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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12<sup>TH</sup> DAY OF JUNE, 2015

BEFORE

**THE HON'BLE MR.JUSTICE ARAVIND KUMAR**WRIT PETITION NO. 26589/2014C/W

W.P.NOS.3476-3479/2014 & 5661-5665/2014, 3725/2014  
& 9922-9923/2014, 6918-6938/2014, 11889-11890/2014,  
12097-12121/2014, 13065-13074/2014, 14294-  
14295/2014 & 30565-30567/2014, 14296-14297/2014 &  
29363-29365/2014, 14669/2014 & 15513-15514/2014,  
16939-16950/2014, 18788-18791/2014 & 18792/2014,  
19398-19399/2014, 19407-19421/2014, 19762-  
19775/2014, 23541-23549/2014, 25841-25848/2014,  
26586-26587/2014, 26588/2014, 10243/2014 & 11891-  
11894/2014, 15476/2014 & 16111-16113/2014,  
24023/2014, 46360/2014, 41614-41617/2014,  
41618/2014, 38130-38134/2014, 53286-53289/2014 &  
53290-53291/2014, 38127-38129/2014 AND  
37689/2014 & 5641-5658/2015 (T-IT)

**W.P.NO.26589/2014:****BETWEEN:**

M/S. LAKSHMINIRMAN BANGALORE PVT.LTD  
15, SRIKANTAN LAYOUT,  
HIGH GROUNDS,

BENGALURU- 560001  
REPRESENTED BY ITS  
MANAGING DIRECTOR  
SRI G R SURESH  
AGED ABOUT 58 YEARS  
SON OF SRI RANGARAJAN ... PETITIONER

(BY SRI. S PARTHASARATHI, SRI. P. DINESH & SRI. JINITA  
CHATTERJEE ADVOCATES)

**AND:**

1. THE DEPUTY COMMISSIONER  
OF INCOME-TAX  
CENTRALIZED PROCESSING  
CELL-TDS, AAYKAR BHAWAN  
SECTOR-3, VAISHALI  
GHAZIABAD,  
UP- 201 010.
2. UNION OF INDIA  
THROUGH THE SECRETARY  
DEPARTMENT OF REVENUE  
MINISTRY OF FINANCE  
NEW DELHI -110 001. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 226 & 227 OF  
CONSTITUTION OF INDIA PRAYING TO QUASH AND TO  
HOLD THE PROVISIONS OF SECTION 234E OF THE ACT AS  
ULTRA VIRES OF THE CONSTITUTION OF INDIA.

**W.P.NO.s.3476-3479/2014 & 5661-5665/2014:**

**BETWEEN:**

1. DR. SRIPADA VENKTA JOGA RAO

AGED ABOUT 54 YEARS,  
229-234, SRIPADA UNIVERSITY POST  
ULLAL UPANAGAR  
BANGALORE -560 056.

2. M/S. OLYMPIC TROPHIES & SPORTS  
A PARTNERSHIP FIRM  
REP. BY ITS PARTNER  
SRI H.V. UMESH BABU  
HAVING ITS BUSINESS AT  
NO.85/A, K.H. ROAD,  
BANGALORE -560027.
3. KINDERPLAY EQUIPMENTS  
A PARTNERSHIP FIRM  
REP. BY ITS PARTNER  
SRI H.V. UMESH BABU  
HAVING ITS BUSINESS AT 6(4),  
TAVAREKERE MAIN ROAD  
DHARMARAM COLLEGE POST,  
BANGALORE -560 029.
4. M/S. THOGARIHUNKAL  
ESTATES PRIVATE LIMITED  
A COMPANY INCORPORATED UNDER  
INDIAN COMPANIES ACT  
REP. BY ITS DIRECTOR  
SRI NANDAN GOWDA  
HAVING ITS OFFICE NO.95  
(OLD NO.45), 1ST FLOOR  
3RD MAIN, VYALIKAVAL  
BANGALORE -560003.

... PETITIONERS

(BY SRI. RAMA MURTHY R, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS FINANCE SECRETARY

MINISTRY OF FINANCE  
SOUTH BLOCK  
NEW DELHI- 110001.

2. DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS  
AAYKAR BHAVAN, SECTOR-3,  
VAISHALI, GHAZIABAD,  
U.P- 201010.
3. THE COMMISSIONER OF  
INCOME TAX (TDS)  
HMT BHAVAN, BELLARY ROAD  
GANGANAGAR  
BANGALORE -560032. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER  
ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA  
PRAYING TO DECLARE & STRIKE DOWN PROVISIONS OF  
SEC.234E OF THE INCOME TAX ACT, 1961 AS  
UNCONSTITUTIONAL AND VIOLATIVE OF ARTICLE 14 OF  
THE CONSTITUTION OF INDIA.

**W.P.NOs. 3725/2014 & 9922-9923/2014:**

**BETWEEN:**

M/S. K K BROTHERS  
NO.25/1, CHANDRA SOLITAIR,  
PAPANNA LANE,  
J.M.ROAD CROSS,  
BENGALURU-560002  
(REPRESENTED BY TIS  
PRORIETOR  
SRI.GOUTHAMCHAND K MEHTA

AGED ABOUT 42 YEARS,  
S/O SRI.KANTILAL H MEHTA).

