



2024:KER:32937

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 30318 OF 2019

PETITIONER/S:

P.A.JOSE, AGED 71 YEARS  
PAYYAPPALLIL HOUSE, PUTHANANGADI, THIRUVATHUKKAL,  
KOTTAYAM - 686 001.

BY ADVS. SRI AJAY VOHRA (SR) A.KUMAR (SR)  
SRI.P.J.ANILKUMAR, SMTG.MINI(1748)  
SRI.P.S.SREE PRASAD, SRI.AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI - 110001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI - 110001.
- 3 THE COMMISSIONER OF INCOME TAX, KOTTAYAM - 686 001.
- 4 THE ASST. COMMISSIONER OF IINCOME TAX, CIRCLE - 1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM - 686 002.

BY ADVS. Mr.P.R.AJITH KUMAR, CGC  
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG WITH WP(C).1529/2024, 17949/2020 AND CONNECTED CASES, THE COURT ON 20.05.2024, DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 1529 OF 2024

PETITIONER/S:

M/S JOSCO BULLION TRADERS PVT LTD,  
CENTRAL JUNCTION, BUILDING NO. XII/759, K.K.ROAD, KOTTAYAM,  
REPRESENTED BY ITS MANAGING DIRECTOR MR. P.A.JOSE., PIN -  
686001

BY ADVS.SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748)  
P.S.SREE PRASAD, ARUN R.

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF  
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI, PIN - 110001
- 2 THE CENTRAL BOARD OF DIRECT TAXES,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT  
OF INDIA, NORTH BLOCK, NEW DELHI, PIN - 110001
- 3 THE COMMISSIONER OF INCOME TAX,  
BAKER HILL, KOTTAYAM, PIN - 686002
- 4 THE ASST. COMMISSIONER OF INCOME TAX,  
CIRCLE & TPS, INCOME TAX OFFICE, OFFICE OF THE ASSISTANT  
COMMISSIONER, PUBLIC LIBRARY BUILDING SHASTRI ROAD,  
KOTTAYAM, PIN - 686001
- 5 ASSESSMENT UNIT/VERIFICATION UNIT/TECHNICAL UNIT/REVIEW  
UNIT,



2024:KER:32937

**W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019**

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**INCOME TAX DEPARTMENT, NATIONAL FACELESS ASSESSMENT  
CENTRE, NEW DELHI, PIN - 110001**

**THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:**



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 17949 OF 2020

PETITIONER/S:

JOSCO JEWELLERS PVT. LTD,  
ROOM NO. 13, REJIV GANDHI SHOPPING COMPLEX, KOTTAYAM,  
REPRESENTED BY ITS MANAGING DIRECTOR SRI. P.A JOSE.

BY ADVS. SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, AJAY V.ANAND, R.ARUN

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY DEPARTMENT OF  
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI 110001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT  
OF INDIA, NORTH BLOCK, NEW DELHI 110 001.
- 3 THE COMMISSIONER OF INCOME TAX,  
PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM 686 001.
- 4 THE ASST. COMMISSIONER OF INCOME TAX,  
CIRCLE AND TPS, INCOME TAX OFFICE, OFFICE OF THE ASSISTANT  
COMMISSIONER, PUBLIC LIBRARY BUILDING, SHASTRI ROAD,  
KOTTAYAM 686 001.

BY ADV SHRI.P.R.AJITH KUMAR, CGC



2024:KER:32937

**W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019**

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SRI JOSE JOSEPH SC

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 17828 OF 2020

PETITIONER/S:

P.P.ALPHONSA,  
AGED 62 YEARS  
PAYYAPPALLIL HOUSE, PUTHANANGADI, THIURVATHUKKAL,  
KOTTAYAM-686001.

BY ADVS.SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, AJAY V.ANAND, R.ARUN

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI-110001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI-110001.
- 3 THE COMMISSIONER OF INCOME TAX, KOTTAYAM-686001.
- 4 THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE AND TPS, INCOME TAX OFFICE, OFFICE OF THE ASSISTANT COMMISSIONER, PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM-686 001.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADV SHRI.P.R.AJITH KUMAR, CGC

SRI JOSE JOSEPH SC

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 17964 OF 2020

PETITIONER/S:

JOSCO BULLION TRADERS PVT. LTD.,  
CENTRAL JUNCTION, BUILDING NO. XII/759, K.K. ROAD, KOTTAYAM  
- 686001, REPRESENTED BY ITS MANAGING DIRECTOR, MR. P.A JOSE.

BY ADVS. SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI- 110001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI - 110001.
- 3 THE COMMISSIONER OF INCOME TAX,  
KOTTAYAM - 686001.
- 4 THE ASST. COMMISSIONER OF INCOME TAX,  
CIRCLE AND TPS, INCOME TAX OFFICE, OFFICE OF THE ASSISTANT COMMISSIONER, PUBLIC LIBRARY BUILDING, SHASTRI ROAD,  
KOTTAYAM - 686001.





2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADV SHRI.P.R.AJITH KUMAR, CGC

SRI JOSE JOSEPH SC

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 17972 OF 2020

PETITIONER/S:

P.A.JOSE,  
AGED 72 YEARS  
PAYYAPPALLIL HOUSE, PUTHANANGADI,. THIRUVATHUKKAL,  
KOTTAYAM 686 001.

BY ADVS. AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI 110 001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI 110 001, REPRESENTED BY ITS CHAIRMAN.
- 3 THE COMMISSIONER OF INCOME TAX, KOTTAYAM 686 001.
- 4 THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE AND TPS, INCOME TA OFFICE, OFFICE OF THE ASSISTANT COMMISSIONER, PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM 686 001.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADV SHRI.P.R.AJITH KUMAR, CGC

SRI JOSE JOSEPH SC

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024 ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024,  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 28444 OF 2021

PETITIONER/S:

M/S JOSCO BULLION TRADERS PVT LTD,  
CENTRAL JUNCTION, BUILDING NO. XII/757 K.K ROAD, KOTTAYAM  
686 001, REPRESENTED ITS MANAGING DIRECTOR. MR P.A JOSE.

BY ADVS. SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748)  
P.S.SREE PRASAD, AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF  
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI 110 001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT  
OF INDIA, NORTH BLOCK, NEW DELHI 110 001.
- 3 THE COMMISSIONER OF INCOME TAX,  
KOTTAYAM 686 001.
- 4 THE ASSISTANT COMMISSIONER OF INCOME TAX,  
CIRCLE-1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING,  
SHASTRI ROAD, KOTTAYAM 686 001.
- 5 ADDITIONAL/JOINT/ASSISTANT COMMISSIONER OF INCOME TAX,  
NATIONAL FACELESS ASSESSMENT CENTRE DELHI 110 001.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.  
NAVANEETH.N.NATH, SHRI.VISHNU PRADEEP, CGC

SRI JOSE JOSEPH SC

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024 ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024,  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 29846 OF 2021

PETITIONER/S:

P.A.JOSE, AGED 74 YEARS  
PAYYAPPALLIL HOUSE, PUTHANANGADI, THIRUVATHUKKAL,  
KOTTAYAM 686 001.

BY ADVS. SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, R.ARUN, AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI 110 001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI 110 001.
- 3 THE COMMISSIONER OF INCOME TAX, KOTTAYAM -686 001.
- 4 THE ASST. COMMISSIONER OF INCOME TAX, CIRCLE -1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM -686 001.
- 5 ADDITIONAL/JOINT/DEPUTY/ASSISTANT COMMISSIONER OF INCOME TAX, NATIONAL FACELESS ASSESSMENT CENTRE, DELHI 110 001.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.

JOSE JOSEPH, SC, INCOME TAX DEPARTMENT, KERALA  
P.K.RAVINDRANATHA MENON (SR.)

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 30448 OF 2021

PETITIONER/S:

P.P.ALPHONSA, AGED 63 YEARS  
PAYYAPPALLIL HOUSE, PUTHANANGADI, THIRUVATHUKKAL,  
KOTTAYAM-686 001.

BY ADVS. SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI - 110001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI - 110001.
- 3 THE COMMISSIONER OF INCOME TAX, KOTTAYAM - 686 001.
- 4 THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM-686 001.
- 5 ADDITIONAL/ JOINT / DEPUTY / ASSISTANT, COMMISSIONER OF INCOME TAX, NATIONAL FACELESS ASSESSMENT CENTRE, DELHI - 110001.





