Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.1262 of 2016

Director of Income Tax, New Delhi

.... Appellant(s)

Versus

M/s. Mitsubishi Corporation

.... Respondent(s)

With

Civil Appeal No. 1256 of 2016

Civil Appeal No. 1268 of 2016

Civil Appeal No. 1271 of 2016

Civil Appeal No. 1272 of 2016

Civil Appeal No. 5734 of 2021

Civil Appeal No. 5735 of 2021

Civil Appeal No. 4766 of 2021

Civil Appeal No.5737 of 2021

Civil Appeal No. 3884 of 2014

Civil Appeal No. 1301 of 2016

J U D G E M E N T

L. NAGESWARA RAO, J.

1. The conundrum before this Court concerns the liability of an assessee to pay interest on short payment of advance tax due to default of the payer in not deducting

tax at the time of payment, under the provisions of the Income-tax Act, 1961 (hereinafter referred to as the "**Act**"). The facts giving rise to Civil Appeal No. 1262 of 2016 are referred to herein, for the sake of convenience.

2. Notice was issued to the Respondent-Assessee under Section 143 (2) of the Act on 12.10.2004. The Assessing Officer passed an assessment order on 24.03.2006 for the assessment years 1998-99 to 2004-05. The Assessee is a non-resident company incorporated in Japan, with operations in India. In spite of resistance from the Assessee, it was held by the Department that a portion of the Assessee's income was attributable to its activities in India and was therefore liable to be taxed in India, under Articles 4, 5 and 6 of the Double Taxation Avoidance Agreement between India and Japan, read with the provisions of the Act. The Respondent-Assessee filed appeals against the assessment order dated 24.03.2006 before the Commissioner of Income-Tax (Appeals) (hereinafter referred to as the "**CIT**") only with respect to levy of interest under Section 234B of the Act. The CIT dismissed the appeals by a common order dated 10.02.2009, aggrieved by which the Respondent filed appeals before the Income Tax Appellate Tribunal

(hereinafter referred to as the "**ITAT**"). The ITAT allowed the appeals by an order dated 23.06.2009 and held that the Respondent was not liable for payment of interest under Section 234B, when tax at source was deductible from payment made to the Respondent. The judgement of the ITAT was challenged by the Appellant before the High Court. On 30.08.2010, the High Court dismissed the appeals and upheld the judgement of the ITAT. Dissatisfied with the judgements of the ITAT and the High Court, the Appellant has preferred Civil Appeal No. 1262 of 2016 before this Court.

3. The Assessing Officer examined the structure of the Respondent-Assessee which was engaged in carrying out trading activities in carbon crude oil, LPG, ferrous products, industrial machinery, mineral, non-ferrous metal and products, textiles, automobiles etc. through its liaison offices in India. The Assessing Officer rejected the contention of the Respondent that it had no income which was taxable in India and passed the assessment order dated 24.03.2006, determining the income attributable to Indian operations and charging interest as per the provisions of the Act. The assessment order was

challenged before the CIT, restricted to the imposition of interest under Section 234B of the Act.

4. The appeals were dismissed by the CIT as not being maintainable. The appeals filed by the Respondent-Assessee against the order of the CIT were disposed of by the ITAT on 16.11.2007 by remanding the appeals for the assessment years 1998-99 to 2004-05 to the CIT to be decided on merits. On remand of the appeals for the aforesaid assessment years, the CIT framed two questions for consideration, which are as below:

(a) whether the Appellant is liable to pay interest under Section 234B of the Act, in case tax which was deductible at source has not been deducted; and

(b) whether in the facts and circumstances of the case there was any tax deductible at source from the receipts of the appellant so as to apply the ratio of the ITAT decision in appellant's own case for assessment year 2005-06.

