REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3958 OF 2014
(SPECIAL LEAVE PETITION(C.)NO.10542 OF 2011)

COMMISSIONER OF INCOME TAX - III APPELLANT

VERSUS

M/S.CALCUTTA KNITWEARS, LUDHIANA RESPONDENT

WITH C.A.NO.3959 OF 2014 @ S.L.P.(C)NO.11943 of 2011
WITH C.A.NO.3960 OF 2014 @ S.L.P.(C)NO.17662 of 2011
WITH C.A.NO.3961 OF 2014 @ S.L.P.(C)NO.17656 of 2011
WITH C.A.NO.3962 OF 2014 @ S.L.P.(C)NO.17661 of 2011
WITH C.A.NO.3963 OF 2014 @ S.L.P.(C)NO.2804 of 2012
WITH C.A.NO.3964 OF 2014 @ S.L.P.(C)NO.2805 of 2012
WITH C.A.NO.3965 OF 2014 @ S.L.P.(C)NO.5264 of 2012
WITH C.A.NO.3966 OF 2014 @ S.L.P.(C)NO.5265 of 2012
WITH C.A.NO.3967 OF 2014 @ S.L.P.(C)NO.5266 of 2012
WITH C.A.NO.3968 OF 2014 @ S.L.P.(C)NO.7574 of 2012
WITH C.A.NO.3969 OF 2014 @ S.L.P.(C)NO.7575 of 2012
WITH C.A.NO.3970 OF 2014 @ S.L.P.(C)NO.7576 of 2012
WITH C.A.NO.3971 OF 2014 @ S.L.P.(C)NO.7577 of 2012
WITH C.A.NO.3972 OF 2014 @ S.L.P.(C)NO.9721 of 2012
WITH C.A.NO.3973 OF 2014 @ S.L.P.(C)NO.11460 of 2012
WITH C.A.NO.3974 OF 2014 @ S.L.P.(C)NO.12111 of 2012
WITH C.A.NO.3975 OF 2014 @ S.L.P.(C)NO.12886 of 2012
WITH C.A.NO.3976 OF 2014 @ S.L.P.(C)NO.12887 of 2012
WITH C.A.NO.3977 OF 2014 @ S.L.P.(C)NO.15207 of 2012
WITH C.A.NO.3978 OF 2014 @ S.L.P.(C)NO.15209 of 2012
WITH C.A.NO.3979 OF 2014 @ S.L.P.(C)NO.16266 of 2012
WITH C.A.NO.3980 OF 2014 @ S.L.P.(C)NO.16265 of 2012
WITH C.A.NO.3981 OF 2014 @ S.L.P.(C)NO.16319 of 2012
WITH C.A.NO.3982 OF 2014 @ S.L.P.(C)NO.16782 of 2012
WITH C.A.NO.3983 OF 2014 @ S.L.P.(C)NO.19491 of 2012
WITH C.A.NO.3984 OF 2014 @ S.L.P.(C)NO.19492 of 2012
WITH C.A.NO.3985 OF 2014 @ S.L.P.(C)NO.20626 of 2012
WITH C.A.NO.3986 OF 2014 @ S.L.P.(C)NO.21459 of 2012
WITH C.A.NO.3987 OF 2014 @ S.L.P.(C)NO.21460 of 2012
WITH C.A.NO.3988 OF 2014 @ S.L.P.(C)NO.30192 of 2012

WITH C.A.NO.3989 OF 2014 @ S.L.P.(C)NO.36559 of 2012
WITH C.A.NO.3990 OF 2014 @ S.L.P.(C)NO.12130 of 2013
WITH C.A.NO.3991 OF 2014 @ S.L.P.(C)NO.15368 of 2013

AND WITH

S.L.P.(C)NO.7741 of 2013

O R D E R

1. **Delay, if any, in filing and refiling the Special Leave Petitions is condoned.**

2. **Leave granted.**

3. **The issue that falls for our consideration and decision in all these appeals is: at what stage of the proceedings under Chapter XIV-B does the assessing authority require to record his satisfaction for issuing a notice under Section 158BD of the Income Tax Act, 1961 ('the Act' for short).**

4. **Since the issue is common in all these appeals, after hearing the learned counsel for the parties to the *lis*, we dispose of all these appeals by this common order.**

5. **For the purpose of disposal of these appeals, we take the Civil Appeal@ Special Leave Petition (Civil)**

No.10542 of 2011 as the lead case.