2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.

JOSE JOSEPH, SC, INCOME TAX DEPARTMENT, KERALA

P.K.RAVINDRANATHA MENON (SR.)

NAVANEETH.N.NATH

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 30354 OF 2019

PETITIONER/S:

M/S JOSCO GOLD CORPORATION PRIVATE LIMITED  
JOSCO COMPLEX, NAGAMPADAM, KOTTAYAM, REPRESENTED BY ITS  
GENERAL MANAGER MR.SABU THOMAS.

BY ADVS. AJAY VOHRA (SR), A.KUMAR (SR)  
SRI.P.J.ANILKUMAR, SMTG.MINI(1748)  
SHRIJOB ABRAHAM, SRI.AJAY V.ANAND, SRI.R.ARUN

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF  
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI - 110 001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES,  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT  
OF INDIA, NORTH BLOCK, NEW DELHI - 110 001.
- 3 THE COMMISSIONER OF INCOME TAX,  
KOTTAYAM.
- 4 THE ASST. COMMISSIONER OF INCOME TAX,  
CIRCLE-I, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING, SHASTRI  
ROAD, KOTTAYAM.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.  
Mr.P.R.AJITH KUMAR, CGC  
SRI.P.K.RAVINDRANATHA MENON (SR.)  
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 30340 OF 2019

PETITIONER/S:

M/S JOSCO JEWELLERS PVT.LTD,  
ROOM NO.13, RAJIV GANDHI SHOPPING COMPLEX, KOTTAYAM,  
REPRESENTED BY ITS MANAGING DIRECTOR, SRI.P.A.JOSE.

BY ADVS. SRI AJAY VOHRA (SR), A.KUMAR (SR.)  
P.J.ANILKUMAR, G.MINI(1748), P.S.SREE PRASAD  
JOB ABRAHAM, AJAY V.ANAND, R.ARUN

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI-110 001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES, DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI-110 001.
- 3 THE COMMISSIONER OF INCOME TAX, KOTTAYAM-686 001.
- 4 THE ASST.COMMISSIONER OF INCOME TAX, CIRCLE-1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING, SHASTRI ROAD, KOTTAYAM-686 002.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.  
SHRI.P.R.AJITH KUMAR, CGC  
P.K.RAVINDRANATHA MENON (SR.)  
JOSE JOSEPH, SC, INCOME TAX DEPARTMENT, KERALA

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 30373 OF 2019

PETITIONER/S:

M/S JOSCO BULLION TRADERS PVT.LTD.  
CENTRAL JUNCTION, BUILDING NO.XII/759, K.K. ROAD, KOTTAYAM-  
686 001 REPRESENTED BY ITS MANAGING DIRECTOR, MR.P.A.JOSE.

BY ADVS. SRI AJAY VOHRA (SR), SRI.A.KUMAR (SR)  
SRI.P.J.ANILKUMAR, SMT G.MINI(1748), SRI.P.S.SREE PRASAD  
SHRIJOB ABRAHAM, SRI.AJAY V.ANAND, SRI.R.ARUN

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF  
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI-110 001.
- 2 THE CENTRAL BOARD OF DIRECT TAXES  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT  
OF INDIA, NORTH BLOCK, NEW DELHI-110 001.
- 3 THE COMMISSIONER OF INCOME TAX  
KOTTAYAM-686 001.
- 4 THE ASST. COMMISSIONER OF INCOME TAX  
CIRCLE-1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING,  
SHASTRI ROAD, KOTTAYAM-686 002.



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.  
Mr.P.R.AJITH KUMAR, CGC  
SRI.P.K.RAVINDRANATHA MENON (SR.)  
SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024, ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

MONDAY, THE 20<sup>TH</sup> DAY OF MAY 2024 / 30TH VAISAKHA, 1946

WP(C) NO. 32237 OF 2019

PETITIONER/S:

JOSGOLD, BUILDING NO.IX/891 KALARIKKAL BAZAR, CENTRAL  
JUNCTION, KOTTAYAM-686001 REPRESENTED BY ITS MANAGING  
PARTNER MR.BABU M PHILIP

BY ADVS.SRI AJAY VOHRA (SR), SRI A.KUMAR (SR)  
SRI.P.J.ANILKUMAR, SMTG.MINI(1748)  
SRI.P.S.SREE PRASAD, SHRI.JOB ABRAHAM  
SRI.AJAY V.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA, THROUGH THE SECRETARY, DEPARTMENT OF  
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA, NORTH  
BLOCK, NEW DELHI-110001
- 2 THE CENTRAL BOARD OF DIRECT TAXES  
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, GOVERNMENT  
OF INDIA, NORTH BLOCK, NEW DELHI-110001
- 3 THE COMMISSIONER OF INCOME TAX  
KOTTAYAM-686001
- 4 THE ASST.COMMISSIONER OF INCOME TAX,  
CIRCLE-1, INCOME TAX OFFICE, PUBLIC LIBRARY BUILDING,  
SHASTRI ROAD, KOTTAYAM-686001





2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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BY ADVS.  
Mr.P.R.AJITH KUMAR, CGC  
SRIJOSE JOSEPH, SC, FOR INCOME TAX

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 01.04.2024 , ALONG  
WITH WP(C).30318/2019 AND CONNECTED CASES, THE COURT ON 20.05.2024  
DELIVERED THE FOLLOWING:



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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## J U D G M E N T

**WP(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019**

Heard Sri Ajay Vohra and Sri A Kumar learned Senior Counsels, assisted by Adv G Mini, for the petitioners and Sri Jose Joseph, learned Senior Standing Counsel for the Income Tax Department.

2. The present batch of writ petitions involve almost common questions of fact and law; therefore, the same have been heard together and are being decided by this common judgment. The facts of the lead petition, W.P.(C) No.30318/2019, are taken note of to understand the issue(s) involved in these writ petitions.



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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**W.P.(C) No.30318/2019**

**Facts in brief:**

3. The petitioner is an individual resident and an assessee to Income Tax for the purposes of the Income Tax Act 1961 and the Rules made thereunder. The petitioner is engaged in the business of trading of jewellery and articles of gold. The petitioner established and commenced its business operation in the year 1978. It is said that the petitioner has been maintaining regular books of accounts since the inception of its business venture in the year 1978. The petitioner has been following the mercantile system of accounting and has been consistently valuing its stock/inventory at a lower cost or market value, determining cost using the Last-In-First-Out (LIFO) method. The Revenue Department had been regularly accepting the books of accounts of the petitioner. The petitioner would value the



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stock-in-trade under the LIFO method at the start of the accounting period.

3.1 The petitioner applied the same method to value the stock-in-trade for the Financial Year 2016-17 relevant to the Assessment Year 2017-18, commencing with effect from 01.04.2016 and ending 31.03.2017. *Vide* Notification No.S.O.3079(E) dated 29.09.2016 the Central Government notified the Income Computation and Disclosure Standards (ICDS), in exercise of powers under Section 145(2) of the Income Tax Act 1961, for application and adoption with effect from Assessment 2017-18. The ICDS so notified were made applicable from the Assessment Year 2017-18 to assessees who are liable to get accounts audited under Section 44AB of the Act, following the mercantile system of accounting for computation of income chargeable under the heads 'Profits and Gains of Business or Profession' (PGBP) or 'Income from



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Other Sources’.

3.2 *Vide* Clause 16 of the ICDS(II), a change has been brought with respect to the methodology of valuation of the stock/inventory. It has been mandated that ‘*Cost of Inventories ... shall be assigned by using First-In-First-Out (FIFO), or weighted average cost formula*’. Clause 22 provides that the value of the opening stock shall be the closing stock of the immediately preceding year. Clauses 16 and 22 of the ICDS (II) are extracted hereunder:

**“First-in First-out and Weighted Average Cost Formula**

16. Cost of inventories, other than the inventory dealt with in paragraph 13, shall be assigned by using the First-in First-out (FIFO) or weighted average cost formula. The formula used shall reflect the fairest possible approximation to the cost incurred in bringing the items of inventory to their present location and condition.

