



\$~96 to 98

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 15287/2023 and CM APPL. 61283/2023**

OXFAM INDIA Petitioner

Through: Mr.Arvind P.Datar, Sr.Adv
with Mr.Sachit Jolly,
Mr.Rishabh Malhotra,
Ms.Disha Jham, Ms.Soumya
Singh and Mr.Devansh Jain.
Adv.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX,
(CENTRAL), DELHI-2 & ANR. Respondents

Through: Mr.Hossain, Sr.SC, Mr.Vipul
Agrawal, Sr.SC with
Mr.Sanjeev Menon, Jr.SC.

97

+ **W.P.(C) 15364/2023 and CAV 608/2023 & CM APPL.
61634/2023**

CARE INDIA SOLUTIONS FOR SUSTAINABLE
DEVELOPMENT Petitioner

Through: Mr.Arvind P.Datar, Sr.Adv
with Mr.Sachit Jolly,
Mr.Rishabh Malhotra,
Ms.Disha Jham, Ms.Soumya
Singh and Mr.Devansh Jain.
Adv.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX
CENTRAL DELHI 2 & ANR. Respondents

Through: Mr.Hossain, Sr.SC, Mr.Vipul
Agrawal, Sr.SC with
Mr.Sanjeev Menon, Jr.SC.



98

+ **W.P.(C) 11270/2023 and CM APPLs. 43874/2023,
61848/2023 & 2659/2024**

CENTRE FOR POLICY RESEARCH Petitioner
Through: Mr.Arvind P.Datar, Sr.Adv
with Mr.Sachit Jolly,
Mr.Rishabh Malhotra,
Ms.Disha Jham, Ms.Soumya
Singh and Mr.Devansh Jain.
Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX,
(CENTRAL) DELHI - 2 & ANR. Respondents
Through: Mr.Hossain, Sr.SC, Mr.Vipul
Agrawal, Sr.SC with
Mr.Sanjeev Menon, Jr.SC.

**CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR
KAURAV**

% **ORDER**
18.01.2024

**WP(C) 15287/2023 & CM APPL. 61634/2023 (Application for
interim relief);**

**WP(C) 15364/2023 & CM APPL. 61634/023 (Application for
interim relief)**

1. Since the respondents are duly represented by Mr. Hossain, let a reply be filed within a period of one week from today. The petitioner shall have a week thereafter to file a rejoinder affidavit.
2. Let the matters be called again on 27.02.2024 in the category of "End of Board" matters.



3. We note that while evaluating an identical challenge which stood raised in W.P.(C) 11270/2023 and after hearing learned counsels for respective sides, the Court vide its order dated 25 August 2023 had framed interim measures in the following terms:-

“17. In the meanwhile, the operation of the impugned order shall remain stayed, subject to the petitioner maintaining a proper account of the contributions received by it, including the details of the contributors.

18. The petitioner will also furnish details of the mode and manner in which the contributions received are spent. These details will be placed before the Court in the form of an affidavit. The affidavit will be accompanied by a certificate of the statutory auditor.

19. Furthermore, the petitioner will ensure that the contributions received are spent in a manner that is aligned with the objects for which it was constituted. In case of any violation, the respondents/revenue will be free to bring the same to the notice of this court, for the purpose of seeking variation of the interim order that we have passed today.”

4. We have also been informed by Mr. Datar, learned senior counsel, that a Special Leave Petition which was taken against the aforesaid order has come to be dismissed on 05 January 2024 in terms of the order passed in Special Leave Petition (Civil) Diary No. 44698/2023.

5. Mr. Hossain, learned counsel representing the respondents, has taken a preliminary objection to the maintainability of the writ petitions itself and contends that the impugned order passed by the Principal Commissioner of Income Tax (Central) Delhi-2, is clearly appealable in terms of Section 253(c) of the Income Tax Act, 1961 ["Act"] and that since the appeal is liable to be tried by the Income Tax Appellate Tribunal, it would be entitled to consider all challenges, including those raised on jurisdictional grounds. It was on the aforesaid basis that Mr. Hossain submitted that the instant writ



petitions should be dismissed on that score alone.

6. In so far as the aspect of retrospective application of Section 12AB(4) of the Act is concerned, Mr. Hossain, seeks to draw sustenance from clause (ii) as placed in Section 12AB(4)(c) of the Act to contend that the said provision on an ex facie examination enables the respondents to pass an order cancelling the registration, which may impact previous years. Insofar as this aspect is concerned, our attention has been drawn to the fact that clause (c) came to be inserted in Section 12AB(4) of the Act by virtue of the Finance Act, 2022.

7. In view of the aforesaid, we find that a substantial jurisdictional question which merits consideration stands raised. We also bear in mind the need to adopt a uniform and consistent approach insofar as interim orders are concerned. This since an identical challenge has been duly entertained by a coordinate Bench of this Court and interim protection accorded. The Court also bears in mind that pleadings in W.P.(C) 11270/2023 already stand completed and thus the issue can be decided finally on a short date.

8. We consequently hold that the petitioners shall be entitled to interim reliefs in terms identical to those provided in paragraphs 17-19 of the aforenoted order of 25 August 2023 passed in W.P.(C) 11270/2023, subject to the clarification that the donations that may be accepted by the petitioners pursuant to the aforenoted interim directions shall be confined to domestic contributions only.

W.P.(C) 11270/2023 and CM APPLs. 43874/2023, 61848/2023 & 2659/2024

9. Interim order passed on 25 August 2023 to continue till the next date of hearing.



10. Let this instant writ petition be called again on 27.02.2024 in the category of “End of Board” matters along with WP(C) 15287/2023 and WP(C) 15364/2023.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.
JANUARY 18, 2024/MJ