5. The CIT took note of the order passed by the ITAT on 08.08.2008 in respect of the assessment year 2005-06 in case of the Respondent. In the said order, the ITAT had followed an earlier order passed in ***Motorola***

Incorporation v. Deputy CIT[1], in which the assessee was found to be not liable for payment of advance tax and for consequent interest under Section 234B, as the entire income received by the assessee was such from which tax was deductible at source. However, while deciding the appeals filed by the Respondent for the assessment years 1998-99 to 2004-05 on the merits of the issue, the CIT came to the conclusion, independent of the ITAT's order dated 08.08.2008, that the Respondent is liable to pay advance tax in terms of Section 191 of the Act, in case of no deduction by the payer where tax is deductible at source. Consequently, the Respondent was held to be liable to pay interest under Section 234B of the Act for default in payment of advance tax. The CIT, therefore, dismissed the Respondent's appeals for assessment years 1998-99 to 2004-05.

6. In the appeals filed by the Respondent against the order dated 10.02.2009 of the CIT, the ITAT held that the issue was covered by its earlier decision dated 08.08.2008 in the case of the Respondent for the assessment year 2005-06, the decision of the special bench of the ITAT in the case of ***Motorola Incorporation*** (supra) as well as

1 [2005] 95 ITD 269

decisions of the Uttarakhand High Court and the Bombay High Court. Reliance was placed by the ITAT on a judgement of the Uttarakhand High Court in ***Commissioner of Income-Tax v. Tide Water Marine International Inc***[2], whereby it was held that an individual assessee cannot be held liable to pay interest under Section 234B for default of the company, who had engaged or employed the assessee, to deduct tax at source while making payments to the assessee. In ***Director of Income-Tax (International Taxation) v. NGC Network Asia LLC***[3], the Bombay High Court held that on failure of the payer to deduct tax at source, no interest can be imposed on the payee-assessee under Section 234B. The ITAT observed that in all the seven years under consideration, tax was liable to be deducted at source from payments made to the Respondent-Assessee and it had not been demonstrated that the Respondent had a liability to pay advance tax, even after deduction of taxes at source. Therefore, the ITAT concluded that the Respondent was not liable for payment of interest, as the conditions of Section 234B were not attracted. The Respondent's appeals were allowed.

2 [2009] 309 ITR 85
3 [2009] 313 ITR 187

7. The question of law framed by the High Court is whether the levy of interest under Section 234B of the Act for short deduction of tax at source is mandatory and is leviable automatically. The High Court referred to a judgement of the Uttarakhand High Court in the case of ***Commissioner of Income Tax and Anr. v. Sedco Forex International Drilling Co. Ltd.***[4], judgement of the Bombay High Court in the ***NGC Network Asia LLC*** case (supra) and a judgement of the Madras High Court in ***Commissioner of Income Tax, Tamil Nadu – I, Madras v. Madras Fertilizers Ltd.***[5], to uphold the submission of the Respondent-Assessee that the tax deductible at source should be excluded from consideration while the estimate of income for the payment of advance tax is submitted. On a scrutiny of the relevant provisions of the Act, the High Court observed that interest under Section 234B of the Act cannot be imposed on an assessee for failure on the part of the payer in deducting tax at source, when Section 201 provides for consequences of failure to deduct tax at source or failure to pay the tax after making deduction.

8. Mr. Zoheb Hossain, learned counsel appearing for the Revenue, argued that the obligation of the assessee to pay

4 [2003] 264 ITR 320
5 [1984] 149 ITR 703

advance tax is independent of the obligation of the payer to deduct tax at source and such obligation of the assessee continues under Sections 190 and 191 of the Act, even in case of non-deduction at source by the payer. He submitted that Section 234B is compensatory in nature as the interest component is meant to compensate the Government for the loss accrued in terms of the tax which became due and was not paid. He contended that when there are two modes of recovery of tax, *i.e.*, one from the assessee and other from the payer who had an obligation to deduct tax, the choice of the Revenue regarding the mode of recovery cannot be restricted. By referring to the relevant provisions of the Act, Mr. Hossain argued that the payment of advance tax is the liability of the assessee and any default or shortfall in such payment from the assessed tax continues to be a liability of the assessee.