(emphasis supplied)

17. The FIFO formula assumes that the items of inventory which were purchased or produced first are consumed or sold first, and consequently, the items remaining in inventory at



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the end of the period are those most recently purchased or produced. Under the weighted average cost formula, the cost of each item is determined from the weighted average of the cost of similar items at the beginning of a period and the cost of similar items purchased or produced during the period. The average shall be calculated on a periodic basis, or as each additional shipment is received, depending upon the circumstances.

#### **Value of Opening Inventory**

22. The value of the inventory as on the beginning of the previous year shall be:

- (i) the cost of inventory available, if any, on the day of the commencement of the business when the business has commenced during the previous year; and
- (ii) the value of the inventory as on the close of the immediately preceding previous year, in any other case."

#### **Chamber of Tax Consultants v. Union of India<sup>1</sup>**

4. The Delhi High Court in ***Chamber of Tax Consultants v. Union of India*** (supra), where Notification No.87/2016 dated

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<sup>1</sup> (2018) 400 ITR 178 (Delhi)



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29.09.2016 notifying the ICDS was challenged, considered the following questions:

- “(i) Whether the amendments to Section 145 are an instance of delegation by Parliament of essential legislative powers to the Central Government?
- (ii) Are the ICDS an instance of excessive delegation of legislative powers? Whether the impugned ICDS are contrary to the settled law as explained in various judicial precedents and are, therefore, liable to be struck down?
- (iii) Whether the impugned amendments to Section 145 of the Act and the consequential ICDS and Circular violate Articles 14, 19(1)(g), 141, 144 and 265 of the Constitution?”

4.1 The Delhi High Court, on the background of Notification No.87/2016 dated 29.09.2016, summarised thus:  
By Notification dated 25.01.1996, the Central Government notified two Accounting Standards based on which accounts of the assesseees were to be maintained, i.e., (i) AS-1, “Disclosure of accounting policies and accounting standards; (ii) AS-2, Disclosure of prior period items and Extraordinary items and



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changes in accounting policies”. The Accounting Standards were adopted from the Accounting Standards issued by the Institute of Chartered Accountants of India (ICAI), a statutory body established under an act of Parliament to regulate the profession of Chartered Accountants.

4.2 Section 145 of the Income Tax Act (for short, ‘the Act’) was amended by the Finance Act 1995 with effect from 01.04.1997, which was intended to restrict the options available to an assessee following a system of accounting, other than mercantile or cash. The Legislature felt the need to provide Accounting Standards for income computation. The Central Government could, thus, by notification in the Official Gazette notify from time to time Accounting Standards (AS) to be followed by any class of assesseees or in respect of any class of income’. The Central Government notified the Accounting Standards on 25.01.1996.





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4.3 On December 7, 2006, the Ministry of Corporate Affairs (MCA) notified as many as 28 Accounting Standards of the ICAI under Section 211 of the Companies Act 1956 and mandated that the same be followed by the Companies. The Central Board of Direct Taxes in December 2010 constituted the Accounting Standards Committee (AS Committee) comprising Indian Revenue Services (IRS) officers from the Income Tax Department and professionals like Chartered Accountants, with the following objects:

- “(i) to study the harmonisation of ASs issued by the ICAI with the direct tax laws in India, and suggest ASs which need to be adopted under section 145(2) of the Act along with the relevant modifications;
- (ii) to suggest a method for determination of the tax base (book profit) for the purpose of Minimum Alternate Tax (MAT) in the case of companies migrating to International Financial Reporting Standards ("IFRS") (to be known as Ind-AS) in the initial year of adoption and thereafter; and
- (iii) to suggest appropriate amendments to the Act in view of the transition to Ind-AS regime.”



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4.3.1 The said Committee examined 31 Accounting Standards issued by the ICAI. The Committee drafted 14 Tax Accounting Standards and recommended that the said standards be notified under the Act only for the computation of taxable income. The Committee was of the view that '*a taxpayer would not be required to maintain the books of accounts based on the AS notified under the Act*'.

4.4 The position so far as Corporates are concerned is that there are two methods of accounting to be followed: One under GSR 739(E) notified by the MCA on December 7, 2006, in terms of Section 211 of the Companies Act 1956, and the other is for computation of taxable income which is as a result of the convergence of Indian Accounting Standards with the IFRS. Both have different methods of recognition of the revenue, assets, and liabilities. To address this gap, the Central Board of Direct Taxes constituted the Committee, referred to above,



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which submitted its first report in August 2011, wherein the Committee, in its recommendations, said that the standards proposed to be notified in terms of Section 145(2) of the Act should apply only to the computation of taxable income without any compulsion to maintain books as per the notified Accounting Standards. The Committee recommended the use of fourteen of the thirty-one Accounting Standards issued by the ICAI and the Accounting Standards to be identified as ICDS to provide a comprehensive framework for computing taxable income. The final report of the Committee was submitted in October 2013, and thereafter, an amendment to Section 145 of the Act was brought about in 2014. The ICDS was notified by Notification No.S.O.892(E) dated 31.03.2015 and was made applicable from the Financial Year 2015-16 [Assessment Year 2016-17]. It is said that prior thereto, detailed consultations were held with the stakeholders. Based on the representations



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received, the Central Government decided to defer the commencement date of the ICDS from April 1, 2015, to April 1, 2016, *i.e.*, relevant Financial Year 2017-18. Eventually, the impugned notification dated 29.09.2016 was issued making the ICDS applicable effective from April 1, 2017.

5. Circular No.10 of 2017, issued by the Central Board of Direct Taxes on 23.03.2017, is titled “*Clarifications on Income Computation and Disclosure Standards (ICDS) notified under Section 145(2) of the Income Tax Act 1961*”. The Circular acknowledges that it had been brought to the notice of the Central Board of Direct Taxes that some of the ICDS may require “*amendment/clarification for proper implementation*”. The matter was then referred to the Committee which, after duly consulting the stakeholders recommended a two-fold approach for the implementation of ICDS: One was to amend the ICDS itself and the other was to issue clarifications by way



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of FAQs. Thus, the Delhi High Court in the judgment of *Chamber of Tax Consultants* (supra) held that Circular No.10 of 2017 was in the form of FAQs. The Delhi High Court has also been of the view that Circular No.10 of 2017 made it clear that ICDS is intended to prevail over judicial precedents which could be to the contrary.

5.1 The Delhi High Court further held that the amendments to Section 145 permitted the Central Government, as a delegate of the Legislature, to notify standards for income computation but not to bring about changes to the settled principles as laid down in judicial precedents which seek to interpret and explain statutory provisions contained in the Act. If such power is permitted to be exercised by the Central Government, then, clearly, such power would be an instance of unfettered power in the hands of the Executive which is unguided and uncanalised. Article



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265 of the Constitution of India provides that no tax shall be levied or collected except under the authority of law. The power under Section 145(2) of the Income Tax Act cannot permit changing the basic principles of accounting that have been recognized in the various provisions of the Act unless, of course, corresponding amendments are carried out to the Act itself. Such amendments would be consistent with an acknowledgement that, as far as the Act is concerned, changing the method of accounting for the computation of taxable income would partake in an essential legislative function. The Delhi High Court held that Section 145(2), as amended, is to be read down to restrict the power of the Central Government to notify ICDS that do not seek to override the binding judicial precedents or provisions of the Act. The power to enact a validation law is an essential legislative power that can be exercised only by the Parliament and not by



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the Executive.

5.2 In answer to Question No. (ii), *i.e.*, Excessive delegation of legislative powers, the Delhi High Court held that there are no guiding principles in Section 145(2) of the Act for the scope and ambit of delegated power of the Central Government. A mere notification under Section 119 of the Act cannot go beyond the provisions of the Act to bring to tax any income not so envisaged by the Act. The tax cannot be levied by way of an Executive action or by way of administrative instruction.

5.3 The summary of the findings of the Delhi High Court is extracted hereunder:

“The findings in this judgment may be summarised thus:

(i) Section 145(2), as amended, has to be read down to restrict the power of the Central Government to notify ICDS that do not seek to override binding judicial precedents or provisions of the Act. The power to enact a validation law is an essential legislative power that can be exercised, in the context of the



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Act, only by Parliament and not by the executive. If section 145(2) of the Act as amended is not so read down it would be ultra vires the Act and article 141 read with articles 144 and 265 of the Constitution.