... PETITIONER

(BY SRI CHYTHANYA K K, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY  
THE SECRETARY OF  
MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE,  
ROOM NO.128-A, NORTH BLOCK,  
NEW DELHI-110001.
2. THE DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAVAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, U.P.-201010.
3. THE COMMISSIONER OF  
INCOME TAX (TDS)  
ROOM NO.59, H.M.T. BHAVAN,  
4TH FLOOR, BELLARY ROAD,  
GANGANAGAR,  
BENGALURU-560032.

... RESPONDENTS

(BY SRI.K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF CONSTITUTION OF INDIA PRAYING TO DECLARE THE NEWLY INSERTED SEC.234E OF THE IT ACT, BY THE FINANCE ACT, 2012 AS UNCONSTITUTIONAL BEING ARBITRARY, DISCRIMINATORY & UNREASONABLE. THE RELEVANT EXTRACT OF SECTION 234E IS ENCLOSED AS ANNEXURE-A.

**W.P.NOs.6918-6938/2014:****BETWEEN:**

1. ADITHYA BIZORP SOLUTIONS  
INDIA PVT., LTD.,  
NO.31/1, 2ND FLOOR,  
8TH CROSS, 20TH MAIN,  
1-N BLOCK, RAJAJINAGAR,  
BANGALORE -560010  
BY ITS MANAGING DIRECTOR  
SRI NAGARAJU K.M.  
S/O MUDDAVEERAPPA  
AGED: 28 YEARS
2. DIVINE AUTO CNC  
B-82, 2ND CROSS, 1ST STAGE  
PEENYA INDUSTRIAL AREA,  
BANGALORE -560058  
BY ITS PARTNER  
SRI TOMY PHILIP  
S/O PHILIP THOMAS  
AGED: 44 YEARS.
3. MICRO TECH CNC  
338, 9TH CROSS, 4TH PHASE  
PEENYA INDUSTRIAL AREA,  
BANGALORE -560058  
BY ITS PARTNER  
SRI YOGESHWARA  
S/O SRIDHAR S HEBBAR  
AGED: 34 YEARS
4. VRL AUTOMATION ENGINEERING  
AND PROJECT PVT. LTD.  
A-170, 4TH CROSS, 1ST STAGE  
PEENYA INDUSTRIAL AREA,  
BANGALORE -560058  
BY ITS EXECUTIVE DIRECTOR

SRI T. VENKATARAMANA  
S/O SRI T.K. VISWESWARA RAO,  
AGED: 45 YEARS.

5. VIPRA MACHINE TOOLS  
34, SY.NO.116, 3RD B CROSS,  
HEGGANAHALLI  
VISWANEEDAMPOST,  
BANGALORE -560091  
BY ITS PARTNER  
SRI SRINIVASAN N.S.  
S/O SUBRAMANYAM K.N.  
AGED: 45 YEARS.
6. MOOKAMBIKA CNC  
31, 1ST AND 2ND FLOOR  
CHENNAPPA INDUSTRIAL ESTATE,  
ANDRAHALLI MAIN ROAD  
HEGGANAHALLI POST,  
BANGALORE- 560091  
BY ITS PARTNER  
SRI N.S. THIRUVENGADAM  
S/O SUBRAMANYAM K.N.  
AGED: 44 YEARS.
7. STAINLESS VESSELS FABRICATORS  
117/D, 9TH 'A' CROSS  
GANAPATHINAGAR  
PEENYA 3RD PHASE,  
BANGALORE 560058  
BY ITS PARTNER  
SRI JITHENDRA BABU K  
S/O SRI KANNAPPA SHETTY  
AGED: 41 YEARS.
8. BHAVANA FLUID POWER  
56(A), 12TH CROSS, 4TH PHASE  
PEENYA INDUSTRIAL AREA,

BANGALORE -560058  
BY ITS PROPRIETOR  
SRI SHIVA KUMAR K.V.  
S/O SRI VEERANNA K.R.  
AGED: 40 YEARS.

9. MANJUNATH PRECISION TOOLS  
36/1, 2ND MAIN, 3RD 'B' CROSS  
VISWANEEDAM POST,  
BANGALORE -560091.  
BY ITS PARTNER  
SRI MANOHARAN  
S/O SRI RAMALU REDDYAR,  
AGED: 47 YEARS.
10. INNOVA CNC  
NO.15, 7TH MAIN,  
RAJGOPAL NAGAR  
PEENYA, BANGALORE -560058  
BY ITS PARTNER  
SRI SHANKARAGOUDA V. PATIL  
S/O VIRUPADHAGOUDA G. PATIL  
AGED : 39 YEARS.
11. ADARSHA MACHINE TOOLS  
40B/4A, 2ND STAGE,  
PEENYA INDUSTRIAL AREA  
BANGALORE- 560058  
BY ITS PARTNER  
SRI REJI ANTONY,  
S/O V.J. ANTONY  
AGED: 46 YEARS.
12. PHOENIX PRECISION PARTS  
SB-51, 4TH CROSS, 1ST STAGE  
PEENYA INDUSTRIAL AREA,  
BANGALURU -560058  
BY ITS PROPRIETOR

SRI G.S. GIRISH  
S/O LATE G.N. SIDDANATH,  
AGED: 46 YEARS.