<u>Civil Appeal No.3958 of 2014 @S.L.P.(C)No.10542/2011:</u>

6. **The respondent in this appeal is a firm engaged in manufacturing hosiery goods in the name and style of M/s. Calcutta Knitwears.**

7. **A search operation under Section 132 of the Act was carried out in two premises of the Bhatia Group, namely, M/s. Swastik Trading Company and M/s. Kavita International Company on 05.02.2003 and certain incriminating documents pertaining to the assessee firm were traced in the said search.**

8. **After completion of the investigation by the investigating agency and handing over of the documents to the assessing authority, the assessing authority had completed the block assessments in the case of Bhatia Group. Since certain other documents did not pertain to the person searched under Section 132 of the Act, the assessing authority thought it fit to transmit those documents, which according to him, pertain to the "undisclosed income" on account of investment element and profit element of the assessee firm and require to be assessed under Section 158BC**

read with Section 158BD of the Act to another assessing authority in whose jurisdiction the assessments could be completed. In doing so, the assessing authority had recorded his satisfaction note dated 15.07.2005.

9. The jurisdictional assessing authority for the respondent-assessee had issued the show cause notice under Section 158BD for the block period 01.04.1996 to 05.02.2003, dated 10.02.2006 to the assessee *inter alia* directing the assessee to show cause as to why should the proceedings under Section 158BC not be completed. After receipt of the said notice, the assessee firm had filed its return under Section 158BD for the said block period declaring its total income as Nil and further filed its reply to the said notice challenging the validity of the said notice under Section 158BD, dated 08.03.2006. The assessee had taken the stand that the notice issued to the assessee is (a) in violation of the provisions of Section 158BD as the conditions precedent have not been complied with by the assessing officer and (b) beyond the period of limitation as provided for under Section

158BE read with Section 158BD and therefore, no action could be initiated against the assessee and accordingly, requested the assessing officer to drop the proceedings.

10. The assessing authority, after due consideration of the reply filed to the show cause notice, has rejected the aforesaid stand of the assessee and assessed the undisclosed income as Rs. 21,76,916/- (Rs.16,05,744/- (unexplained investment) and Rs.5,71,172/- (profit element)) by order dated 08.02.2008. The assessing officer is of the view that Section 158BE of the Act does not provide for any limitation for issuance of notice and completion of the assessment proceedings under Section 158BD of the Act and therefore a notice could be issued even after completion of the proceedings of the searched person under Section 158BC of the Act.

11. Disturbed by the orders passed by the assessing officer, the assessee firm had carried the matter in appeal before the Commissioner of Income Tax (Appeal-II) (for short 'the CIT(A)'). The CIT(A), while rejecting the stand of the assessee in respect of

validity of notice issued under Section 158BD, has partly allowed the appeal filed by the assessee firm and deleted the additions made by the assessing officer in its assessments, by his order dated 27.08.2008.

12. The Revenue had carried the matter further by filing appeal before the Income Tax Appellate Tribunal (for short 'the Tribunal') and the assessee has filed cross objections therein. The Tribunal, after hearing the parties to the *lis*, has rejected the appeal of the Revenue and observed that recording of satisfaction by the assessing officer as contemplated under Section 158BD was on a date subsequent to the framing of assessment under Section 158BC in case of the searched person, that is, beyond the period prescribed under Section 158BE(1)(b) and thereby the notice issued under Section 158BD was belated and consequently the assumption of jurisdiction by the assessing authority in the impugned block assessment would be invalid, by order dated 23.04.2009.

13. Aggrieved by the order so passed by the Tribunal, the Revenue had carried the matter in appeal under

Section 260A of the Act before the High Court. The High Court, by its impugned judgment and order dated 20.07.2010, has rejected the Revenue's appeal and confirmed the order passed by the Tribunal.

14. That is how the Revenue is before us in this appeal.

15. We have heard Shri Rupesh Kumar learned counsel for the Revenue and Shri R.P.Bhatt, Shri Ajay Vohra, Shri Santosh Krishan, learned counsel and other learned counsel for the respective assessees-respondents.