(ii) The ICDS is not meant to overrule the provisions of the Act, the Rules thereunder and the judicial precedents applicable thereto as they stand.

(iii) The decision in *J. K. Industries Ltd. v. Union of India* (supra) is distinguishable in its application to the case on hand.

(iv) ICDS I which does away with the concept of "prudence" is contrary to the Act and binding judicial precedents and is therefore unsustainable in law.

(v) ICDS II pertaining to valuation of inventories and eliminates the distinction between a continuing partnership business after dissolution from one which is discontinued upon dissolution is contrary to the decision of the Supreme Court in *Shakti Trading Co.* (supra). It fails to acknowledge that the valuation of inventory at market value upon settlement of accounts of the outgoing partner is distinct from the valuation of the inventory in the books of the business which is continuing. ICDS II is held to be ultra vires the Act and struck down as such.

(vi) The treatment to retention money under paragraph 10(a) in ICDS III will have to be determined on a case-to-case basis by applying settled principles of accrual of income. By





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deploying ICDS III in a manner that seeks to bring to tax the retention money, the receipt of which is uncertain/conditional, at the earliest possible stage, irrespective of the facts, the respondents would be acting contrary to the settled position in law as explained in the decisions referred to in para 68 and to that extent para 10(a) of ICDS III would be rendered ultra vires.

(vii) Para 12 of ICDS III read with para 5 of ICDS IX, dealing with borrowing costs, makes it clear that no incidental income can be reduced from borrowing costs. This is contrary to the decision of the Supreme Court in *CIT v. Bokaro Steel Limited* (supra) and is therefore struck down.

(viii) Para 5 of ICDS IV requires an assessee to recognize income from export incentive in the year of making the claim if there is "reasonable certainty" of its ultimate collection. This is contrary to the decision of the Supreme Court in *Excel Industries* (supra), and is, therefore, ultra vires the Act and struck down as such.

(ix) As far as para 6 of ICDS IV is concerned, the proportionate completion method, as well as the contract completion method, have been recognized as a valid method of accounting under the mercantile system of accounting by the Supreme Court in *CIT v. Bilhari Investment Pvt. Ltd.* (supra) and this court in *CIT v. Manish Buildwell Pvt. Ltd.* and *Paras Buildtech India Pvt. Ltd. v. CIT* (supra). Therefore, to the extent that para



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6 of ICDS IV permits only one of the methods, *i.e.*, proportionate completion method, it is contrary to the above decisions, held to be ultra vires the Act and struck down as such.

(x) Para 8(1) of ICDS IV is not shown to be contrary to any judicial precedent. There is also no challenge to section 36(1)(vii) of the Act. Accordingly, para 8(1) of ICDS IV is held to be not ultra vires the Act. Its validity is upheld.

(xi) ICDS VI which states that marked-to-market loss/gain in case of foreign currency derivatives held for trading or speculation purposes are not to be allowed, is not in consonance with the ratio laid down by the Supreme Court in *Sutlej Cotton Mills Limited v. CIT* (supra), in so far as it relates to marked-to-market loss arising out of forward exchange contracts held for trading or speculation purposes. It is, therefore, held to be ultra vires the Act and struck down as such.

(xii) ICDS VII which provides that recognition of Government grants cannot be postponed beyond the date of accrual receipt, is in conflict with the accrual system of accounting. To that extent, it is held to be ultra vires the Act and struck down as such.

(xiii) ICDS VIII pertains to valuation of securities. For those entities not governed by the RBI to whom Part A of ICDS VIII is applicable, the accounting prescribed by the AS has to be



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followed which is different from the ICDS. In effect, such entities will be required to maintain separate records for income-tax purposes for every year since the closing value of the securities would be valued separately for income-tax purposes and for accounting purposes. To this extent, Part A of ICDS VIII is held to be ultra vires the Act and is struck down as such.”

Based on the aforesaid conclusion, the Delhi High Court struck down Notification Nos.87 and 88 of 2016 dated 29.09.2016 and Circular No.10 of 2017 issued by the Central Board of Direct Taxes as *ultra vires* the Act.

6. After the judgment of the Delhi High Court, the present provisions of Section 145A have been substituted *vide* Finance Act 2018 with retrospective effect from 01.04.2017 to give legitimacy to the ICDS, issued by Notification Nos. 87 and 88 of 2016 dated 29.09.2016. The substituted provision of Section 145A, on reproduction would read as under:



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**“145A. Method of accounting in certain cases**

For the purpose of determining the income chargeable under the head "Profits and gains of business or profession", -

(i) the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

.....”

6.1 Clause (i) of Section 145A of the Act, so substituted, provides that to determine the income chargeable to tax under the head “Profits and Gains of Business or Profession”, the valuation of inventories shall be made at lower of actual cost or net realisable value computed in accordance with the Income Computation and Disclosure Standards (ICDS) notified under sub-section (2) of Section 145 of the Act.

6.2 The purpose of substituting Section 145A with retrospective effect from 01.04.2017, to apply the same in relation to Assessment Year 2017-18 and subsequent



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assessment years, is provided in the Memorandum explaining the provisions in the Finance Bill 2018, as under:

“Recent judicial pronouncements have raised doubts on the legitimacy of the notified ICDS. However, a large number of taxpayers have already complied with the provisions of ICDS for computing income for assessment year 2017-18. In order to regularize the compliance with the notified ICDS by large number of taxpayers so as to prevent any further inconvenience to them, it is proposed to bring the amendments retrospectively with effect from 1st April 2017 i.e. the date on which the ICDS was made effective and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.”

6.3 The result of the substitution in Section 145A with retrospective effect from 01.04.2017 would be the regularly adopted method of accounting and valuation of stock/inventory of the petitioner, wherein the ‘cost’ of the inventory used to be arrived by applying LIFO, is now invalidated and the petitioner would be required to revalue its



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closing stock for the Assessment Year 2017-18, applying FIFO based on the retrospective substitution of the provisions of Section 145A *vide* Finance Act 2018 after the date of the filing of the return of the income for the said year.

6.4 According to the petitioner, by the substitution of the provisions of Section 145A with retrospective effect from 01.04.2017, the closing stock of the petitioner for the Financial Year 2016-17, relevant to the Assessment Year 2017-18, which was valued as per the LIFO at Rs.1,92,44,87,015/- has been revalued, applying FIFO at Rs.2,43,52,03,645/- resulting in enhancement in value of stock at Rs.51.07 crores which is sought to be taxed in the hands of the petitioner for the Assessment Year 2017-18.

**Prayers:**

7. The present writ petition has been filed with the following prayers:



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“It is therefore humbly prayed that this Hon'ble Court may call for the records relating to Exhibit-P1 notification dated 29.09.2016 and Exhibit-P4 notice and Exhibit-P6 intimation rejecting reply and;

A. Declare that Para 16 of ICDS-II and Exhibit-P1 in notification 87/2016 dated 29.09.2016 prescribing that the cost of inventories shall be assigned by using the First In First Out or Weighted Average Cost method to the exclusion of other methods relating to valuation of inventory, namely, Last in First Out is arbitrary, illegal, violative of Article 14, 19(1) (g) and 265 of the Constitution of India and is unconstitutional and is to be rendered nugatory and unenforceable and;

B. Declare that section 145A introduced by the Finance Act, 2018 w.e.f. 1.4.2017 and made applicable for the assessment year 2017-18 in substitutions of Section 145A as introduced by Finance (No.2) Act, 2018 with effect from 1.4.2017 is arbitrary, illegal, violative of Article 14, 19(1) (g) and 265 of the Constitution of India and is unconstitutional and is to be rendered unenforceable;

C. Declare that in case para 16 of the ICDS-II is held to be mandatory of application, the same has to be read down to the extent of directing that the opening stock of the year of first-time adoption of the said para 16 of ICDS-II should also be valued as per the same method used for valuing closing



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stock of that year;

D. Issue a Writ of Certiorari such other appropriate writ, order or direction quashing Exhibit-P4 notice and Exhibit-P6 intimation rejecting the reply of the petitioner.

