

**IN THE HIGH COURT FOR THE STATE OF TELANGANA, HYDERABAD**  
\* \* \* \*

**WRIT PETITION NOS. 16888 & 16904 OF 2021**

Between:

**W.P.No.16888 OF 2021**

Mr. Talluri Vijay Rahul

...Petitioner

Vs.

The Central Board of Direct Taxes

....Respondent

**W.P.No.16904 OF 2021**

Smt. Talluri Venkata Narayanamma

...Petitioner

Vs.

The Central Board of Direct Taxes  
And Others.

....Respondents

**JUDGMENT PRONOUNCED ON: 25.04.2022**

**HON'BLE SRI JUSTICE UJJAL BHUYAN  
AND  
THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**

- |    |                                                                               |              |
|----|-------------------------------------------------------------------------------|--------------|
| 1. | Whether Reporters of Local newspapers<br>may be allowed to see the Judgments? | : Yes        |
| 2. | Whether the copies of judgment may be<br>Marked to Law Reporters/Journals?    | : Yes        |
| 3. | Whether His Lordship wishes to<br>see the fair copy of the Judgment?          | : <b>Yes</b> |

---

**UJJAL BHUYAN, J**

**\* THE HON'BLE SRI JUSTICE UJJAL BHUYAN**

**+WRIT PETITION Nos.16888 & 16904 OF 2021**

% 25.04.2022

# Between:

**W.P.No.16888 OF 2021**

Mr.Talluri Vijay Rahul

...Petitioner

Vs.

The Central Board of Direct Taxes

....Respondent

**W.P.No.16904 OF 2021**

Smt. Talluri Venkata Narayanamma

...Petitioner

Vs.

The Central Board of Direct Taxes  
And Others.

....Respondents

! Counsel for Petitioner

Sri A.V.A. Siva Kartikeya

^ Counsel for the respondents:

Sri K.Raji Reddy

<GIST:

> HEAD NOTE:

? Cases referred

**THE HON'BLE SRI JUSTICE UJJAL BHUYAN**  
**And**  
**THE HON'BLE MRS.JUSTICE SUREPALLI NANDA**  
**WRIT PETITION NOs.16888 & 16904 OF 2021**

**COMMON JUDGMENT & ORDER**

(Per Hon'ble Sri Ujjal Bhuyan)

This common judgement and order will dispose of both the Writ Petition Nos.16888 and 16904 of 2021.

2 We have heard Mr.A.V.A.Siva Kartikeya, learned counsel for the petitioners and Mr. K.Raji Reddy, learned standing counsel, Income Tax Department, for the respondents.

3 Issue raised in both the writ petitions being the same, the two writ petitions were heard together on 13.04.2022 and are being disposed of by this common judgment and order.

4 The issue in both the writ petitions is the decision of the respondents in not accepting the declarations of the petitioners under the Direct Tax Vivad se Vishwas Scheme introduced by the Direct Tax Vivad se Vishwas Act, 2020 on the ground that the declarations were filed after the period prescribed under the scheme.

5 Facts pleaded by the petitioners in the two writ petitions may be briefly narrated at the outset.

6 In W.P.No.16888 of 2021 Mr.Talluri Vijay Rahul is the petitioner. Petitioner is an assessee under the Income Tax Act, 1961 (briefly, 'the Act' hereinafter) having the status of an 'individual'. For the assessment years 2010-2011, 2011-2012, 2013-2014 and 2014-2015 assessment orders were passed by the assessing officer i.e. respondent No.4 making certain additions to the income of the petitioner under the heading 'income from other sources'. However, assessing officer subsequently reopened the assessment by issuing notice under Section 148 of the Act whereafter fresh assessment order was passed whereunder agricultural income declared by the petitioner was added to the income of the petitioner as the 'income from other sources'.

7 Petitioner preferred appeals before the Commissioner of Income Tax (Appeals). However, the Commissioner of Income Tax (Appeals) did not accept the contention of the petitioner. Orders of the assessing officer were confirmed by dismissing the appeals. Thereafter, petitioner filed second appeals before the Income Tax Appellate Tribunal, Hyderabad SMC Bench, Hyderabad (Tribunal) questioning disallowance of agricultural income and addition thereof as 'income from other sources'. By

the order dated 22.04.2021, all the appeals filed by the petitioner were dismissed by the Tribunal.

