time limit prescribed in Section 151 of the Act. It is on this account that there is linkage between ruling rendered in *Ganesh Dass Khanna* and the instant matters.



11. It may also be noted that in *Ganesh Dass Khanna*, we had recorded the stand of the revenue that the issue concerning limitation and the specified authority are “intertwined”. For convenience, the relevant part of the judgement is extracted hereafter:

“24. On behalf of the revenue, the following broad submissions were made:...

...(viii) Both under the unamended 1961 Act and amended 1961 Act, the issue concerning limitation is inextricably intertwined with two aspects:

(a) First, the rank of the authority granting approval/sanction for triggering reassessment proceedings.

(b) Second, the quantum of income which has escaped assessment.”

[Emphasis is ours]

12. Clearly, the revenue advanced the argument of interlinkage between limitation and the ascertainment of the specified authority due to the plain language of the amended Section 151 of the Act. Section 151, when read alongside the first proviso to Section 148, brings the aspect of inextricable linkage to the fore.

12.1. Clauses (i) and (ii) of Section 151 of the amended Act (which has been extracted hereinabove) clearly specify the authority whose approval can trigger the reassessment proceedings. Thus, if three (3) years or less have elapsed from the end of the relevant AY, the specified authority who would grant approval for initiation of reassessment proceedings will be the Principal Commissioner or Principal Director or Commissioner or Director. However, if more than three (3) years from the end of the relevant AY have elapsed, the specified authority for according approval for reassessment shall be the Principal Chief Commissioner or Principal Director General or, where there is no Principal Chief Commissioner or Principal Director



General, Chief Commissioner or Director General.

12.2. That the approval is mandatory is plainly evident on perusal of the first proviso appended to Section 148 of the Act. the said proviso, at the risk of repetition, reads as follows:

“...Provided that *no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice....”*

12.3. In these cases, there is no dispute that although three (3) years had elapsed from of the end of the relevant AY, the approval was sought from authorities specified in clause (i), as against clause (ii) of Section 151.

12.4. Before us, the counsel for the revenue continue to hold this position. The only liberty that they seek is that if, based on the judgement in ***Ganesh Dass Khanna***, the impugned orders and notices are set aside, liberty be given to the revenue to commence reassessment proceedings afresh.

13. Therefore, having regard to the aforesaid, the impugned notices and orders in each of the above-captioned writ petitions are quashed on the ground that there is no approval of the specified authority, as indicated in Section 151(ii) of the Act. The direction is issued with the caveat that the revenue will have liberty to take steps, if deemed necessary, *albeit* as per law.

14. Needless to add, the rights and contentions of both the sides will remain open, in the event the revenue triggers reassessment proceedings.

15. The above-captioned writ petitions are disposed of, in the aforesaid terms.



16. Consequently, the pending applications shall stand closed.
17. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

JANUARY 5, 2024 /aj