16. Shri Rupesh Kumar, learned counsel for the Revenue would contend that the assessing authority, after completion of the assessment proceedings against the searched person under Section 158BC, being of the opinion that the other documents which have surfaced at the time of the search under Section 132 of the Act belong to a person other than the searched person had recorded his satisfaction in the said respect and transmitted the papers to the jurisdictional assessing officer for the assessments of such person other than the searched person. Further, he would submit that the

assessing officer has complied with the requirements of Section 158BD of the Act in its entirety while preparing the satisfaction note and transmitting the documents to the jurisdictional assessing officer and therefore, the Tribunal and the High Court were not justified in holding that the satisfaction note ought to have been prepared by the assessing officer before the completion of the assessment proceedings of the searched person under Section 158BC of the Act and that the notice issued under Section 158BD was belated.

17. *Per contra,* Shri Bhatt, learned senior counsel *and* Shri Ajay Vohra and Shri Santosh Krishan learned counsel for the assessees would state that a satisfaction note requires to be made by the assessing officer before the seized documents were transmitted to another assessing officer in whose jurisdiction the person other than the searched person is assessed and submit that the said satisfaction note should be recorded before the assessment proceedings of the searched person are completed under Section 158BC of the Act and not later in time. By saying so, the

learned counsel would justify the reasoning and the conclusion reached by the Tribunal as well as the High Court.

18. In order to resolve the controversy, certain provisions of the Act require to be noticed by us.

19. Chapter XIV-B of the Act is a special provision carved out by the legislature for the purpose of the assessments in cases pertaining to Sections 132 and 132A of the Act. The said chapter was introduced by the Finance Act, 1995 with effect from 01.07.1995 and comprises Sections 158B to 158BH of the Act. The provisions under this Chapter were made inapplicable in case of search initiated under Section 132 or Section 132A after 31.05.2003 by introduction of an amendment to the Chapter as Section 158BI vide the Finance Act, 2003 with effect from 01.06.2003. The *lis* before us requires examination of the provisions of the said Chapter, particularly Section 158BD.

20. Section 158B of the Act is the dictionary clause. It provides for the definition of "block period" and "undisclosed income". For the purpose of this case, a

reference to the definition of the "undisclosed income" as provided for in Section 158B(b) is necessary and, therefore, it is noticed. The same reads as under:

"Undisclosed income" includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act [or any expense, deduction or allowance claimed under this Act which is found to be false]".

21. Sections 158BC and 158BD of the Act are machinery provisions. Section 158BC of the Act provides the procedure for block assessment and Section 158BD of the Act provides for assessments in the case of an undisclosed income of any other person. The said sections are relevant for the purpose of this case and, therefore, they are extracted. They read as under:

"Section 158BC. PROCEDURE FOR BLOCK ASSESSMENT.

Where any search has been conducted under section 132 or books of account, other documents or assets are requisitioned under section 132A, in the case of any person, then, -

[(a) The Assessing Officer shall,

(i) In respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997 serve a notice to such person requiring him to furnish within such time not being less than fifteen days;

(ii) In respect of search initiated or books of account or other documents or any assets requisitioned on or after the 1st day of January, 1997, serve a notice to such person requiring him to furnish within such time not being less than fifteen days but not more than forty-five days,

as may be specified in the notice a return in the prescribed form and verified in the same manner as a return under clause (i) of sub-section (1) of section 142, setting forth his total income including the undisclosed income for the block period:

Provided that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:

Provided further that a person who has furnished a return

under this clause shall not be entitled to file a revised return;]

(b) The Assessing Officer shall proceed to determine the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143 [section 144 and section 145]shall, so far as may be, apply;

(c) The Assessing Officer, on determination of the undisclosed income of the block period in accordance with this Chapter, shall pass an order of assessment and determine the tax payable by him on the basis of such assessment;

(d) The assets seized under section 132 or requisitioned under section 132A shall be dealt with in accordance with the provisions of section 132B.]

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Section 158BD. UNDISCLOSED INCOME OF ANY OTHER PERSON.

Where the Assessing Officer is satisfied that any undisclosed income belongs to any person, other than the person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A then, the books of account, other documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed [under section 158 BC] against such other person and the provisions of this

Chapter shall apply accordingly."

22. Section 158BC speaks of procedure for assessment of a person searched under Section 132 of the Act or books of accounts, other documents or assets are requisitioned under section 132A. The limitation for the purpose of completion of the block assessments for the purpose of Section 158BC of the Act is as provided under Section 158BE(1)(a) of the Act, that is the time limit for completion of block assessment.