8 In the meanwhile, Central Government enacted the Direct Tax Vivad se Vishwas Act, 2020 providing for settlement of pending income tax litigation. Objective of the aforesaid Direct Tax Vivad se Vishwas Act, 2020 (briefly, 'the Vivad se Vishwas Act', hereinafter) was to reduce pendency of direct tax litigation and at the same time to generate timely revenue for the Government. Thereafter, Central Government made the Direct Tax Vivad se Vishwas Rules, 2020 (briefly, 'Vivad se Vivad Rules', hereinafter). The Vivad se Vishwas Act and the Rules provide for substantial relief to a declarant subject to eligibility.

9 Petitioner filed declaration under the Vivad se Vishwas Act in the third week of June, 2021. However, the declaration was not accepted by the system and the web portal showed the message 'due date for filing Direct Tax Vivad se Vishwas Form I and II is over'.

10 According to the petitioner, initially the last date for filing declaration under the Vivad se Vishwas Act was 31.12.2020, which was extended from time to time till 31.03.2021. However, Central Board of Direct Taxes (CBDT) by way of a press release

dated 25.06.2021 had extended last date for payment of dues under the Vivad se Vishwas Act till 31.08.2021 (without additional amount) and till 31.10.2021 (with additional amount).

11 Aggrieved, the present writ petition has been filed seeking the relief as indicated above. Further, petitioner seeks a direction to the respondents to accept his declaration under the Vivad se Vishwas Act filed in the third week of June, 2021 and grant the consequential relief(s).

12 Basic contention of the petitioner is that in view of COVID 19 Pandemic and the resultant lockdown, Supreme Court, vide its *suo motu* order dated 23.03.2020 had extended the period of limitation from 15.03.2020 until further orders. By subsequent order dated 08.03.2021, the limitation was extended to 14.03.2021. Thereafter, by its order dated 27.04.2021, Supreme Court had restored its order dated 23.03.2020, extending limitation until further orders. Vivad se Vishwas Act being a special enactment, limitation for filing of declaration stood extended until further orders in view of the order of the Supreme Court dated 27.04.2021.

13 In W.P.No.16904 of 2021, Ms.Talluri Venkata Narayanamma is the petitioner. She is the mother of Mr. Talluri

Vijay Rahul, petitioner in W.P.No.16888 of 2021. She is also an assessee under the Act within the jurisdiction of respondent No.4 having the status of an 'individual'. For the assessment years 2013-2014, 2014-2015 and 2015-2016 regular assessment orders were passed by respondent No.4 making certain additions to the income of the petitioner under the heading 'income from other sources'. Subsequently, the assessment orders were reopened in reassessment proceedings under Section 147 of the Act. Agricultural income showed by the petitioner was added to her income as 'income from other sources'.

14 Appeals filed by the petitioner before the Commissioner of Income Tax (Appeals) were not successful as the appeals were dismissed by the first appellate authority confirming the orders of the assessing officer.

15 Thereafter, petitioner preferred further appeals before the Tribunal. By the common order dated 22.04.2021, Tribunal dismissed the appeals of the petitioner and that of her son, petitioner in W.P.No.16888 of 2021.

16 When the Vivad se Vishwas Act was enacted, providing for certain benefits to eligible declarants, petitioner filed her

declaration in the third week of June, 2021. However, the system did not accept such declarations and in the web portal it was mentioned that 'due date for filing Direct Tax Vivad se Vishwas Form I and II is over'.

17 Aggrieved, present writ petition has been filed seeking the relief as indicated above. Additionally, petitioner seeks a direction to the respondents to permit the petitioner to file the Direct Tax Vivad se Vishwas declaration in terms of the Vivad se Vishwas Act and grant the relief(s).

18 Grounds raised in support of the writ petition are identical to the ones raised in W.P.No.16888 of 2021.

19 In both the writ petitions respondent Nos.1 to 4 have filed identical counter affidavits. Therefore, the counter affidavit filed in W.P.No.16888 of 2021 may be adverted to.