E. Pass such other appropriate writ, order or direction as this Hon'ble Court may deem just and fit in the circumstances of the case.”

### **Submissions:**

### **Petitioners':**

8. Sri Ajay Vohra and Sri A Kumar, learned Senior Counsels, have submitted that Clause 16 of ICDS (II) is *ultra vires* Article 14 of the Constitution of India, inasmuch as it provides unreasonable classification. By virtue of the application of the provisions of Clause 16 of ICDS (II), the revaluation of the closing stock of the petitioner applying FIFO or Weighted average cost method as to the LIFO method earlier followed by the petitioner, is manifestly contrary to the fundamental principle of practice of the real income which is





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the bedrock of application, operation, and implementation of the provisions of the Act. It is further submitted that the manner and methodology of the implementation and application of the provisions of Clause 16 of the ICDS (II) are fundamentally contrary to the foundational principle of the Act and the same cannot be employed as the basis for determining the value of the stock/inventory, especially in respect of an assessee, such as the petitioner, wherein the consequence of implementation of the provision of Clause 16 of the ICDS (II) retrospectively with effect from 01.04.2017 would lead to an inevitable consequence and its effects would be patently flawed and absurd.

8.1 Furthermore, it is submitted that while discarding the consistently followed and regularly accepted method of valuation of the stock/inventory applying LIFO, and mandating the use of FIFO or Weighted average Cost for



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valuation of closing stock for the relevant year of adoption of ICDS(II), no basis or rationale whatsoever has been brought about or outlined demonstrating how and why the method of valuation of the stock/inventory, consistently and regularly followed by the petitioner since the inception of its business and accepted as such by the Revenue, was not reflective of the correct income of the business of the petitioner. Exclusion of the consistently followed method of valuation of the stock /inventory applying LIFO, which has been one of the well-accepted methods of stock inventory valuation, and the mandatory application of FIFO or Weighted average cost as the only method for valuation of the stock/inventory, is wholly unreasonable being devoid of any *rationale* and bears no nexus with the objects sought to be achieved, *i.e.*, determination of the most accurate picture of the accounts of an assessee. Ergo, the exclusion of LIFO as an appropriate method for valuing the



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stock/inventory leads to an unreasonable classification as there exists no *rationale* for creating such a classification to the exclusion of a well-established principle of valuation of stock/inventory.

8.2 Before substitution of Section 145A of the Finance Act, 2018 with effect from 01.04.2017, whereby Clause 16 of the ICDS (II) has been introduced mandating the use of First-In-First-Out (FIFO) or Weighted Average Cost, the only acceptable method for valuation of stock/inventory was LIFO. Before making FIFO mandatory, primacy was accorded to the taxpayer in its choice of the most appropriate accounting practice, so long as it demonstrated an accurate picture of the state of affairs of its business. By making FIFO mandatory, the Central Government has created a classification to the exclusion of those assessee, such as the petitioner herein, who have been consistently and regularly following LIFO as their



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method of stock/inventory valuation. Such a classification, apart from being devoid of any intelligible differentia, bears no rationale, as to why such taxpayers ought to be subjected to such differential treatment, particularly since no error or shortcoming has been demonstrated in the adoption of LIFO as one of the appropriate methods of determining the value of stock/inventory.

8.3 It is further submitted that in support of the aforesaid submissions, the learned Senior Counsel appearing for the petitioners has placed reliance on the following judgments:

i) *Dr Subramanian Swamy vs. Director, CBI*<sup>2</sup>

ii) *State of Maharashtra vs. Indian Hotel & Restaurants Assn.*<sup>3</sup>

iii) *Mohammad Shujat Ali vs. Union of India*<sup>4</sup>

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<sup>2</sup> (2014) 8 SCC 682

<sup>3</sup> (2013) 8 SCC 519

<sup>4</sup> (1975) 3 SCC 76



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iv) *State of Jammu & Kashmir vs. Shri Triloki Nath Khosa*<sup>5</sup>

v) *State of Gujarat vs. Shri Ambica Mills Ltd*<sup>6</sup>.

vi) *B. Prabhakar Rao vs. State of A.P.*<sup>7</sup>

vii) *Sankar Mukherjee vs. Union of India*<sup>8</sup>

viii) *Shayara Bano vs. Union of India*<sup>9</sup>

ix) *Joseph Shine vs. Union of India*<sup>10</sup>

8.4 Furthermore, the valuation of closing stock with effect from 01.04.2017 from Assessment Year 2017-2018, while keeping the value of the opening stock static, results in:

(i) dichotomy of methodologies of stock valuation, *i.e.*, application of two different and distinct methods for valuing opening and closing of stocks in the same year, and (ii) creation of notional/hypothetical/artificial income due to

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<sup>5</sup> (1974) 1 SCC 19

<sup>6</sup> (1974) 4 SCC 656

<sup>7</sup> 1985 Supp. SCC 432

<sup>8</sup> 1990 Supp SCC 668

<sup>9</sup> (2017) 9 SCC 1

<sup>10</sup> (2019) 3 SCC 39



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enhancement in the value of closing the stock, as a result of the stock valuation by applying FIFO or weighted average cost method.

In other words, while the opening stock for the relevant year would be determined by importing the closing stock of the preceding year, *i.e.*, applying LIFO, the closing stock of the same year, as a result of the adoption of ICDS (II), would necessarily have to be determined applying an altogether different methodology *viz*, FIFO or weighted average cost method.

8.5 It is further submitted that the opening and closing stock of a year have to be necessarily valued on the same basis. The opening stock cannot be valued in a manner different from the valuation of the closing stock. However, making mandatory FIFO for the valuation of the stock retrospectively with effect from 01.04.2017 would result in the opening and



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closing stock being valued based on two different and distinct methodologies. The learned counsel for the petitioner has placed reliance on judgments in *Ramswarup Bengalimal vs. CIT*<sup>11</sup>; *K.G Khosla & Co.P.Ltd vs.CIT*<sup>12</sup>; *CIT vs. Doom Dooma India Ltd.*<sup>13</sup>; *CIT vs. Mahavir Aluminum Ltd*<sup>14</sup>.

8.6 The purpose of the valuation of inventory and crediting the unsold stock is merely to balance the cost of goods entered on the other side of the account at the time of their purchase. The valuation of closing/unsold stock is not a source of income in the hands of the assessee. However, by making Clause 16 of ICDS (II) mandatory with retrospective effect from 01.04.2017, despite there being no change or enhancement in the actual value of the stock in the hands of the petitioner during the relevant period, *i.e.*, the year of

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<sup>11</sup> (1954) 25 ITR 17 (All)

<sup>12</sup> (1975) 99 ITR 574 (Del)

<sup>13</sup> (1993) 200 ITR 496 (Gau)

<sup>14</sup> (2008) 297 ITR 77 (Del)



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adoption of aforesaid ICDS, the consequence thereof has resulted in an enhancement to the income of the petitioner to the tune of Rs. 51.07 Crores, which the Revenue has sought to tax in the hands of the petitioner during the relevant year. Taxes under the Income Tax Act are premised on the generation of 'real' income. Mere accretion based on a notional/hypothetical/unreal income is and cannot be construed as a taxable event resulting in chargeability under the provisions of the Act. It is further submitted that the income regularly and consistently reported based on the accounting methodology (including the method of valuation of the stock) followed by an assessee cannot be invalidated based on mere change in such accounting practice at the hands of the Revenue.

8.7 The Revenue does not have the right to unilaterally impose a method of valuation of closing stock in place of a





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regularly and consistently followed method which has been accepted over the years and bring to tax the difference as a result of unilateral/mandatory replacement/ substitution of the method of stock valuation, as income of the assessee. It is therefore submitted that the stipulation of Clause 16 of ICDS (II) to the extent that it mandates the adoption of FIFO or weighted average cost method to the exclusion of LIFO, as the only method for valuation of stock/inventory, suffers from the vice of unreasonable classification and manifest arbitrariness, being violative of Article 14 of the Constitution of India and therefore liable to be struck down.