23. Section 158BD of the Act provides for "undisclosed income" of any other person. Before we proceed to explain the said provision, we intend to remind ourselves of the first or the basic principles of interpretation of a fiscal legislation. It is time and again reiterated that the courts, while interpreting the provisions of a fiscal legislation should neither add nor subtract a word from the provisions of instant meaning of the sections. It may be mentioned that the foremost principle of interpretation of fiscal statutes in every system of interpretation is the rule of strict interpretation which provides that where the

words of the statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule *(Swedish Match AB v. Securities and Exchange Board, India, AIR 2004 SC 4219, CIT v. Ajax Products Ltd. [1965] 55 ITR 741 (SC)*).

24. We may gainfully refer to *The Cape Brandy Syndicate v. Inland Revenue Commissioners* [1921] 1 KB 64 at 71 which involved the Finance (No. 2) Act 1915 which imposed excess profits duty on trade or businesses commenced after the outbreak of the First World War in 1914. By subjecting the legislation to a strict literal interpretation, Rowlatt J. held that the Finance (No. 2) Act 1915, in isolation, did not apply to businesses that commenced after the outbreak of war in 1914 and observed as follows:

"… the principle in favour of a strict literal approach … simply means that in a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."

25. In *Commissioner of Stamp Duties (NSW) v. Simpson, (1917) 24 CLR 209* Barton J., citing Viscount Haldane in *Lumsden v Inland Revenue Commissioners, [1914] AC 877*, stated the following:

"The duty of Judges in construing Statutes is to adhere to the literal construction unless the context renders it plain that such a construction cannot be put on the words. This rule is especially important in cases of Statutes which impose taxation."

The Court in *Simpson case* (supra) sought to determine whether a deed poll constituted a settlement for the purposes of Section 49 of the Stamp Duties Act, 1898 (NSW). Section 3 which defined the word 'settlement' as meaning 'any contract or agreement' was examined. The Court by adopting a strict literal approach held that only a contract or an agreement could constitute a settlement and that Section 49 providing for deed poll was not applicable and therefore, the taxpayer did not have to pay any stamp duty.

26. Lord Granworth in *Grundy v. Pinniger, (1852) 1 LJ Ch 405* has observed that:

"To adhere as closely as possible to the literal meaning of the words used, is a cardinal rule from which if we de-

part we launch into a sea of difficulties which it is not easy to fathom."

That is to say, once the literal rule is departed, then any number of interpretations can be put to a statutory provision, each Judge having a free play to put his own interpretation as he likes. This would be destructive of the edifice of fiscal legislations which impose economic duties and sanctions.

27. **In taxing statutes, even if the literal interpretation results in hardship or inconvenience, it has to be followed *(G.P. Singh's Principles of Statutory Interpretations, 12th Ed, 2010, Lexis Nexis Butterworths Wadhwa Nagpur; Bennion on Statutory Interpretation, 5th Ed., Lexis Nexis, p. 863; Vepa P. Sarathi, Interpretation of Statutes, 5th Ed., Easter Book Company, Chapter VIII, Taxing Statutes).* This Court in *CIT v. Keshab Chandra Mandal, AIR 1950 SC 265* has held that hardship or inconvenience cannot alter the meaning of the language employed by the legislature if such meaning is clear and apparent. Hence departure from the literal rule should only be done in very rare cases, and ordinarily there should**

be judicial restraint to do so.*(Pandian Chemicals Ltd. v. C.I.T., 2003(5) SCC 590, Narsiruddin v. Sita Ram Agarwal, AIR 2003 SC 1543, Bhaiji v. Sub-Divisional Officer, Thandla, 2003(1) SCC 692, J.P. Bansal v. State of Rajasthan and Anr., AIR 2003 SC 1405, State of Jharkhand and Anr. v. Govind Singh : JT 2004(10) SC 349, Jinia Keotin v. K.S. Manjhi, 2003 (1) SCC 730, Shiv Shakti Co-operative Housing Society v. Swaraj Developers, AIR 2003 SC 2434, Grasim Industries Limited v. Collector of Customs, 2002 (4) SCC 297 and Union of India v. Hamsoli Devi, 2002 (7) SCC 273)*

28. **The Australian High Court in *Federal Commissioner of Taxation v. Westraders Pty Ltd, (1980) 144 CLR 55* considered the scope of Section 36A of the Income Tax Assessment Act, 1936(Cth), which on a literal interpretation allowed the taxpayer to make a profit and still claim a loss for tax purposes. The Commissioner argued the taxpayer's conduct amounted to a tax avoidance scheme and should therefore be disallowed under Section 260 of the Income Tax Assessment Act, 1936(Cth). The Court held that under a literal interpretation Section 36A could apply to**

allow the taxpayer to claim a loss. Barwick CJ, speaking for the majority relied on the decision in *Inland Revenue Commissioners v. Westminster (Duke)*, [1936] AC 1 which advocated the literal approach be applied when interpreting taxation legislation and stated the following:

"It is for the Parliament to specify, and to do so, in my opinion, as far as language will permit, with unambiguous clarity, the circumstances which will attract an obligation on the part of the citizen to pay tax. The function of the court is to interpret and apply the language in which the Parliament has specified those circumstances. The court is to do so by determining the meaning of the words employed by the Parliament according to the intention of the Parliament which is discoverable from the language used by the Parliament. It is not for the court to mould or to attempt to mould the language of the statute so as to produce some result which it might be thought the Parliament may have intended to achieve, though not expressed in the actual language employed"

29. In *Cooper Brookes (Wollongong) Pty Ltd v. Federal Commissioner of Taxation* (1981) 147 CLR 297 it is held that in a taxing statute if the language is unambiguous, departing from the literal approach 'may lead judges to put their own ideas of justice or social policy in place of the words of the statute'. Similar view was espoused in *C & J Clark Ltd v. Inland Revenue Commissioners,* [1975] 1 WLR 413 and *BP Refinery (Westernport) Pty Ltd v. Hastings Shire,* (1977) 180 CLR 266.

30. In *Hepples v. FCT*, (1991) 173 CLR 492, the High Court of Australia unequivocally favoured the principle that taxation legislation should be subject to a strict literal interpretation and opined that such an approach was supported by 'common sense'. Therein, the taxpayer, on ceasing to be employed, was paid $40,000 by his employer in exchange for the taxpayer agreeing that he would not carry on or be interested in certain businesses and would not divulge any trade secrets. The issue before the Court was whether or not such payment would form part of the taxpayer's assessable income for the purposes of the *Income Tax Assessment Act, 1936*(Cth). It was held that since the Act did not provide for such payments to form part of a taxpayer's assessable income, the payment would not be assessable.

31. This Court in *Tata Consultancy Services v. State of Andhra Pradesh* has ascribed plain meaning to the terms computer and computer programme in a fiscal statute and reiterating the proposition laid

down in *Inland Revenue Commissioner case (supra)*, observed that a court should not be over zealous in searching ambiguities or obscurities in words which are plain.

32. In *Prakash Nath Khanna v. C.I.T., 2004 (9) SCC 686*, this Court has explained that the language employed in a statute is the determinative factor of the legislative intent. The legislature is presumed to have made no mistake. The presumption is that it intended to say what it has said. Assuming there is a defect or an omission in the words used by the legislature, the Court cannot correct or make up the deficiency. Where the legislative intent is clear from the language, the Court should give effect to it *(Delhi Financial Corporation v. Rajiv Anand, 2004 (11) SCC 625; Government of Andhra Pradesh v. Road Rollers Owners Welfare Association, 2004(6) SCC 210).*

33. In *B. Premanand and Ors.v. Mohan Koikal and Ors., (2011)4 SCC 266* this Court has observed as follows:

"32. *The literal rule of interpretation really means that there should be no interpretation. In other words, we*

should read the statute as it is, without distorting or twisting its language.

33. We may mention here that the literal rule of interpretation is not only followed by Judges and lawyers, but it is also followed by the lay man in his ordinary life. To give an illustration, if a person says "this is a pencil", then he means that it is a pencil; and it is not that when he says that the object is a pencil, he means that it is a horse, donkey or an elephant. In other words, the literal rule of interpretation simply means that we mean what we say and we say what we mean. If we do not follow the literal rule of interpretation, social life will become impossible, and we will not understand each other. If we say that a certain object is a book, then we mean it is a book. If we say it is a book, but we mean it is a horse, table or an elephant, then we will not be able to communicate with each other. Life will become impossible. Hence, the meaning of the literal rule of interpretation is simply that we mean what we say and we say what we mean."