20 Answering respondents have made comments on the merit of the case which may not be necessary to be gone into while adjudicating the issue at hand. Insofar Vivad se Vishwas Act is concerned, it is stated that it was enacted on 17.03.2020. Under the scheme introduced by the said Act a declarant could settle a litigation pending before any forum as on 31.01.2020 by paying

the tax on the disputed income and in the process get full waiver of interest and penalty. The form must be filed online. The time to avail benefit under the Vivad se Vishwas Act was available till 31.03.2021. Petitioners did not file the requisite forms within 31.03.2021 and waited for the appeals to be decided. Ultimately, the appeals were dismissed by the Tribunal on 22.04.2021. Though the time for payment of the dues (amount) under the Vivad se Vishwas Act was extended to 30.09.2021, the deadline for filing declaration ended on 31.03.2021. No notification was issued by the CBDT for extension of the time for filing declaration under the Vivad se Vishwas Act. That apart, the main criteria for availing the benefit of the Vivad se Vishwas Act is that an appeal should have been pending before an appellate forum as on the specified date i.e. 31.01.2020 and that the declaration in the prescribed forms should be filed on or before 31.03.2021. In the instant case appeals of the petitioners were disposed of by the Tribunal on 22.04.2021. It was only after disposal of the appeals by the Tribunal that the petitioners tried to file the declarations. But those were not accepted as the last date for filing declarations was over. Insofar extension of limitation granted by the Supreme Court *suo motu* is concerned, the same is applicable only to judicial and quasi judicial

proceedings and not to any enactment such as the Vivad se Vishwas Act. This has been clarified by the CBDT, vide circular dated 20.07.2021. Therefore, it is contended that grievance expressed by the petitioners is totally misplaced. The writ petitions being devoid of merit are liable to be dismissed.

21 In both the writ petitions petitioners have filed reply affidavits to the counter affidavits filed by respondent Nos.1 to 4. While denying the contentions raised by the answering respondents in the counter affidavits, petitioners have reiterated the contentions made in the two writ petitions.

22 Detailed submissions have been made by learned counsel for the parties which are more or less on the pleaded lines. Therefore, a detailed reference to the same is considered not necessary. However, the submissions made have been considered.

23 At the outset, we may advert to the provisions of the Vivad se Vishwas Act. It is an Act to provide for resolution of disputed tax and for matters connected therewith or incidental thereto. The statement of objects and reasons necessitating the enactment says that over the years pendency of appeals filed by the tax payers as well as by the Government has increased due

to the fact that the number of appeals that are filed is much higher than the number of appeals that are disposed of. As a result, a huge amount of disputed tax arrears is locked up in these appeals. It was stated that as on 30.11.2019 the amount of disputed direct tax arrears was Rs.9.32 lakh crores, whereas actual direct tax collection in the financial year 2018-19 was Rs.11.37 lakh crores. Therefore, it was noticed that the disputed tax arrears constituted nearly one year of direct tax collection. It was also mentioned that tax disputes consume copious amount of time, energy and resources both on the part of the Government as well as tax payers. Those also deprive the Government from timely collection of revenue. Therefore, there was an urgent need to provide for resolution of the pending tax disputes which will not only benefit the Government by generating timely revenue but would also benefit the tax payers who would be able to deploy the time, energy and resources saved by opting for such dispute resolution towards their business activities.

24 We may now advert to some of the provisions of the Vivad se Vishwas Act which are relevant for the present purpose.

25 'Appellant' has been defined in Section 2 (1) (a). As per Clause (i) to Section 2 (1) (a), 'appellant' has been defined to mean a person in whose case an appeal or a writ petition or special leave petition has been filed either by him or by the income tax authority or by both before an appellate forum and such appeal or petition is pending as on the specified date. As per Section 2 (1) (n) 'specified date' means, the 31<sup>st</sup> day of January, 2020. Section 2 (1) (c) and (d) define 'declarant' and 'declaration', to mean a person who files the declaration under Section 4. 'Disputed tax' is defined and its computation is provided in Section 2 (1) (j). Section 2 (1) (l) says that 'last date' means, such date as may be notified by the Central Government in the official gazette.

