IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITIONS NO. 30883, 30223, 30302, 30478,

30376, 30345, 30477, 30279 AND 30728 OF 1998.

WRIT PETITION NO : 30883 of 1998

Between:

Mrs.Philo Jose, W/o P.K. Jose, Age:48 years,
R/o. 7-209, Prakasam Road, Nagari, Chittoor Dist.

..... PETITIONER

AND

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh, Hyderabad
2 The Asst. Commissioner of Income Tax (Investigation) Circle - I
Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

–

WRIT PETITION NO : 30223 of 1998

–

Between:

P.J. Saju S/o P.K. Jose
R/o Nagari, Chittoor Dist.

..... PETITIONER

AND

–

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh, Hyderabad
2 The Asst. Commissioner of Income Tax (Investigation) Circle - I
Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

–

WRIT PETITION NO : 30302 of 1998

–

Between:

Mrs. Celine John W/o A.V. John
R/o 7- 209, Prakasam Road, Nagari - 517590,
Chittoor Dist.

..... PETITIONER

AND

–

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh, Hyderabad - 04
2 The Asst. Commissioner of Income Tax
(Investigation) Circle - I, Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the

Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

-

WRIT PETITION NO : 30478 of 1998

-

Between:

Mrs. Jessy Rajan W/o T.P. Rajan
7-209, Prakasam Road, Nagari - 517590
Chittoor Dist.

..... PETITIONER

AND

-

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh, Hyderabad - 500004
2 The Asst. Commissioner of Income Tax
(Investigation) Circle - I Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

-

WRIT PETITION NO : 30376 of 1998

-

Between:

P.K. Francies S/o P.O. Kochuvarkky
7-209, Prakasam Road, NAGARI - 517590,
Chittoor Dist.

..... PETITIONER

AND

-

1 The Chief Commissioner of Income Tax
Andhra Pradesh, Ayakar Bhavan,
Basheer Bagh, Hyderabad - 500004
2 The Asst. Commissioner of Income Tax
(Investigation) Circle-I, Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

-

-

Between:

Mrs. Rosy Paul W/o P.K. Paul
R/o 7-109, Prakasam Road, NAGARI,
Chittoor Dist.

..... PETITIONER

AND

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh,
Hyderabad-500004
2 The Asst. Commissioner of Income Tax
(Investigation) Circle -I, Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

WRIT PETITION NO : 30477 of 1998

-

Between:

P.K.Jose S/o P.O.Kochuvarkky
7-209, Prakasam Road, NAGARI - 517590
Chittoor Dist.

..... PETITIONER

AND

-

1 The Chief Commissioner of Income Tax
Andhra Pradesh, Ayakar Bhavan,
Basheer Bagh, Hyderabad - 04
2 The Asst. Commissioner of Income Tax
(Investigation) Circle - I Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order in the nature of a Writ directing the first Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31-12-1992 and the entire interest levied under Section 234B of the IncomeTax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

WRIT PETITION NO : 30279 of 1998

Between:

Mrs. Lilly Thomas W/o P.K. Thomas
7-208, Prakasam Road Nagari - 517590
Chittoor Dist.

..... PETITIONER

AND

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh, Hyderabad - 500004
2 The Assistant Commissioner of Income Tax (Investigation) Circle - I
Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

-

-

WRIT PETITION NO : 30728 of 1998

-

Between:

P.K. Thomas S/o P.O.Kochuvarkky
7-208, Prakasm Road, Nagari - 517590
Chittoor Dist.

..... PETITIONER

AND

-

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer bagh, Hyderabad-500004
2 The Assistant Commissioner of Income Tax
(Investigation) Circle-I Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ directing the 1st Respondent to waive the interest levied on the petitioner in respect of the Assessment year 1992-93 under Section 234A of the Income Tax Act for the period subsequent to 31.12.1992 and the entire interest levied under Section 234B of the Income Tax Act.

Counsel for the Petitioner:MR.V.SUBRAHMANYAM, Advocate.

Counsel for the Respondents : MR.S.R.ASHOK

The Court made the following :

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION Nos. 30883, 30223, 30302, 30478,

30376, 30345, 30477, 30279 AND 30728 OF 1998

COMMON ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. All the Writ Petitions are disposed of together as there is a common question of law and fact.

The petitioners moved applications for waiver of tax in terms of Central Board of Direct Taxes, order dated 23.5.1996. Waiver was sought for the year 1992-93. Waiver was allowed up to 31.12.1992 in the assessment year 1992-93. The main contention of the petitioners was that during the raids, the books and documents of the partnership concerns to which all the petitioners belong, were seized.

The same were not returned till 1992 and therefore, there was delay in filing the returns and it was not a deliberate attempt to delay the filing of the returns. The learned Counsel for petitioners further submits that their cases were covered by paras 2(a) and 2(e) of the order under Section 119 of the Income Tax Act (hereinafter referred to as 'the Act'), passed by the Central Board of Direct Taxes. But the Chief Commissioner of Income Tax did not consider the pleas raised by the petitioners and passed an order without assigning any reasons, waiving the interest upto 31.12.1992 only under Sections 234-A and 234-C of the Act, whereas the interest was not waived in terms of Section 234-B of the Act.

We have gone through the order. The learned Chief Commissioner has not considered the pleas raised by the petitioners and has not passed any reasoned order. We fail to understand as to waiver was allowed under Sections 234-A and 234-C of the Act upto 31.12.1992 only and why was not it allowed beyond 31.12.1992 till the end of the financial year. Since no reason has been given for this as well, therefore we allow these Writ Petitions, set aside the impugned orders and remand the matters back to the Chief Commissioner of Income Tax for passing fresh reasoned orders. No costs.

_____

(Bilal Nazki, J)

8th July, 2004.

_____

(P.S.Narayana, J)

ajr.

N.B.:-

Office shall place the copies of this order in respective

Bundles after the signatures of their Lordships.

To

1 The Chief Commissioner of Income Tax Andhra Pradesh
Ayakar Bhavan, Basheer Bagh, Hyderabad
2 The Asst. Commissioner of Income Tax (Investigation) Circle - I
Ananthapur

3 Two C.D. copies.