13. SREE VENKATESHWARA  
SERVICE STATION  
100 FEET RING ROAD, PEENYA  
BANGALORE- 560058  
BY ITS PROPRIETOR  
K. NAGABHUSHAN  
S/O B.T. KRISHNAPPA,  
AGED: 47 YEARS.
14. EXCEL FORGE TECH  
NO.60 361, 4TH PHASE  
PEENYA INDUSTRIAL AREA,  
BANGALORE -560058  
BY ITS PARTNER  
SRI AKRAM KHAN  
S/O AMEERULLAH KHAN,  
AGED: 34 YEARS.
15. SUKHENA TECHNOLOGIES PVT. LTD.  
NO.31/1, 3RD FLOOR,  
BVR PLAZA, 8TH CROSS,  
20TH MAIN, 1-N BLOCK  
RAJAJINAGAR,  
BANGALORE- 560010  
BY ITS DIRECTOR  
SRI RAHUL KULKARNI  
S/O NARAYAN RAO,  
AGED: 35 YEARS.
16. B.M. DEVELOPERS  
SY.NO.101, KATHA NO.470/2 & 471  
K.R. PURAM HOBLI,  
KUNDALAHALLI VILLAGE  
BANGALORE- 560037  
BY ITS PARTNER

SRI P. GAJENDRA  
S/O P. MUNISWAMY NAIDU,  
AGED: 40 YEARS.

17. RADIANT SUPPLY CHAIN SOLUTIONS  
NO.3, LEVEL I, 135/3,  
VIJAYA ARCADE  
LALBAGH ROAD,  
BANGALORE- 560027  
BY ITS PROPRIETOR  
ASHOK CHANDRAN NAIR  
S/O SRI PARAMESWARAN NARAYANAN  
NAIR, AGED 61 YEARS.
18. AL AMEN CHARITABLE FUND TRUST  
NO.3, MILLER TANK BUND ROAD  
CUNNINGHAM ROAD,  
BANGALORE -560052  
BY ITS CHIEF EXECUTIVE OFFICER  
SRI MOHAMMED ALI KHAN  
S/O LATE ABDUL GAFFAR KHAN,  
AGED: 37 YEARS.
19. ROOPASHRI SHANKAR CHINDALUR  
W/O C G SHIVASHANKAR,  
AGED: 34 YEARS, 105,  
SATHYASHREE,  
SERPENTINE ROAD  
KUMARA PARK WEST,  
BANGALORE -560020.
20. P. CHAKRAVARTHY  
S/O PERUMAL, AGED: 43 YEARS  
NO 38, SEETHAPPA LAYOUT  
GAYATHRI TEMPLE MAIN ROAD  
CHAMUNDINAGAR MAIN ROAD,  
R.T. NAGAR POST  
BANGALORE -560032.

21. C.R. SHREEKUMAR  
S/O M.K. RAGHAVAN NAIR  
AGED: 52 YEARS  
28/2, KEMPAIAH ESTATE,  
NEAR BMTc DEPOT  
4TH PHASE PIA,  
PEENYA INDUSTRIAL AREA  
BANGALORE. ... PETITIONERS

(BY SRI.S R SHIVA PRAKASH, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK, NEW DELHI  
NEW DELHI-110 001.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR, JEEVAN DEEP BUILDING  
PARLIAMENT STREET  
NEW DELHI -110001.
3. THE COMMISSIONER OF INCOME TAX  
BANGALORE- II  
CENTRAL REVENUE BUILDING  
QUEENS ROAD  
BANGALORE- 560001.
4. TDS RECONCILIATION ANALYSIS  
AND CORRECTION ENABLING SYSTEM  
TDS CPC, AAYKAR BHAWAN  
SECTOR-3, VAISHALI,  
GHAZIABAD, U.P.- 201010 ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE FINANCE ACT NO.2 OF 2012 BY WAY OF INSERTION OF SECTION 234E TO INCOME TAX ACT 1961 IS UNREASONABLE AND UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 AND 277 OF THE CONSTITUTION OF INDIA, AND HOLD THE SAID IMPUGNED PROVISION OF SECTION 234E OF THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION AND FOR WHICH THE PETITIONER SHALL EVER BE GRATEFUL.

**W.P.NOs.11889-11890/2014:**

**BETWEEN:**

1. M/s.PRODIGY TECHNOVATIONS  
PVT LTD , NO.75, EL SHADDI,  
1ST CROSS, BALAJI LAYOUT,  
BANASAWADI MAIN ROAD,  
BANGALORE 560033  
(REPRESENTED BY ITS  
DIRECTOR  
SRI. GODFREE COELHO  
AGED ABOUT 45 YEARS,  
S/O SRI FRANCIS COELHO)

2. K.M. SRINIVASAN  
S/O K.M MAHADEVAN,  
AGED ABOUT 66 YEARS,  
NO.2/1-4, POORNA CHANDRA,  
CANNAUGHT ROAD,  
OPP. QUEENS ROAD,  
BANGALORE -560052.