26 While filing of declaration and particulars to be furnished are provided in Section 4, amount payable by a declarant is provided in Section 3. As per Section 3, where a declarant files a declaration to the designated authority in terms of Section 4 in respect of tax arrear on or before the last date, then the amount payable would be determined in the manner indicated in Section 3. Payment of the amount determined by the designated authority is provided for in Section 5. Section 6 provides for

immunity from prosecution and penalty. It says that the designated authority shall not institute any proceeding in respect of an offence or impose or levy any penalty or charge any interest under the Act in respect of tax arrears.

27 It may be mentioned that the Vivad se Vishwas Act was published in the Gazette of India on 17.03.2020. Central Government issued notification dated 27.10.2020 which was published in the Gazette of India. It was notified that 31<sup>st</sup> day of December, 2020 shall be date on or before which a declaration shall be filed by the declarant to the designated authority in accordance with the provisions of Section 4 of the Vivad se Vishwas Act. The above notification was issued in exercise of powers conferred by Section 3. Subsequently, Central Government issued another notification dated 31.12.2020 extending the last date of filing from 31.12.2020 to 31.01.2021. This was followed by further notification dated 31.01.2021 whereby the last date was extended to 28.02.2021. Finally, vide the notification dated 26.02.2021, the last date was extended to 31.03.2021.

28 There is no dispute at the bar that the last date for filing declaration under Section 4 continued to remain 31.03.2021

and that there was no further extension. However, the specified date of 31.01.2020 remained unchanged.

29 As already noticed above, the Vivad se Vishwas Act was notified on 17.03.2020 when the pandemic was at the initial stage. Initially the last date for filing of declaration was fixed at 31.12.2020, which was extended firstly to 31.01.2021, thereafter to 28.02.2021 and finally to 31.03.2021.

30 Admittedly, according to the averments of the petitioners themselves, they had filed declarations under Section 4 of the Vivad se Vishwas Act in the third week of June, 2021. Even the exact date of filing has not been mentioned. Since the last date of filing was 31.03.2021, the system did not accept the declarations filed by the petitioners and it was mentioned in the web portal that 'due date for filing declaration was over'. Though the appeals of the petitioners before the Tribunal were pending as on the specified date i.e. 31.01.2020, petitioners did not file the declarations before the last date which was extended till 31.03.2021.

31 The idea behind making of a declaration during pendency of the appeal is to ensure that the declarant makes an honest declaration and not wait for the result of the appeal. The

intention of the tax payer to settle the direct tax dispute must be sincere and *bona fide*.

32 In the instant case, petitioners waited till disposal of their appeals by the Tribunal on 22.04.2021. Had the appeals been allowed, petitioners would not have felt the need or necessity to file the declarations. But after the appeals were dismissed, petitioners filed their declarations. Even then also there was inordinate delay of about two months. Therefore, such filing of declarations cannot be said to be an honest endeavour by the petitioners. Attempt by the petitioners does not appear to be *bona fide*.

33 On going through the provisions of the Vivad se Vishwas Act and the statement of objects and reasons thereto, it is evident that the said Act provided for an amnesty scheme to the eligible tax payers, for settlement of direct tax disputes, which was a onetime settlement offer. The object of the amnesty scheme was to ensure resolution of long pending direct tax disputes and in the process generating substantial revenue for the Government and also relieving the tax payers from the burden of such tax disputes, so that they can focus their attention on their business activity.

34 When the Corona pandemic broke out in the country in the early part of the year 2020, which compelled the Government to declare lockdown, Supreme Court registered *suo motu* W.P.No.3 of 2020 taking cognizance of the need for extension of limitation. In the said proceedings Supreme Court issued certain directions vide the order dated 23.03.2020.

Relevant portion of the order dated 23.03.2020 reads as under:

*“This Court has taken suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions / applications/suits/appeals/ all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and / or State).*

*To obviate such difficulties and to ensure that lawyers / litigants do not have to come physically to file such proceedings in respective Courts / Tribunals across the country including this Court it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15<sup>th</sup> March 2020 till further order/s to be passed by this Court in present proceedings.*

*We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts / Tribunals and authorities.*

*This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts / Tribunals within their respective jurisdiction.”*

35 From the above, it is discernible that Supreme Court took note of the difficulties faced by the litigants in filing petitions / applications / suits / appeals / all other proceedings within the period of limitation prescribed under the general law of limitation or under special laws, both Central and State.

Therefore, period of limitation in all such proceedings was extended with effect from 15.03.2020 until further orders, making the same binding on all Courts, Tribunal and authorities.