9. While construing Section 209 (1) (d) of the Act, he submitted that the High Court committed a serious error in its interpretation of the phrase "*deductible or collectible at source*". According to him, the phrase "*deductible or collectible at source*" would not take into its fold tax which was not deducted within the statutory time limit and was, in fact, paid to the assessee without deduction. To support

his argument, he relied on Explanation 1 to Section 234B (1), which states the definition of "assessed tax" to be tax on the total income reduced by *inter alia* "any tax deducted or collected at source". For the purposes of levy of interest under Section 234B, the non-payment or shortfall in payment of advance tax is measured against "assessed tax", which takes into account tax which was actually deducted or collected at source. He further submitted that Section 234B is a standalone provision and the said section being a complete code in itself, the words used in Section 209 (1) (d) of the Act cannot be imported into Section 234B. Even though the Revenue may proceed against the assessee as well as the payer for collection of the unpaid tax, along with interest, the Revenue would refund the excess amounts collected to either of the parties, most likely to the payee, once it is successful in recovering the amounts due.

10. Mr. M.S. Syali, learned Senior Counsel appearing for the Respondent-Assessee, submitted that Section 234B of the Act cannot be read in isolation but should be construed in light of Section 209 of the Act. Relying upon a judgement of this Court in ***Ian Peter Morris v. Assistant***

Commissioner of Income Tax*[6]*, he submitted that the provisions pertaining to payment of advance tax and levy of interest for default in payment of advance tax would not come into play once it was determined that tax had to be deducted at source. He sought support from the judgements of the Uttarakhand High Court in the ***Sedco Forex*** case (supra), the Bombay High Court in the ***NGC Network Asia LLC*** case (supra) and the Madras High Court in the ***Madras Fertilizers*** case (supra) to justify the findings recorded in the impugned judgement. He argued that deduction of tax at source and payment of tax are two different components of tax-recovery under the Act. According to him, the assessee cannot be penalized for default on the part of the payer. The Act provides that the payer can be declared as an assessee in default for his failure to deduct tax at source and proceedings can be initiated against the payer for recovery, apart from invoking the penal provisions provided under the Act. While it was agreed by Mr. Syali that the Act imposes an obligation on the Assessee to pay advance tax, it was emphasised that for the levy of interest under Section 234B, pre-conditions as specified in the provision had to be

6 (2020) 15 SCC 123

met. He contended that an imminent liability to pay advance tax and a subsequent default of such payment had to be established, to attract the levy of interest under Section 234B. In the present case, these pre-conditions for levy of interest under Section 234B had not been satisfied, as Section 209 (1) (d) had been complied with to compute that the Respondent-Assessee had no advance tax liability.

11. The relevant provision of the Act which falls for consideration in this case are in Chapter XVII, which pertains to collection and recovery of tax. In accordance with Section 190 of the Act, tax on income shall be payable by deduction or collection at source or by advance payment, notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year. Any person responsible for paying to a non-resident or to a foreign company shall, at the time of the credit of such income, deduct income-tax thereon at the rate in force, according to Section 195. Section 200 provides that a person deducting any sum in accordance with the provisions of Chapter XVII shall pay, within the prescribed time, the sum so deducted to the credit of the Central Government. The consequences of failure to deduct tax or pay the tax after deduction are dealt with in Section 201 of

the Act. Section 209(1) of the Act and Section 234B, which fall for consideration in this case, are reproduced below as they stood prior to the Finance Act, 2012:

> *"**209. Computation of advance tax. —***
>
> *(1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub- sections (2) and (3), be computed as follows, namely:-*
>
> *(a) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;*
>
> *(b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;*
>
> *(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;*

(d) the income- tax calculated under clause (a) or clause (b) or clause (c) shall, in each case, be reduced by the amount of income- tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable.
..."