... PETITIONERS

(BY SMT CHYTHANYA K K, ADVOCATE)



**W.P.NOs.12097-12121/2014:****BETWEEN:**

1. M/s.HOTEL FISHLAND  
REPRESENTED BY ITS PARTNER,  
SRI VASUDEV R.DESAI,  
AGED ABOUT 64 YEARS,  
NO.1/3, I FLOOR,  
SUJATHA COMPLEX,  
I CROSS, GANDHINAGAR,  
BANGALORE-560 009.
2. M/s. STATUS BAR & RESTAURANT  
REPRESENTED BY ITS PARTNER  
SRI VASUDEV R DESAI,  
AGED ABOUT 64 YEARS,  
NO.1/3, I FLOOR,  
SUJATHA COMPLEX,  
I CROSS, GANDHINAGAR,  
BANGALORE-560 009.
3. SMT.GAYATHRI G DESAI  
NO.94/3, INFANTRY ROAD,  
AGED ABOUT 60 YEARS,  
SHIVAJINAGAR,  
BANGALORE-560 001.
4. M/s. L.N.FASHIONS  
REPRESENTED BY ITS PARTNER  
SRI T.V.NAGARAJU,  
AGED ABOUT 50 YEARS,  
NO.05, SIDDESHWARA COMPLEX,  
SHIRKE MAIN ROAD, KENGERI,  
BANGALORE-560 027.
5. M/s.SHIRT PALACE  
REPRESENTED BY ITS PARTNER,  
SRI B.R.RAJASHEKAR,

AGED ABOUT 43 YEARS,  
NO.995/B, KATTRIGUPPE MAIN ROAD,  
ASHOKNAGAR,  
BANGALORE-560 050.

6. M/s. BLACK BIRD MARKETING  
REPRESENTED BY ITS PARTNER,  
SRI.T.V.NAGARAJU,  
AGED ABOUT 54 YEARS,  
NO.2775, 13TH MAIN, 2ND STAGE,  
"E" BLOCK, RAJAJINAGAR,  
BANGALORE-560 010.
7. M/s. BLACK BIRD RETAIL INDIA  
PRIVATE LIMITED  
REPRESENTED BY ITS DIRECTOR,  
SRI B.R.RAJASHEKAR,  
AGED ABOUT 43 YEARS,  
NO.63/1, FIRST FLOOR,  
H.SIDDAIAH ROAD,  
BANGALORE-560 027.
8. TUF N TRENDY  
REPRESENTED BY ITS PARTNER,  
ALITA ROOPA ARANHA,  
AGED ABOUT 32 YEARS,  
NO.472/1, GROUND FLOOR,  
OLD MADRAS ROAD, K.R.PURAM,  
BANGALORE-560 036.
9. M/s. ADVANI AND ASSOCIATES  
REPRESENTED BY ITS PARTNER,  
R.S.ADVANI,  
AGED ABOUT 70 YEARS,  
NO.30/1, 1ST FLOOR,  
LEEMANS COMPLEX,  
CUNNINGHAM ROAD,  
BANGALORE-560 052.

10. M/s. TECHNOART CONSTRUCTIONS  
PVT. LTD,  
REP. BY ITS DIRECTOR  
MR.N.KARTHIK,  
AGED ABOUT 35 YEARS,  
NO.19 & 19/1, 3RD FLOOR,  
SOUTH END ROAD,  
BASAVANAGUDI,  
BANGALORE-560 004.
11. MYSORE CONSULTANTS PRIVATE LIMITED  
REPRESENTED BY ITS  
MANAGING DIRECTOR,  
ASHWIN SHREENIVAS.D,  
AGED ABOUT 40 YEARS,  
NO.10/02, KASTURBA ROAD,  
BANGALORE-560 001. ... PETITIONERS

(BY SRI. RAMA MURTHY R, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY ITS  
FINANCE SECRETARY,  
MINISTRY OF FINANCE,  
SOUTH BLOCK,  
NEW DELHI-110001.
2. DEPUTY COMMISSIONER OF  
INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
AAVKAR BHAVAN, SECTOR-3,  
VAISHALI, GHAZIABAD,  
U.P.201010.
3. THE COMMISSIONER OF  
INCOME TAX (TDS)  
HMT BHAVAN, BELLARY ROAD,

GANGANAGAR,  
BANGALORE-560 032.

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE & STRIKE DOWN PROVISIONS OF SEC. 234E OF THE INCOME TAX ACT, 1961 AS UNCONSTITUTIONAL & VIOLATIVE OF ARTICLE 14 OF THE CONSTITUTION OF INDIA.