36 By a subsequent order dated 08.03.2021, Supreme Court disposed of the *suo-motu* W.P.No.3 of 2020 observing that the order dated 23.03.2020 had served its purpose and consequently directed that the period from 15.03.2020 till 14.03.2021 should be excluded in computing the period of limitation. Balance period of limitation remaining as on 15.03.2021 would become available with effect from 15.03.2021.

Relevant portion of the order dated 08.03.2021 reads as under:

*“2. We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -*

*1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.*

*2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.*

*3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for*

*instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”*

37 Again on 27.04.2021, Supreme Court took note of the 2<sup>nd</sup> wave of Covid-19 pandemic. Therefore, on a miscellaneous application filed by the Supreme Court Advocates-on-Record Association, the initial order dated 23.03.2020 was restored and in continuation of the order dated 08.03.2021, directed that the period of limitation as prescribed under any general or special laws in respect of all judicial and quasi judicial proceedings whether condonable or not would stand extended until further orders. Relevant portion of the order dated 27.04.2021 is extracted hereunder:

*“We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the 5 order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.*

*It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

*We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities.”*

38 The above miscellaneous application was disposed of vide the order dated 23.09.2021 by extending the limitation till 02.10.2021.

39 Finally, on a miscellaneous application again filed by the Supreme Court Advocates-on-Record Association, Supreme Court passed the following order on 10.01.2022, relevant portion of which reads as under:

*“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A.No.21 of 2022 with the following directions:*

- I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2021 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.*
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period (s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”*

40 Thus, Supreme Court extended the period of limitation till 28.02.2022, clarifying that the balance of the limitation period would become available from 01.03.2022.

41 From a careful perusal of the aforesaid orders passed by the Supreme Court, it is evident that by passing those orders Supreme Court, in exercise of its powers under Article 142 read with Article 141 of the Constitution of India, had extended the period of limitation so as to minimise the difficulties faced by the litigants and lawyers. The aforesaid orders, in our view, are applicable to regular proceedings; proceedings which are judicial or quasi-judicial, such as, income tax proceedings including filing of income tax return or filing of refund application, filing of appeal etc., It cannot be stretched and made applicable to a one time amnesty scheme like the one introduced vide the Vivad se Vishwas Act, which incidentally was introduced when the pandemic had broken out.

42 Initially, the last date for filing declaration under the Vivad se Vishwas Act was 31.01.2020 which was finally extended to 31.03.2021. Considering the nature and objective of the one time amnesty scheme introduced vide the Vivad se Vishwas Act, in our considered view, extension of limitation granted by the

Supreme Court cannot be applied to belated filing of declaration. As a matter of fact, filing of declaration in terms of the Vivad se Vishwas Act, is neither a judicial act nor a quasi-judicial act. It was intended as a one time measure for an eligible declarant to file the declaration within the prescribed period and avail the benefits thereunder. Petitioners having filed the declarations in the third week of June, 2021 much after the last date of filing i.e. 31.03.2021 were not eligible to claim any benefit under the Vivad se Vishwas Act. Therefore, their declarations were rightly not accepted.

43 Extension of the last date for payment of dues as determined by the designated authority in terms of the Vivad se Vishwas Act till 31.08.2021 or till 31.10.2021 by the CBDT cannot be pressed into service by the petitioners to seek extension of the last date for filing declaration. Firstly, in the case of the former, CBDT issued press release on 25.06.2021. No such press release or notification was issued by the CBDT in the case of the latter. Secondly and fundamentally, the two are different. In the case of the former, the declarations were filed within time i.e., before the last date of 31.03.2021. Thereafter the amount to be paid by the declarants were adjudicated by the

designated authority whereafter the payments were to be made; it is for the payment of the determined amount that the time line was extended as above. It cannot be equated with filing of declaration beyond the last date.

44 Thus, in the facts and circumstances of the case, the two writ petitions are wholly misconceived. There is no merit in the writ petitions and those are accordingly dismissed. However, looking into the facts and circumstances of the case, there shall be no order as to costs.

---

**UJJAL BHUYAN, J**

---

**SUREPALLI NANDA, J**

Date: 25.04.2022

***L.C.Copy be marked  
B/o Kvsn***