9. Sri. Ajay Vohra, the learned Senior Counsel, alternatively submitted that the amendment in Section 145A by way of substitution with effect from 01.04.2017 by Finance Act, 2018 be read down. Section 145-A reads as under:



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“145A.For the purpose of determining the income chargeable under the head "Profits and gains of business or profession",—

(i)the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of Section 145;

(ii) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

(iii) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual cost initially recognised in accordance with the income computation and disclosure standards notified under sub-section (2) of Section 145;

(iv) the inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realisable value in accordance with the income computation and disclosure standards notified under sub-section (2) of Section 145.



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Provided that the inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the income computation and disclosure standards notified under sub-section (2) of Section 145 after taking into account the extant guidelines issued by the Reserve Bank of India in this regard:

Provided further that the comparison of actual cost and net realisable value of securities shall be made category-wise.”

9.1 If the Court does not agree to declare the provisions of Section 16 of ICDS (II) as unconstitutional, this Court may hold that:

(a) the stipulation of Clause 16 of the ICDS (II) mandating the adoption of FIFO or weighted average cost method, to the exclusion of LIFO for valuation of stock/inventory, be held as directory and not mandatory, or

(b) the stipulation under Clause 16 of the ICDS (II)



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directing the adoption of FIFO or weighted average cost for valuation of stock/inventory be applied in the very same year, also to be the valuation of opening stock, *i.e.*, the very same methodology be maintained for valuation of both opening and closing of the stock for the very same year.

**Department's:**

10. Sri. Jose Joseph, the learned Senior Standing counsel for the Income Tax department has submitted that the adoption of a uniform method of valuation of closing and opening stock is based on a long series of consultations with the experts and the recommendation of the specially constituted committee of professional which has been taken note of in the judgment of Delhi High Court in the case of ***Chamber of Tax Consultants (supra)***. He further submits that the Legislature is well within the power to amend the Statute to provide mandatorily one or more methods of valuation of



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the stock. There is no legislative incompetence in providing one or more methods of valuation of the stock by amending the IT Act. He also submits that a uniform method of valuation of the stock has been provided by substituting Section 145A of the IT Act with effect from 01.04.2017, for all the assessees. So, there is no discrimination by making Clause 16 of the ICDS (II) mandatory for valuing the stock with effect from 01.04.2017, under FIFO method. He also submits that there is no unreasonable classification or manifest arbitrariness in making it mandatory to value the stock by applying the FIFO or weighted average cost method.

10.1 He, therefore, submits that, as there is no substance in the writ petition in challenging the amendment in Section 145A, making it mandatory for adoption of Clause 16 of ICDS (II) for applying FIFO or weighted average cost method across the Board for all assessee for valuing the closing and opening



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stock. He further submits that as there is no substance in the submission of the learned Counsel for the petitioners, the unequals are being treated equally. There is no question of any class of persons, inasmuch as with effect from 01.04.2017, for maintaining uniformity in valuing the closing and opening stock has to be by applying the FIFO method, which has been made mandatory for all assessees.

10.2 It is further submitted that an assessee cannot contend that he will not follow the law and will adopt a particular method of valuation of the stock, despite the change in law by the competent legislature, i.e., Parliament. If under the IT Act, only one method has been adopted, that too after a wide range of consultation from all the stakeholders to value the closing and opening stock by applying the FIFO method under Clause 16 of ICDS (II), there is no discrimination or arbitrariness. He therefore submits that the present writ



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petition is liable to be dismissed.

11. I have considered the submissions advanced on both sides.

**Discussion:**

12. It is no matter of doubt that an assessee is entitled to adopt one or the other method of computation of its income if a particular method has not been made mandatory. The petitioner was applying the LIFO method of accounting as the standard for valuing the closing and opening stock up to 01.04.2017. Before 01.04.2017, there was no mandatory provision for adopting one or another method of Accounting Standards. The Statute also did not mandate only one method of valuing the closing and opening stock. The petitioners were free to adopt any one of the Accounting Standards as notified by the ICAI. The Parliament, after a wide range of consultation from all stakeholders and based on the recommendations of



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the Committee to maintain uniformity in accounting the income and valuing the stock, has made Clause 16 of ICDS (II) mandatory for the adoption of FIFO or weighted average cost method. This mandatory provision applies to all assessees, and, therefore, I do not find any substance in the submission of the learned Senior Counsel for the petitioners that making Clause 16 of ICDS (II) mandatory for adopting FIFO or weighted average cost method as the only method valuing the stock/inventory suffers from any vires of unreasonable classification or manifest arbitrariness as violative of Article 14 of the Constitution of India.

13. In *Dr Subramanian Swamy (Supra)*, it was held that, if there is excessive delegation of powers, without guidelines to the Executive, such legislature will suffer a violation of Article 14 of the Constitution of India.

13.1 Paragraph 49 of the said judgment which is relevant





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is extracted hereunder:

“49. Where there is a challenge to the constitutional validity of a law enacted by the legislature, the Court must keep in view that there is always a presumption of constitutionality of an enactment, and a clear transgression of constitutional principles must be shown. The fundamental nature and importance of the legislative process needs to be recognized by the Court and due regard and deference must be accorded to the legislative process. Where the legislation is sought to be challenged as being unconstitutional and violative of Article 14 of the Constitution, the Court must remind itself to the principles relating to the applicability of Article 14 in relation to invalidation of legislation. The two dimensions of Article 14 in its application to legislation and rendering legislation invalid is now well recognized and these are (i) discrimination, based on an impermissible or invalid classification and (ii) excessive delegation of powers; conferment of uncanalised and unguided powers on the executive, whether in the form of delegated legislation or by way of conferment of authority to pass administrative orders if such conferment is without any guidance, control or checks, it is violative of Article 14 of the Constitution. The Court also needs to be mindful that a legislation does not become unconstitutional merely because there is another



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view or because another method may be considered to be as good or even more effective, like any issue of social, or even economic policy. It is well settled that the courts do not substitute their views on what the policy is."

13.2 In *State of Maharashtra (supra)*, the Supreme Court has laid down the well-established principles for testing any legislation before it can be declared as *ultra vires*. Paragraph 106 of the said judgment is extracted hereunder:

"106. Before we embark upon the exercise to determine as to whether the impugned Amendment Act is ultra vires Articles 14 and 19(1)(g), it would be apposite to notice the well-established principles for testing any legislation before it can be declared as ultra vires. It is not necessary for us to make a complete survey of the judgments in which the various tests have been formulated and reaffirmed. We may, however, make a reference to the judgment of this Court in *Budhan Choudhry v. State of Bihar* [AIR 1955 SC 191; 1955 Cri LJ 374], wherein a Constitution Bench of seven Judges of this Court explained the true meaning and scope of Article 14 as follows: (AIR p. 193, para 5)"



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5. It is now well established that while Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that that differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases; namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.

13.3 In *Mohd. Shujat Ali (supra)*, the Supreme Court had defined the reasonable classification as under:

“..... A reasonable classification is one which includes all persons or things similarly situated with respect to the purpose of the law. There should be no



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discrimination between one person or thing and another, if as regards the subject-matter of the legislation their position is substantially the same. This is sometimes epigrammatically described by saying that what the constitutional code of equality and equal opportunity requires is that among equals, the law should be equal and that like should be treated alike. But the basic principle underlying the doctrine is that the Legislature should have the right to classify and impose special burdens upon or grant special benefits to persons or things grouped together under the classification, so long as the classification is of persons or things similarly situated with respect to the purpose of the legislation, so that all persons or things similarly situated are treated alike by law.....”

(emphasis supplied)

13.4 In *Shayara Bano vs. Union of India (supra)*, the Supreme Court has held that if Legislature suffers from manifest arbitrariness, the same can be held to be invalid legislation under Article 14 of the Constitution of India. Paragraph 101 of the said judgment is extracted hereunder:-



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"101.The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation under Article 14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14."

14. In the present case, the petitioners had been following the LIFO method to value its closing and opening stock and the same had been accepted by the Revenue up to 01.04.2017. It is also a well-settled law that the closing and opening stock are to be valued by applying the same method of valuation. In the case of *Ramswarup Bengalimal (supra)*, *K.G Khosla (supra)*, *Doom Dooma India Ltd (supra)*, & *CIT vs. Mahavir Aluminum Ltd (supra)* held that opening and closing



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of stock of a year have to be necessarily valued on the same basis. The opening stock cannot be valued in a manner different from the valuation of closing stock.