34. Thus, the language of a taxing statute should ordinarily be read understood in the sense in which it is harmonious with the object of the statute to effectuate the legislative animation. A taxing statute should be strictly construed; common sense approach, equity, logic, ethics and morality have no role to

play. Nothing is to be read in, nothing is to be implied; one can only look fairly at the language used and nothing more and nothing less. ***(J. Srinivasa Rao v. Govt. of A.P. and Anr. 2006(13) SCALE 27, Raja Jagadambika Pratap Narain Singh v. C.B.D.T., [1975] 100 ITR 698(SC))***

35. It is also trite that while interpreting a machinery provision, the courts would interpret a provision in such a way that it would give meaning to the charging provisions and that the machinery provisions are liberally construed by the courts. In ***Mahim Patram Private Ltd. v. Union of India (UOI) and Ors., (2007) 3 SCC 668*** **this Court has observed that:**

"20. A taxing statute indisputably is to be strictly construed. [See ***J. Srinivasa Rao v. Govt. of Andhra Pradesh and Anr., 2006(13)SCALE 27*** **]. It is, however, also well-settled that the machinery provisions for calculating the tax or the procedure for its calculation are to be construed by ordinary rule of construction. Whereas a liability has been imposed on a dealer by the charging section, it is well-settled that the court would construe the statute in such a manner so as to make the machinery workable.**

21. In *J. Srinivasa Rao (supra), this Court noticed the decisions of this Court in Gursahai Saigal v.Commissioner of Income-tax, Punjab, [1963] 1 ITR 48(SC) and Ispat Industries Ltd. v. Commissioner of Customs, Mumbai, 2006(202)ELT561(SC).In Gursahai Saigal* (supra), the question which fell for consideration before this Court was construction of the machinery provisions vis-à-vis the charging provisions. Schedule appended to the Motor Vehicles Act is not machinery provision. It is a part of the charging provision. By giving a plain meaning to the Schedule appended to the Act, the machinery provision does not become unworkable. It did not prevent the clear intention of the legislature from being defeated. It can be given an appropriate meaning."

36. **A reference to the observations of this Court in *J.K. Synthetics Limited and Birla Cement Works and another v. Commercial Taxes Officer and another,(1994) 4 SCC 276* would be apposite:**

"13. It is well-known that when a statute levies a tax it does so by inserting a charging section by which a liability is created or fixed and then proceeds to provide the machinery to make the liability effective. It, therefore, provides the machinery for the assessment of the liability already fixed by the charging section, and then provides the mode for the recovery and collection of tax, including penal provisions meant to deal with defaulters. … Ordinarily the charging section which fixes the liabil-

ity is strictly construed but that rule of strict construction is not extended to the machinery provisions which are construed like any other statute. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same. *(Whitney v. Commissioners of Inland Revenue 1926 A C 37, CIT v. Mahaliram Ramjidas (1940) 8 ITR 442 , Indian United Mills Ltd. v. Commissioner of Excess Profits Tax, Bombay, [1955] 27 ITR 20(SC) and Gursahai Saigal v. CIT, Punjab, [1963] 1 ITR 48(SC).”*

37. **It is the duty of the court while interpreting the machinery provisions of a taxing statute to give effect to its manifest purpose. Wherever the intention to impose liability is clear, the Courts ought not be hesitant in espousing a commonsense interpretation to the machinery provisions so that the charge does not fail. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same (*Whitney v. Commissioners of Inland Revenue 1926 A C 37 , CIT v. Mahaliram Ramjidas (1940) 8 ITR 442, Indian United Mills Ltd. v. Commissioner of Excess Profits Tax, Bombay [1955] 27 ITR 20(SC), and Gursahai Saigal v. CIT, Punjab [1963] 1 ITR 48(SC); Commissioner of***

Wealth Tax, Meerut v. Sharvan Kumar Swarup & Sons, (1994) 6 SCC 623; CIT v. National Taj Traders, (1980) 1 SCC 370; Associated Cement Company Ltd. v. Commercial Tax Officer, Kota and Ors., (48) STC 466). **Francis Bennion in *Bennion on Statutory Interpretation, 5th Ed., Lexis Nexis* in support of the aforesaid proposition put forth as an illustration that since charge made by the legislator in procedural provisions is excepted to be for the general benefit of litigants and others, it is presumed that it applies to pending as well as future proceedings.**

38. Having said that, let us revert to discussion of Section 158BD of the Act. The said provision is a machinery provision and inserted in the statute book for the purpose of carrying out assessments of a person other than the searched person under Sections 132 or 132A of the Act. Under Section 158BD of the Act, if an officer is satisfied that there exists any undisclosed income which may belong to a other person other than the searched person under Sections 132 or 132A of the Act, after recording such satisfaction,

may transmit the records/documents/chits/papers etc to the assessing officer having jurisdiction over such other person. After receipt of the aforesaid satisfaction and upon examination of the said other documents relating to such other person, the jurisdictional assessing officer may proceed to issue a notice for the purpose of completion of the assessments under Section 158BD of the Act, the other provisions of XIV-B shall apply.