*"**234B. Interest for defaults in payment of advance tax.—***

(1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent. of the assessed tax, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of determination of total income under sub-section (1) of section 143 and where a regular assessment is made, to the date of such regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

Explanation 1.—In this section, "assessed tax" means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of,—

(i) any tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income;
(ii) any relief of tax allowed under section 90 on account of tax paid in a country outside India;
(iii) any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section;
(iv) any deduction, from the Indian income-tax payable, allowed under section 91, on account of tax paid in a country outside India; and
(v) any tax credit allowed to be set off in accordance with the provisions of section 115JAA.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Explanation 3.—In Explanation 1 and in sub-section (3), "tax on the total income determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143."

12. An analysis of clauses (a) and (d) of Section 209 (1) would make it clear that the assessee shall estimate his current income and income-tax for payment of advance tax on the basis of rates in force in the financial year. The calculation of the advance tax is to be reduced by the amount of income-tax which would be deductible or collectible at source during the said financial year. In case

of failure to pay advance tax under Section 208 or where the advance tax paid by the assessee as per the provision of Section 210 is less than ninety per cent of the assessed tax, the assessee shall be liable to pay interest on the amount of shortfall from the assessed tax, according to Section 234B of the Act.

13. The main point argued on behalf of the Revenue relates to the interpretation of Section 209 (1) (d) of the Act, with stress on the words "*deductible or collectible at source*". The contention of the Revenue is based on the fact that an assessee, who has received any payment without the payer deducting tax on such payment, cannot be permitted to escape liability in payment of advance tax and consequent interest for such non-payment under Sections 191 and 234B of the Act. It was contended that as all the Assesses in the matters before us were fully aware of the receipt of amounts without deduction of taxes at source, they should not be allowed to then rely on Section 201 of the Act to reduce their advance tax liability. In this connection, it was submitted by the Revenue that the expression "*would be deductible or collectible*" would not include amounts, which had not been deducted at the

time of payment and, in fact, were paid to the assessee by the payer.

14. The primary issue before us pertains to the interpretation of Section 209 (1) (d). A proviso was inserted to Section 209 (1) (d) by the Finance Act, 2012, which reads as under:

> *"Provided that for computing liability for advance tax, income-tax calculated under clause (a) or clause (b) or clause (c) shall not, in each case, be reduced by the aforesaid amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income, if the person responsible for deducting tax has paid or credited such income without deduction of tax or it has been received or debited by the person responsible for collecting tax without collection of such tax."*

15. Notes to the memorandum explaining the provisions in the Finance Bill, 2012 are as under:

> *"Liability to pay advance tax in case of non-deduction of tax*
>
> *Under the existing provisions of section 209 of the Income-tax Act, the amount of advance tax payable is computed by reducing the amount of income-tax which would be deductible or collectible during the financial year from income-tax on estimated income. Therefore, in cases where the assessee receives or pays any amount (on which the tax was deductible or collectible) without deduction or collection of tax, it has been held by courts that he is not liable to pay advance tax to the extent the tax is deductible or collectible from such amount.*

> *In order to make an assessee liable for payment of advance tax in respect of income which has been received or paid without deduction or collection of tax, it is proposed to amend the aforesaid section to provide that where a person has received any income without deduction or collection of tax, he shall be liable to pay advance tax in respect of such income.*
>
> *This amendment will take effect from the 1st April, 2012 and would, accordingly, apply in relation to advance tax payable for the financial year 2012-13 and subsequent financial years."*

16. The proviso is in the nature of an exception to Section 209 (1) (d), as an assessee, who has received any income without deduction or collection of tax, is made liable to pay advance tax in respect of such income. It is relevant to note that the amendment was brought into effect from 1st April, 2012 and was made applicable to cases of advance tax payable in the financial year 2012-13 and thereafter. All the appeals before us pertain to the period prior to assessment year 2013-14.