15. *In Chainrup Sampathram vs. CIT<sup>15</sup>, P.M Mohd. Meerakhan vs. CIT<sup>16</sup>, Sanjeev Woolen Mills vs. CIT<sup>17</sup>, ALA farm vs. CIT<sup>18</sup>*, it has been held that the valuation of closing and unsold stock is not the source of income in the hands of the assessee. However, by applying the method of FIFO with effect from 01.04.2017, the income of the petitioner has increased to the tune of Rs.51.07 Crores without any real income.

16. It is relevant to note that the substitution of Section 145A with retrospective effect from 01.04.2017 by the Finance Act, 2018 is to give relief to those assessees who had adopted the FIFO to value their stock in the Assessment Year 2017-18

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15 (1953) 24 ITR 481 (SC)

16 (1969) 2 SCC 25

17 (2005) 13 SCC 307

18 (1991) 2 SCC 558



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and to save their returns from being declared as incorrect/invalid. This retrospective operation is with said purpose and objective. However, if an assessee did not apply the FIFO to value its opening and closing stock as it was not mandatory, requiring such an assessee to apply FIFO to value their stocks for the Assessment Year 2017-18 would result in an uncalled-for outcome. Therefore, I am of the considered opinion that the retrospective amendment in substituting Section 145A would not apply to those assesseees who had not applied FIFO for valuing their stock in the Assessment Year 2017-18, as these assesseees have been following LIFO consistently and had filed their returns before the Finance Act 2018 was enacted.

17. Therefore, in the case of the petitioners, the stipulation under Clause 16 of the ICDS (II) for the adoption of FIFO or weighted average cost for valuation of the



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stock/inventory cannot be applied in the Assessment Year 2017-2018 for the valuation of the opening stock, as the opening and closing stock of the year is to be valued by applying the same methodology.

**Conclusion:**

18. Given the aforesaid discussion, all the writ petitions are partly allowed, and the impugned notices in all the writ petitions are quashed. The respondents are directed to either accept the valuation of both opening and closing stock, for the Assessment Year 2017-2018, based on the LIFO method or permit the petitioners to value their stocks by applying the FIFO or weighted average cost method.

All Interlocutory Applications as regards interim matters stand closed.

sd/-

DINESH KUMAR SINGH

JUDGE

jjj/sj





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APPENDIX OF WP(C) 1529/2024

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE NOTIFICATION S.O. 3079(E) DATED 29/9/2016 (AS IS RELEVANT TO THE CHALLENGE).
- Exhibit P2 TRUE COPY OF THE WRIT PETITION W.P.(C) NO. 30373/2019 WITHOUT ANNEXURES. PRESENTED ON DATED:11/11/2019
- Exhibit P3 TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION(C) NO.30373/2019 DATED 12.11.2019
- Exhibit P4 TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION(C) NO. 17964 /2020 DATED 25/03/2021
- Exhibit P5 TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION(C) NO. 28444 OF 2021 DATED 10/12/2021
- Exhibit P6 TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2022-2023 DATED 30.09.2022
- Exhibit P7 TRUE COPY OF THE AUDIT REPORT IN FORM 3CD. DATED:NIL
- Exhibit P8 TRUE COPY OF THE NOTICE DATED 1.6.2023 ISSUED UNDER SECTION 144B FOR THE ASSESSMENT YEAR 2022-23.
- Exhibit P9 TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 142(1) DATED 4.10.2023
- Exhibit P10 TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE ASSESSMENT UNIT, INCOME TAX DEPARTMENT DATED 18.10.2023.
- Exhibit P11 TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER TO THE ASSESSMENT UNIT, INCOME TAX



2024:KER:32937

W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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DEPARTMENT DATED 7.11.2023.

Exhibit P12	TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 142(1) DATED 1.1.2024.
Exhibit P13	TRUE COPY OF THE PETITIONER'S LETTER DATED 06.01.2024
Exhibit P14	TRUE COPY OF THE INTIMATION DATED 10.1.2024 FROM THE 5TH RESPONDENT.



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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APPENDIX OF WP(C) 17949/2020

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE NOTIFICATION S.O. 3079(E) DATED 29/9/2016 AS IS RELEVANT TO THE CHALLENGE.
- EXHIBIT P2 TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION C 30340/2019.
- EXHIBIT P3 TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2018-19.
- EXHIBIT P4 COPY OF THE AUDIT REPORT INFORM 3CD.
- EXHIBIT P5 TRUE COPY OF THE NOTICE DATED 22/09/2019.
- EXHIBIT P6 TRUE COPY OF THE REPLY DATED 24/12/2019.
- EXHIBIT P7 TRUE COPY OF THE NOTICE DATED 11/02/2020.
- EXHIBIT P8 TRUE COPY OF THE REPLY DATED 24/02/2020.
- EXHIBIT P9 TRUE COPY OF THE JUDGMENT IN WPC NO. 2637/2014 AND CONNECTED CASES.
- EXHIBIT P10 TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 557 OF 2015 AND CONNECTED CASES DATED 13.11.2015.



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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APPENDIX OF WP(C) 17828/2020

PETITIONER EXHIBITS

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|-------------|---|
| EXHIBIT P1  | TRUE COPY OF THE NOTIFICATION SO 3079(E) DATED 29.9.2016 (AS IS RELEVANT TO THE CHALLENGE). |
| EXHIBIT P2  | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2017-18                                     |
| EXHIBIT P3  | COPY OF THE AUDIT REPORT IN FORM 3CD FOR THE ASSESSMENT YEAR 2017-18                        |
| EXHIBIT P4  | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2018-19                                     |
| EXHIBIT P5  | COPY OF THE AUDIT REPORT IN FORM 3CD FOR THE ASSESSMENT YEAR 2018-19                        |
| EXHIBIT P6  | TRUE COPY OF THE NOTICE DATED 22.9.2019   |
| EXHIBIT P7  | TRUE COPY OF THE REPLY DATED 24.12.2019   |
| EXHIBIT P8  | TRUE COPY OF THE NOTICE DATED 11.2.2020   |
| EXHIBIT P9  | TRUE COPY OF THE REPLY DATED 24.2.2020  |
| EXHIBIT P10 | TRUE COPY OF THE JUDGMENT IN WPC NO NO 2637/2014 AND CONNECTED CASES                        |
| EXHIBIT P11 | TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 557 OF 2015 AND CONNECTED CASES DATED 13.11.2015   |



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 17964/2020

PETITIONER EXHIBITS

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| EXHIBIT P1 | TRUE COPY OF THE NOTIFICATION S.O. 3079.(E) DATED 29.09.2016 (AS IS RELEVANT TO THE CHALLENGE) |
| EXHIBIT P2 | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION (C) 30373/2019.                                |
| EXHIBIT P3 | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2018-19.                                       |
| EXHIBIT P4 | COPY OF THE AUDIT REPORT IN FORM 3CD   |
| EXHIBIT P5 | TRUE COPY OF THE NOTICE DATED 23.09.2019.  |
| EXHIBIT P6 | TRUE COPY OF THE REPLY DATED 24.12.2019.   |
| EXHIBIT P7 | TRUE COPY OF THE NOTICE DATED 11.02.2020.  |
| EXHIBIT P8 | TRUE COPY OF THE REPLY DATED 24.02.2020.   |



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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APPENDIX OF WP(C) 17972/2020

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE NOTIFICATION S.O. 3079(E) DATED 29/9/2016 AS IS RELEVANT TO THE CHALLENGE.
- EXHIBIT P2 TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION C 30318/2019 DATED 12.11.2019.
- EXHIBIT P3 TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2018-19.
- EXHIBIT P4 COPY OF THE AUDIT REPORT IN FORM 3CD DATED 29.9.2018.
- EXHIBIT P5 TRUE COPY OF THE NOTICE DATED 22/09/2019.
- EXHIBIT P6 TRUE COPY OF THE REPLY DATED 24/12/2019.
- EXHIBIT P7 TRUE COPY OF THE NOTICE DATED 11/02/2020.
- EXHIBIT P8 TRUE COPY OF THE REPLY DATED 24/02/2020.
- EXHIBIT P9 TRUE COPY OF THE JUDGMENT IN WPC NO. 2637/2014 AND CONNECTED CASES DATED 10.11.14.
- EXHIBIT P10 TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 557 OF 2015 AND CONNECTED CASES DATED 13.11.2015.