39. The opening words of Section 158BD of the Act are that the assessing officer must be satisfied that "undisclosed income" belongs to any other person other than the person with respect to whom a search was made under Section 132 of the Act or a requisition of books were made under Section 132A of the Act and thereafter, transmit the records for assessment of such other person. Therefore, the short question that falls for our consideration and decision is at what stage of the proceedings should the satisfaction note be prepared by the assessing officer: whether at the time of initiating proceedings under Section 158BC for the completion of the assessments of the searched

person under Section 132 and 132A of the Act *or* during the course of the assessment proceedings under Section 158BC of the Act *or* after completion of the proceedings under Section 158BC of the Act.

40. The Tribunal and the High Court are of the opinion that it could only be prepared by the assessing officer during the course of the assessment proceedings under Section 158BC of the Act and not after the completion of the said proceedings. The Courts below have relied upon the limitation period provided in Section 158BE(2)(b) of the Act in respect of the assessment proceedings initiated under Section 158BD, i.e., two years from the end of the month in which the notice under Chapter XIV-B was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after 01.01.1997. We would examine whether the Tribunal or the High Court are justified in coming to the aforesaid conclusion.

41. We would certainly say that before initiating proceedings under Section 158BD of the Act, the

assessing officer who has initiated proceedings for completion of the assessments under Section 158BC of the Act should be satisfied that there is an undisclosed income which has been traced out when a person was searched under Section 132 or the books of accounts were requisitioned under Section 132A of the Act. This is in contrast to the provisions of Section 148 of the Act where recording of reasons in writing are a sine qua non. Under Section 158BD the existence of cogent and demonstrative material is germane to the assessing officers' satisfaction in concluding that the seized documents belong to a person other than the searched person is necessary for initiation of action under Section 158BD. The bare reading of the provision indicates that the satisfaction note could be prepared by the assessing officer either at the time of initiating proceedings for completion of assessment of a searched person under Section 158BC of the Act or during the stage of the assessment proceedings. It does not mean that after completion of the assessment, the assessing officer cannot prepare the satisfaction note to the effect that there exists income tax belonging to any person other than the searched person

in respect of whom a search was made under Section 132 or requisition of books of accounts were made under Section 132A of the Act. The language of the provision is clear and unambiguous. The legislature has not imposed any embargo on the assessing officer in respect of the stage of proceedings during which the satisfaction is to be reached and recorded in respect of the person other than the searched person.

42. Further, Section 158BE(2)(b) only provides for the period of limitation for completion of block assessment under section 158BD in case of the person other than the searched person as two years from the end of the month in which the notice under this Chapter was served on such other person in respect of search carried on after 01.01.1997. The said section does neither provides for nor imposes any restrictions or conditions on the period of limitation for preparation the satisfaction note under Section 158BD and consequent issuance of notice to the other person.

43. In the lead case, the assessing officer had prepared a satisfaction note on 15.07.2005 though the assessment proceedings in the case of a searched

person, namely, S.K. Bhatia were completed on 30.03.2005. As we have already noticed, the Tribunal and the High Court are of the opinion that since the satisfaction note was prepared after the proceedings were completed by the assessing officer under Section 158BC of the Act which is contrary to the provisions of Section 158BD read with Section 158BE(2)(b) and therefore, have dismissed the case of the Revenue. In our considered opinion, the reasoning of the learned Judges of the High Court is contrary to the plain and simple language employed by the legislature under Section 158BD of the Act which clearly provides adequate flexibility to the assessing officer for recording the satisfaction note after the completion of proceedings in respect of the searched person under Section 158BC. Further, the interpretation placed by the Courts below by reading into the plain language of Section 158BE(2)(b) such as to extend the period of limitation to recording of satisfaction note would run counter to the avowed object of introduction of Chapter to provide for cost-effective, efficient and expeditious completion of search assessments and avoiding or reducing long drawn proceedings.

44. In the result, we hold that for the purpose of Section 158BD of the Act a satisfaction note is *sine qua non* and must be prepared by the assessing officer before he transmits the records to the other assessing officer who has jurisdiction over such other person. The satisfaction note could be prepared at either of the following stages: (a) at the time of or along with the initiation of proceedings against the searched person under Section 158BC of the Act; (b) along with the assessment proceedings under Section 158BC of the Act; and (c) immediately after the assessment proceedings are completed under Section 158BC of the Act of the searched person.