**W.P.NOs.13065-13074/2014:**

**BETWEEN:**

1. M/s.NEW MEDIA COMPANY  
NO.12/1, KAMAL VAIBHAV,  
SOWRASTRAPET MAIN ROAD,  
BANGALORE-560 005  
(REPRESENTED BY ITS PARTNER  
SRI SHREEKANTHA PARASHAR  
AGED ABOUT 58 YEARS,  
S/O SRI J P PARASHAR)
2. M/s.GANESH KRUPA INDUSTRIAL PARK  
NO.35, KESHARI BUILDING, MAMULPET  
BANGALORE-560 053  
(REPRESENTED BY ITS PARTNER  
SRI G HEMRAJ  
AGED ABOUT 63 YEARS,  
S/O SRI GANESHMAL)
3. M/s.MANGLAM ENTERPRISES  
NO.62/3, BVK IYENGAR ROAD,  
OPP.MADHU LODGE  
BANGALORE-560 053  
(REPRESENTED BY ITS

PROPRIETOR  
SRI PIYUSH S SHAH  
AGED ABOUT 61 YEARS,  
S/O SRI SHANTILAL SHAH)

4. M/s.SHREE JAGADAMBA SILK CENTRE  
NO.529/8 & 9, RAMESH MARKET  
AVENUE ROAD,  
BANGALORE-560 002  
(REPRESENTED BY ITS PROPRIETOR  
SRI GHEWARCHAND  
GULABCHAND HUF  
REPRESENTED BY KARTA  
SRI ASHOK KUMAR  
AGED ABOUT 42 YEARS,  
S/O SRI GHEWARCHAND)
5. M/s.YASH FABRICS  
NO.192, T C GOWRAMMA  
HOSPITAL BUILDING,  
CHICKPET,  
BANGALORE-560 053  
(REPRESENTED BY ITS PROPRIETOR  
SMT HEMALATHA  
AGED ABOUT 43 YEARS,  
D/O SRI KEWALCHAND JAIN)
6. M/s.KANTI KEWAL & BROTHERS  
NO.27-28-29, KEMPANNA LANE,  
C T STREET CROSS,  
BANGALORE-560 002  
(REPRESENTED BY ITS PROPRIETOR  
SMT SOHANRAJ H MEHTA  
AGED ABOUT 53 YEARS,  
D/O SRI HASTIMAL)
7. M/s.BHARAT MEDICAL &

GENERAL AGENCIES  
NO.111/71, 1ST FLOOR,  
6TH MAIN, 5TH BLOCK,  
JAYANAGAR  
BANGALORE-560 041  
(REPRESENTED BY ITS PROPRIETOR  
SRI BABULAL CHOUHAN  
AGED ABOUT 67 YEARS,  
S/O SRI SHESHMAL)

8. M/s.BHARAT RADIO & ELECTRIC CO.  
NO.1 & 2 SB MARKET, CHICKPET  
BANGALORE-560 053  
(REPRESENTED BY ITS PROPRIETOR  
SRI NIRMAL KUMAR DOSHI  
AGED ABOUT 57 YEARS,  
S/O SRI PARASMAL DOSHI)

9. M/s.VINEET ENTERPRISES  
NO.27, 1ST FLOOR,  
JM ROAD,  
BANGALORE-560 002  
(REPRESENTED BY ITS PROPRIETOR  
SRI ASHOK TEKWANI  
AGED ABOUT 56 YEARS,  
S/O SRI CHATTARAM)

10. M/s.RELIANCE DEVELOPERS  
(INDIA )PVT. LTD.,  
NO.1613, 1ST STAGE,  
2ND PHASE, CHANDRA LAYOUT,  
BANGALORE-560 040  
(REPRESENTED BY ITS DIRECTOR  
SRI K S UMESH  
AGED ABOUT 51 YEARS,  
S/O SRI K SHIVAPPA)

... PETITIONERS

(BY SMT CHYTHANYA K K, ADVOCATE)



**W.P.NOs.14294-14295/2014 & 30565-30567/2014**

**BETWEEN:**

1. M/s.CATHODIC CONTROL CO., LTD.,  
PLOT NO. 87, III PHASE  
PEENYA INDUSTRIAL AREA  
BANGALORE-560058  
REPRESENTED BY ITS  
MANAGING DIRECTOR  
SRI V BABU SATHIAN
  
2. SRI V BABU SATHIAN  
S/O S V RAGHAVAN  
AGED 64 YEARS  
R/AT PLOT NO. 87  
III PHASE, PEENYA INDUSTRIAL  
AREA. BANGALORE-560058

... PETITIONERS

(BY SRI.M.V. SESHACHALA SR. COUNSEL FOR  
SRI ARAVIND V CHAVAN, ADVOCATE)

**AND:**

1. UNION OF INDIA  
MINISTRY OF FINANCE  
SOUTH BLOCK  
NEW DELHI-110001  
REPRESENTED BY ITS SECRETARY
  
2. CENTRAL BOARD OF DIRECT TAXES  
DEPARTMENT OF REVENUE  
4TH FLOOR, JEEVAN DEEP  
BUILDING, PARLIAMENT STREET,  
NEW DELHI-110 001  
REPRESENTED BY ITS CHAIRMAN

3. THE CHIEF COMMISSIONER  
OF INCOME TAX-I  
C.R.BUILDINGS  
QUEENS ROAD  
BANGALORE-560001.
4. THE DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING  
CELL-TDS,  
C.R.BUILDINGS  
QUEENS ROAD  
BANGALORE-560001. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A DECLARATION THAT SEC. 234E OF THE INCOME TAX ACT, 1961 INTRODUCED BY FINANCE ACT NO.2/2012 FOR THE VARIOUS GROUNDS RAISED IN THIS WRIT PETITION AS UNCONSTITUTIONAL AND VOID.