17. In ***Cape Brandy Syndicate v. I.R.C.***[7], Lord Sterndale M.R. had said:

> *"I think it is clearly established in* ***Attorney General v. Clarkson***[8] *that subsequent legislation may be looked at in order to see the proper construction to be put upon an earlier Act where*

7 [1921] 2 K.B. 403
8 [1900] 1 Q.B. 156, 163, 164

> *that earlier Act is ambiguous. I quite agree that subsequent legislation if it proceeded on an erroneous construction of previous legislation cannot alter that previous legislation; but if there be any ambiguity in the earlier legislation, then the subsequent legislation may fix the proper interpretation which is to be put upon the earlier Act".*

18. This Court in ***State of Bihar v. S.K. Roy***[9] had upheld the well-recognised principle that in dealing with matters of construction, subsequent legislation may be looked at in order to see what is the proper interpretation to be put upon the earlier Act, where the earlier Act is obscure or ambiguous or readily capable of more than one interpretation. While construing sub-section 2(b) of Section 80-HHC of the Act, as it stood prior to its amendment and thereafter, this Court in ***Gem Granites v. Commissioner of Income Tax, T.N.***[10] held as follows:

> "***13.*** *The introduction of the phrase "other than" in clause (b) of sub-section (2) of Section 80-HHC in 1991, in our opinion, indicates the carving out of a specific class from the generic class of "minerals and ores". This means that were it not for the exception, the specified processed minerals and ores would have been covered by the words "minerals and ores". It also indicates that only the minerals and ores subjected to the process of cutting and polishing would be entitled to the benefit of Section 80-HHC meaning thereby that all*

9 (1966) Supp. SCR 259
10 (2005) 1 SCC 289

> *other species of processed minerals and ores would continue to be covered by the general exclusion applicable to the generic class. The 1991 amendment to Section 80-HHC thus conclusively demonstrates that the words "minerals and ores" must be construed widely and in an unrestricted manner. As has been held in Municipal Committee v. Manilal [(1967) 2 SCR 100 : AIR 1967 SC 1201] and Pappu Sweets and Biscuits v. Commr. of Trade Tax [(1998) 7 SCC 228] subsequent legislation may be looked into to fix the proper interpretation to be put on the statutory provisions as they stood earlier. The benefit of Section 80-HHC has been extended by the amendment to a specific kind of mineral and was introduced for the first time in 1991. If we were to hold that the word "minerals" in sub-section (2)(b) never included processed minerals then the 1991 amendment excepting processed minerals from the exclusionary effect of the sub-section would be rendered meaningless and an exercise in futility."*

19. The dispute relating to the interpretation of the words "*would be deductible or collectible*" in Section 209 (1) (d) of the Act can be resolved by referring to the proviso to Section 209 (1) (d), which was inserted by the Finance Act, 2012. The proviso makes it clear that the assessee cannot reduce the amounts of income-tax paid to it by the payer without deduction, while computing liability for advance tax. The memorandum explaining the provisions of the Finance Bill, 2012 provides necessary context that the amendment was warranted due to the judgements of

courts, interpreting Section 209 (1) (d) of the Act to permit computation of advance tax by the assessee by reducing the amount of income-tax which is deductible or collectible during the financial year. If the construction of the words "*would be deductible or collectible*" as placed by the Revenue is accepted, the amendment made to Section 209 (1) (d) by insertion of the proviso would be meaningless and an exercise in futility. To give the intended effect to the proviso, Section 209 (1) (d) of the Act has to be understood to entitle the assessee, for all assessments prior to the financial year 2012-13, to reduce the amount of income-tax which would be deductible or collectible, in computation of its advance tax liability, notwithstanding the fact that the assessee has received the full amount without deduction.