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 28444/2021

PETITIONER EXHIBITS

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|-------------|--|
| Exhibit P1  | TRUE COPY OF THE NOTIFICATION S.O 3079(E) DATED 29-09-2016 (AS IS RELEVANT TO THE CHALLENGE) |
| Exhibit P2  | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION (C) 30373/2019 DATED 12-11-2019              |
| Exhibit P2A | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION @ 17964/2020 DATED 25-03-2021                |
| Exhibit P3  | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2020-21 DATED 20-11-2020                     |
| Exhibit P4  | TRUE COPY OF FORM 3CD DATED 20-11-2020   |
| Exhibit P5  | TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 143(2) DATED 29-06-2021                         |
| Exhibit P6  | TRUE COPY OF THE REPLY DATE 05-07-2021   |
| Exhibit P7  | TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 142(1) DATE 08-11-2021                          |
| Exhibit P8  | TRUE COPY OF THE REPLY DATED 30-11-2021  |



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 29846/2021

PETITIONER EXHIBITS

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|---------------|---|
| Exhibit P1    | TRUE COPY OF THE NOTIFICATION S.O.3079(E) DATED 29.9.2016 (AS IS RELEVANT TO THE CHALLENGE) |
| Exhibit P2    | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION (C) NO.30318/2019 DATED 12/11/2019          |
| Exhibit P2(A) | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION (C) NO.17972/2020 DATED 26/8/2020           |
| Exhibit P3    | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2020-21 DATED 9/12/2020                     |
| Exhibit P4    | COPY OF FORM 3CD DATED 3/12/2020  |
| Exhibit P5    | TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 143(2) DATED 29/6/2021                         |
| Exhibit P6    | TRUE COPY OF THE REPLY DATE 5/7/2021  |
| Exhibit P7    | TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 142(1) DATE 16/11/2021                         |
| Exhibit P8    | TRUE COPY OF THE REPLY DATED 16/12/2021   |





W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 30448/2021

PETITIONER EXHIBITS

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| Exhibit P1   | TRUE COPY OF THE NOTIFICATION SO 3079(E) DATED 29.09.2016 (AS IS RELEVANT TO THE CHALLENGE). |
| Exhibit P2   | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION (C) NO.17828/2020 DATED 26.08.2020.          |
| Exhibit P2 A | TRUE COPY OF THE INTERIM ORDER IN WRIT PETITION (C) NO.28444/2021 DATED 10.12.2021.          |
| Exhibit P3   | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2020-21 DATED 09.12.2020.                    |
| Exhibit P4   | TRUE COPY OF FORM 3CD DATED 04.12.2020.  |
| Exhibit P5   | TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 143(2) DATED 29.06.2021.                        |
| Exhibit P6   | TRUE COPY OF THE REPLY DATE 05.07.2021.  |
| Exhibit P7   | TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 142(1) DATED 04.12.2021.                        |
| Exhibit P8   | TRUE COPY OF THE REPLY DATED 20.12.2021.   |



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 30354/2019

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE NOTIFICATION S.O.3079(E) DATED 29/9/2016 (AS IT RELEVANT TO THE CHALLENGE).
- EXHIBIT P2 TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2017-18 DATED 28/10/2017.
- EXHIBIT P3 COPY OF FORM 3CD REPORT.
- EXHIBIT P4 TRUE COPY OF THE NOTICE DATED 30/07/2019.
- EXHIBIT P5 A TRUE COPY OF THE REPLY DATED 4/10/2019.
- EXHIBIT P6 A TRUE COPY OF THE COMMUNICATION REJECTING THE REPLY DATED 11/10/2019.
- EXHIBIT P7 TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.2637/2014 DATED 10/11/2014.
- EXHIBIT P8 TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 557 OF 2015 AND CONNECTED CASES DATED 13/11/2015.`



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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APPENDIX OF WP(C) 30340/2019

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE NOTIFICATION S.O.3079(E) DATED 29.09.2016 (AS IS RELEVANT TO THE CHALLENGE).
- EXHIBIT P2 TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2017-18 DATED 30.10.2017.
- EXHIBIT P3 COPY OF FORM 3CD REPORT.
- EXHIBIT P4 TRUE COPY OF THE NOTICE DATED 30.07.2019.
- EXHIBIT P5 A TRUE COPY OF THE REPLY DATED 04.10.2019.
- EXHIBIT P6 A TRUE COPY OF THE COMMUNICATION REJECTING THE REPLY DATED 11.10.2019.
- EXHIBIT P7 TRUE COPY OF THE JUDGMENT IN WP(C)NO.2637/2014 DATED 10.11.2014.
- EXHIBIT P8 TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 557 OF 2015 AND CONNECTED CASES DATED 13.11.2015.



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 30373/2019

PETITIONER EXHIBITS

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|------------|--|
| EXHIBIT P1 | TRUE COPY OF THE NOTIFICATION S.O.3079(E) DATED 29.9.2016 (AS IS RELEVANT TO THE CHALLENGE). |
| EXHIBIT P2 | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2017-18 DATED 28.10.2017.                    |
| EXHIBIT P3 | COPY OF FORM 3CD REPORT.   |
| EXHIBIT P4 | TRUE COPY OF THE NOTICE DATED 30.7.2019.   |
| EXHIBIT P5 | A TRUE COPY OF THE REPLY DATED 4.10.2019.  |
| EXHIBIT P6 | A TRUE COPY OF THE COMMUNICATION REJECTING THE REPLY DATED 11.10.2019.                       |



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020,  
17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019,  
30373/2019, 32237/2019

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APPENDIX OF WP(C) 32237/2019

PETITIONER EXHIBITS

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|------------|--|
| EXHIBIT P1 | TRUE COPY OF THE NOTIFICATION SO 3079(E) DATED 29.09.2016(AS IN RELEVANT TO THE CHALLENGE) |
| EXHIBIT P2 | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2017-18 DATED 30.10.2017                   |
| EXHIBIT P3 | COPY OF FORM 3 CD REPORT   |
| EXHIBIT P4 | TRUE COPY OF THE NOTICE DATED 04.11.2019   |
| EXHIBIT P5 | A TRUE COPY OF THE REPLY DATED 20.11.2019  |
| EXHIBIT P6 | A TRUE COPY OF THE COMMUNICATION REJECTING THE REPLY DATED 21.11.2019                      |
| EXHIBIT P7 | TRUE COPY OF THE INTERIM ORDER IN WP(C)NO.30318/2019 DATED 12.11.2019                      |



W.P.(C) Nos.30318/2019, 1529/2024, 17949/2020, 17828/2020, 17964/2020, 17972/2020, 28444/2021, 29846/2021, 30448/2021, 30354/2019, 30340/2019, 30373/2019, 32237/2019

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APPENDIX OF WP(C) 30318/2019

PETITIONER EXHIBITS

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|------------|---|
| EXHIBIT P1 | TRUE COPY OF THE NOTIFICATION S.O. 3079(E) DATED 29/09/2016 (AS IS RELEVANT TO THE CHALLENGE) |
| EXHIBIT P2 | TRUE COPY OF THE RETURN FOR THE ASSESSMENT YEAR 2017-18 DATED 27-10-2017.                     |
| EXHIBIT P3 | COPY OF THE FORM 3CD REPORT.  |
| EXHIBIT P4 | TRUE COPY OF THE NOTICE DATED 30-07-2019.   |
| EXHIBIT P5 | A TRUE COPY OF THE REPLY DATED 04-10-2019.  |
| EXHIBIT P6 | A TRUE COPY OF THE COMMUNICATION REJECTING THE REPLY DATED 11-10-2019.                        |
| EXHIBIT P7 | A TRUE COPY OF THE JUDGMENT IN WP(C) NO. 2637/2014 DATED 10-11-2014.                          |
| EXHIBIT P8 | A TRUE COPY OF THE JUDGMENT IN WRIT APPEAL 557 OF 2015 DATED 13-11-2015.                      |