**W.P.NOs.14296-14297/2014 & 29363-29365/2014:**

**BETWEEN:**

1. M/s.PROCESS PUMPS (I) PVT., LTD.,  
PLOT NO. 36, III PHASE  
PEENYA INDUSTRIAL AREA  
BANGALORE-560058  
REPRESENTED BY ITS  
MANAGING DIRECTOR  
SRI V BABU SATHIAN
2. SRI V BABU SATHIAN  
S/O S V RAGHAVAN  
AGED 64 YEARS

R/AT PLOT NO. 86  
III PHASE, PEENYA INDUSTRIAL  
AREA, BANGALORE-560058

... PETITIONERS

(BY SRI.M.V. SESHACHALA SR. COUNSEL FOR  
SRI ARAVIND V CHAVAN, ADVOCATE)

**AND:**

1. UNION OF INDIA  
MINISTRY OF FINANCE  
SOUTH BLOCK  
NEW DELHI-110001  
REPRESENTED BY ITS SECRETARY
2. CENTRAL BOARD OF DIRECT TAXES  
DEPARTMENT OF REVENUE  
4TH FLOOR, JEEVAN DEEP  
BUILDING, PARLIAMENT STREET  
NEW DELHI-110 001  
REPRESENTED BY ITS CHAIRMAN
3. THE CHIEF COMMISSIONER  
OF INCOME TAX-I  
C.R.BUILDINGS  
QUEENS ROAD  
BANGALORE-560001.
4. THE DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
C.R.BUILDINGS  
QUEENS ROAD  
BANGALORE-560001

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A DECLARATION THAT SEC.234E OF THE INCOME TAX ACT, 1961, INTRODUCED BY FINANCE ACT NO.2/2012 FOR THE VARIOUS GROUNDS RAISED IN THIS WRIT PETITION AS UNCONSTITUTIONAL & VOID.

**W.P.NO.s.14669/2014 & 15513-15514/2014:**

**BETWEEN:**

ECOLE SOLUTIONS PVT., LTD.,  
LEVEL 3, BRIGADE BUSINESS SUITES  
ASHOKA PILLAR  
JAYNAGAR 2ND BLOCK  
BANGALORE -560011,  
REP. BY ITS DIRECTOR,  
MR. VENKATESH L.S.  
S/O SHRINIVASAN IYENGAR  
AGED ABOUT 46 YEARS.

... PETITIONER

(BY SMT LAKSHMY IYENGAR, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK  
NEW DELHI 110001.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR,

JEEVAN DEEP BUILDING  
PARLIAMENT STREET  
NEW DELHI -110001.

3. THE COMMISSIONER OF  
INCOME TAX, BANGALORE II  
CENTRAL REVENUE BUILDING  
QUEENS ROAD, BANGALORE -560001.
4. TDS RECONCILIATION ANALYSIS  
AND CORRECTION  
ENABLING SYSTEM  
TDS CPC, AAYKAR BHAWAN  
SECTOR-3, VAISHALI  
GHAZIABAD, UP-201010.  
REPRESENTED BY  
DEPUTY COMMISSIONER OF  
INCOME TAX ... RESPONDENTS

(BY SRI K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICES DATED 26.10.2013 AND 17.11.2013 AND ISSUED UNDER THE PROVISIONS OF THE INCOME TAX ACT 1961 PROPOSING TO LEVY FEE FOR DELAY IN FURNISHING STATEMENT U/S 200[3] OF PROVISO TO SUB SECTION [3] OF SECTION 206C OF THE INCOME TAX ACT 1961, VIDE ANNEXURES-A1 TO A3.

**W.P.NOs.16939-16950/2014:**

**BETWEEN:**

1. M/s.TEACHERS CO-OPERATIVE BANK LTD.,  
NITHYANANDA COMPLEX,  
MAIN ROAD, MOOBBIDRI-574 227,  
(REPRESENTED BY ITS MANAGER

MRS.S.USHA  
AGED ABOUT 56 YEARS,  
D/O SRI.A.P.NATH)

2. SRI SAMPATHRATHNA RAO S  
S/O.SUNDAR RAO S,  
AGED ABOUT 45 YEARS,  
CONSULTING ENGINEER,  
UJIRE,  
BELTHANGADY TQ. 574240.
3. M/s.ST.IGNATIUS HIGHER PRIMARY  
SCHOOL  
KADALAKERE, MITHABAIL POST,  
MOODBIDRI-574226,  
(REPRESENTED BY ITS  
HEAD MASTER  
SRI.JAYARAM RAO,  
AGED ABOUT 55 YEARS,  
S/O. SRI.ANNAPPAYYA RAO)
4. M/s.KARNATAKA INSTITUTE OF  
CO-OPERATIVE MANAGEMENT  
NEAR LADI,  
MOODBIDRI-574 227,  
(REPRESENTED BY ITS  
PRINCIPAL M.M.SHYAMALA  
AGED ABOUT 54 YEARS,  
D/O SRI.M.P.MANJUNATH)
5. M/s.BELVAI CO-OPERATIVE  
AGRICULTURAL BANK LTD  
BELVI,  
MANGALORE TQ. 574213,  
(REPRESENTED BY ITS SECRETARY  
SRI.K.RAMCHANDRA BHAT,  
AGED ABOUT 59 YEARS,  
S/O SRI.K.SHAMBU BHAT)