45. We are informed by Shri Santosh Krishan, who is appearing in seven of the appeals that the assessing officer had not recorded the satisfaction note as required under Section 158BD of the Act, therefore, the Tribunal and the High Court were justified in setting aside the orders of assessment and the orders passed by the first appellate authority. We do not intend to examine the aforesaid contention canvassed

by the learned counsel since we are remanding the matters to the High Court for consideration of the individual cases herein in light of the observations made by us on the scope and possible interpretation of Section 158BD of the Act.

46. With these observations, the appeals are disposed of. The matters are remanded to the respective High Courts for deciding the matters afresh after affording an opportunity of hearing to the parties.

Ordered accordingly.

In C.A.NO.3959 OF 2014 @ S.L.P.(C)NO.11943 of 2011
C.A.NO.3960 OF 2014 @ S.L.P.(C)NO.17662 of 2011
C.A.NO.3961 OF 2014 @ S.L.P.(C)NO.17656 of 2011
C.A.NO.3962 OF 2014 @ S.L.P.(C)NO.17661 of 2011
C.A.NO.3963 OF 2014 @ S.L.P.(C)NO.2804 of 2012
C.A.NO.3964 OF 2014 @ S.L.P.(C)NO.2805 of 2012
C.A.NO.3965 OF 2014 @ S.L.P.(C)NO.5264 of 2012
C.A.NO.3966 OF 2014 @ S.L.P.(C)NO.5265 of 2012
C.A.NO.3967 OF 2014 @ S.L.P.(C)NO.5266 of 2012
C.A.NO.3968 OF 2014 @ S.L.P.(C)NO.7574 of 2012
C.A.NO.3969 OF 2014 @ S.L.P.(C)NO.7575 of 2012
C.A.NO.3970 OF 2014 @ S.L.P.(C)NO.7576 of 2012
C.A.NO.3971 OF 2014 @ S.L.P.(C)NO.7577 of 2012
C.A.NO.3972 OF 2014 @ S.L.P.(C)NO.9721 of 2012
C.A.NO.3973 OF 2014 @ S.L.P.(C)NO.11460 of 2012
C.A.NO.3974 OF 2014 @ S.L.P.(C)NO.12111 of 2012
C.A.NO.3975 OF 2014 @ S.L.P.(C)NO.12886 of 2012
C.A.NO.3976 OF 2014 @ S.L.P.(C)NO.12887 of 2012
C.A.NO.3977 OF 2014 @ S.L.P.(C)NO.15207 of 2012
C.A.NO.3978 OF 2014 @ S.L.P.(C)NO.15209 of 2012

C.A.NO.3979 OF 2014 @ S.L.P.(C)NO.16266 of 2012
C.A.NO.3980 OF 2014 @ S.L.P.(C)NO.16265 of 2012
C.A.NO.3981 OF 2014 @ S.L.P.(C)NO.16319 of 2012
C.A.NO.3982 OF 2014 @ S.L.P.(C)NO.16782 of 2012
C.A.NO.3983 OF 2014 @ S.L.P.(C)NO.19491 of 2012
C.A.NO.3984 OF 2014 @ S.L.P.(C)NO.19492 of 2012
C.A.NO.3985 OF 2014 @ S.L.P.(C)NO.20626 of 2012
C.A.NO.3986 OF 2014 @ S.L.P.(C)NO.21459 of 2012
C.A.NO.3987 OF 2014 @ S.L.P.(C)NO.21460 of 2012
C.A.NO.3988 OF 2014 @ S.L.P.(C)NO.30192 of 2012
C.A.NO.3989 OF 2014 @ S.L.P.(C)NO.36559 of 2012
C.A.NO.3990 OF 2014 @ S.L.P.(C)NO.12130 of 2013

AND

WITH C.A.NO.3991 OF 2014 @ S.L.P.(C)NO.15368 of 2013:

In view of the order passed in Civil Appeal @ S.L.P. (C)No.10542 of 2011, these appeals are also disposed of in the same terms, conditions, observations and directions contained therein.

Ordered accordingly.

S.L.P.(C)No.7741/2013:

De-tag and list separately.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(S.A. BOBDE)

NEW DELHI;
MARCH 12, 2014