20. We do not find force in the contention of the Revenue that Section 234B should be read in isolation without reference to the other provisions of Chapter XVII. The liability for payment of interest as provided in Section 234B is for default in payment of advance tax. While the definition of "assessed tax" under Section 234B pertains to tax deducted or collected at source, the pre-conditions of Section 234B, *viz.* liability to pay advance tax and non-

payment or short payment of such tax, have to be satisfied, after which interest can be levied taking into account the assessed tax. Therefore, Section 209 of the Act which relates to the computation of advance tax payable by the assessee cannot be ignored while construing the contents of Section 234B. As we have already held that prior to the financial year 2012-13, the amount of income-tax which is deductible or collectible at source can be reduced by the assessee while calculating advance tax, the Respondent cannot be held to have defaulted in payment of its advance tax liability. We uphold the view adopted in the impugned judgement of the Delhi High Court in Civil Appeal No. 1262 of 2016 as well as by the Madras High Court in the ***Madras Fertilizers*** case (supra), that the Revenue is not remediless and there are provisions in the Act enabling the Revenue to proceed against the payer who has defaulted in deducting tax at source. There is no doubt that the position has changed since the financial year 2012-13, in view of the proviso to Section 209 (1) (d), pursuant to which if the assessee receives any amount, including the tax deductible at source on such amount, the assessee

cannot reduce such tax while computing its advance tax liability.

21. As we have dealt with the submissions relating to Section 209 and Section 234B of the Act, we do not deem it necessary to deal with other contentions that have been raised on behalf of the Revenue. We have not dealt with the facts of each case before us, in view of our interpretation of the provisions of the Act germane to the question of law herein.

22. Accordingly, the Appeals filed by the Revenue are dismissed.

Civil Appeal Nos. 1338-1341 of 2016, Civil Appeal No.1323 of 2016, Civil Appeal No. 1324 of 2016, Civil Appeal No. 1325 of 2016, Civil Appeal Nos.1326-1331 of 2016, Civil Appeal No.1322 of 2016, Civil Appeal No.1342 of 2016, Civil Appeal Nos.1295-1299 of 2016, Civil Appeal Nos. 1303-1307 of 2016, Civil Appeal Nos.1311-1312 of 2016, Civil Appeal No. 1314 of 2016 and Civil Appeal No.1310 of 2016

23. Assessment orders were passed for the assessment years 2004-05 to 2007-08 in respect of Alcatel Lucent USA, Inc. and for the assessment years 2004-05 to 2008-09 in respect of Alcatel Lucent World Services Inc. The assessees were *inter alia* directed to pay interest under Sections

234A, 234B and 234C of the Act. Dissatisfied with the assessment orders, the assessees filed appeals which were dismissed by the CIT. The ITAT held that the assessees were not liable to pay interest under Section 234B of the Act, by placing reliance on a judgement of the Delhi High Court in ***Director of Income-tax v. Mitsubishi Corporation***[11]***.*** Appeals filed by the Revenue under Section 260A of the Act challenging the order of the ITAT passed on 21.10.2011 was allowed by a Division Bench of the Delhi High Court by a judgement dated 07.11.2013, on the ground that the assessees after initially denying the tax liability cannot later be permitted to shift the responsibility to the Indian payers for not deducting tax at source. It was further observed by the High Court that it was difficult to imagine that the payers would have failed to deduct tax at source except on being prompted by the assessees. The High Court, accordingly, held that the assessees were liable to pay interest in terms of Section 234B of the Act.

24. The subject-matter of the aforementioned Appeals is the judgement of the Division Bench of the High Court dated 07.11.2013 as well as a subsequent decision of the

11 [2010] 330 ITR 578

Delhi High Court dated 08.09.2014, which ruled on the issue of interest under Section 234B in favour of the Revenue, relying on the Division Bench judgement dated 07.11.2013. The point that arises for consideration in these Appeals is covered by our judgement in Civil Appeal No.1262 of 2016.

25. Accordingly, these Civil Appeals are allowed.

.....J.
[L. NAGESWARA RAO]

.....J.
[ANIRUDDHA BOSE]

New Delhi,
September 17, 2021.