6. M/s.GOVERNMENT HIGH SCHOOL  
PRANTHYA,  
MOODBIDRI-574197  
(REPRESENTED BY ITS  
HEAD MISTRESS  
SMT.RAJASHREE B  
AGED ABOUT 43 YEARS,  
D/O SRI.JAGATHPALA HEGDE M )
7. M/s.SOUTH CANARA DISTRICT CENTRAL  
CO-OPERATIVE BANK LTD.,  
TWINS TOWERS,  
PADUBIDRI NITTE ROAD,  
KEDINJE POST,  
KARKALA TQ. 574110  
(REPRESENTED BY ITS  
BRANCH MANAGER  
MRS.ASHA KUMARI SHETTY,  
AGED ABOUT 45 YEARS,  
D/O SRI.SATHISH SHETTY)
8. M/s.PIONEER WELD TECHNOLOGIES  
NO.269/2, PADUMARNADU VILLAGE,  
BELVAI-574213,  
(REPRESENTED BY ITS  
MANAGING PARTNER  
SRI. VISHWAMITHRA PAI  
AGED ABOUT 44 YEARS,  
S/O SRI.KALINGA PAI).
9. M/s.BHUVANA JYOTHI EDUCATION TRUST  
ABHINANADAN, SHIRHADY,  
MANGALORE TQ-574236,  
(REPRESENTD BY ITS TRUSTEE  
SRI.R.PRASHANTH D SOUZA,  
AGED ABOUT 39 YEARS,  
S/O SRI.RICHARD D' SOUZA)

10. M/s.BENEFIT FILMCITY INDIA LTD.,  
PANDITH S HEALTH RESPORT & SPA,  
ALANGAR,  
MOODBIDRI-574227,  
(REPRESENTD BY ITS  
DIRECTOR RUBY AGARWAL  
AGED ABOUT 40 YEARS,  
D/O SRI.HARISH AGARWAL)
11. M/s.ADARSHA HIGH SCHOOL  
TACCODE,  
MOODBIDRI-574197,  
(REPRESENTD BY ITS  
HEAD MISTRESS  
MRS.ZITA DIAS  
AGED ABOUT 54 YEARS  
D/O SRI.LIGORY DIAS)
12. M/s.SOUTH CANARA DISTRICT CENTRAL  
CO-OPERATIVE BANK LTD.  
NAVRATANA COMPLEX,  
BELVAI, DAKSHIN KANNADA-574213,  
(REPRESENTED BY ITS  
MANAGER SIR.SATHISH SHETTY  
AGED ABOUT 42 YEARS,  
S/O SRI.VITTAL SHETTY) ... PETITIONERS
- (BY SMT CHYTHANYA K K, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY THE  
SECRETARY OF MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE,  
ROOM NO.128-A, NORTH BLOCK,  
NEW DELHI-110001.

2. THE DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAVAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, U.P.-201010.
3. THE COMMISSIONER OF  
INCOME TAX (TDS)  
ROOM NO.59, H.M.T.BHAVAN,  
4TH FLOOR, BELLARY ROAD,  
GANGANAGAR, BENGALURU-560032.
4. THE COMMISSONER OF  
INCOME TAX (TDS)  
ROOM NO.900A, 9TH FLOOR,  
K.G.MITTAL AYURVEDIC HOSPITAL  
BUILDING, CHARNI ROAD,  
MUMBAI-400002. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THE NEWLY INSERTED SECTION 234E OF THE IT ACT, BY THE FINANCE ACT, 2012 AS UNCONSTITUTIONAL BEING ARBITRARY, DISCRIMINATORY AND UNREASONABLE. THE RELEVANT EXTRACT OF SECTION 234E IS ENCLOSED AS ANNEXURE-A.

**W.P.NCs.18788-18791/2014 & 18792/2014:**

**BETWEEN:**

M/s.NEW MEDIA COMPANY  
NO.12/1, KAMAL VAIBHAV,  
SOWRASTRAPET MAIN ROAD,

BANGALORE-560 005  
(REPRESENTED BY ITS PARTNER  
SRI SHREEKANTH PARASHAR  
AGED ABOUT 58 YEARS,  
S/O SRI J P PARASHAR).

... PETITIONER

(BY SMT CHYTHANYA K K, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY THE SECRETARY  
OF MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
ROOM NO.128-A,  
NORTH BLOCK,  
NEW DELHI-110 001.
2. THE DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAVAN,SECTOR-3,  
VAISHALI, GHAZIABAD,  
U.P-201010.
3. THE COMMISSIONER OF  
INCOME TAX (TDS)  
ROOM NO.59,  
H.M.T BHAVAN, 4TH FLOOR,  
BELLARY ROAD,  
GANGANAGAR,  
BENGALURU-560 032.

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER  
ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA  
PRAYING TO DECLARE THE NEWLY INSERTED SECTION  
234E OF THE IT ACT, BY THE FINANCE ACT, 2012 AS

UNCONSTITUTIONAL BEING ARBITRARY,  
DISCRIMINATORY AND UNREASONABLE. THE RELEVANT  
EXTRACT OF SECTION 234E IS ENCLOSED AS  
ANNEXURE-A.

**W.P.NOs.19398-19399/2014:**

**BETWEEN:**

SYNDICATE BANK  
TAX CELL, HEAD OFFICE,  
MANIPAL-576 104  
REPRESENTED BY ITS  
ASSISTANT GENERAL MANAGER  
MR R RAMALINGAM. ... PETITIONER

(BY SRI. K.P. KUMAR SR. COUNSEL FOR  
SRI T. SURYANARAYANA, ADVOCATE)

**AND:**

1. THE DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAVAN SECTOR-3,  
VAISHALI, GHAZIABAD,  
U.P-201 010.
2. THE COMMISSIONER OF  
INCOME TAX (SYSTEMS CPC-TDS)  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAVAN, SECTOR-3,  
VAISHALI, GHAZIABAD, U.P-201 010.
3. THE COMMISSIONER OF  
INCOME TAX (TDS)  
ROOM NO. 59, H.M.T.BHAVAN,  
4TH FLOOR, BELLARY ROAD,

GANGANAGAR,  
BENGALURU-560 032.

4. UNION OF INDIA  
REPRESENTED BY THE SECRETARY,  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE,  
ROOM NO.128-A, NORTH BLOCK,  
NEW DELHI-110 001. ..RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT SECTION 234E OF THE INCOME TAX ACT, 1961 INSERTED BY THE FINANCE ACT, 2012 WITH EFFECT FROM 1.7.2012, IS ARBITRARY UNFAIR AND UNREASONABLE AND THUS ULTRA VIRES THE CONSTITUTION OF INDIA AND OTHER PROVISIONS OF THE ACT.

**W.P.NOs.19407-19421/2014:**

**BETWEEN:**

1. SRI PRATHIK PRABHAKAR  
S/O SRI M. PRABHAKAR SHETTY,  
AGED ABOUT 30 YEARS  
NO.58, GROUND FLOOR  
RAILWAY PARALLEL ROAD  
KUMARAPARK WEST  
BANGALORE-560020
2. PUBLIC EDUCATION SOCIETY  
NO. 45/37, GUBBANNA LAYOUT  
6TH BLOCK, RAJAJINAGAR  
BANGALORE-560010

REP. BY ITS SECRETARY  
MR MOHAMMED NIAZ RASHID

3. M/s.T V VENKATASWAMY & CO.  
NO. 154/3, TRINITY CHURCH  
COMPOUND  
OLD MADRAS ROAD  
BANGALORE-560008  
REP. BY ITS PARTNER  
SRI M V SRINIVAS.
4. M/s.VIHANG HOSPITALITY  
NO. 827, VIJAYANAGAR MAIN ROAD  
VIJAYANAGAR,  
BANGALORE-560040  
REP. BY ITS PARTNER  
SRI BALAKRISHNA SHETTY.
5. M/s.U D ROTIGHAR  
NO.17, GANDHI BAZAAR MAIN ROAD  
BASAVANGUDI,  
BANGALORE-560004  
REP. BY ITS PARTNER  
SRI G JANARDHAN.
6. M/s.U D RESIDENCY PRIVATE  
LIMITED  
NO.19/2, 1ST MAIN  
SOUTH END ROAD,  
BASAVANGUDI  
BANGALORE-560004  
REP. BY ITS DIRECTOR  
SRI G JANARDHAN.
7. M/s.U D CATERERS  
NO.304, 9TH CROSS, 1ST STAGE  
PEENYA INDUSTRIAL AREA  
BANGALORE-560058

REP. BY ITS PARTNER  
SRI G JANARDHAN

8. SRI S S NAGAPPA  
S/O SRI.SHIVATHANU  
AGED ABOUT 58 YEARS  
NO.3, SHARADA STREE SAMAJA  
BUILDING, 1ST CROSS  
CHAMARAJPET,  
BANGALORE-560018.
9. M/s.SRINIDHI HOSPIMED  
SOLUTIONS PVT., LTD .,  
NO.110-B, "SHREE NIDHI"  
SOBHA MALACHITE  
JAKKUR PLANTATIONS  
YELAHANKA,  
BANGALORE-560064  
REP. BY ITS DIRECTOR  
DR. ANIL KUMAR M HEGDE
10. M/s.MANGALA OFFSET  
PRINTERS PVT., LTD.,  
344/1, 377/1A, 6TH CROSS  
B G ROAD, MTM LAYOUT  
BILEKAHALLI, N S PALYA  
BANGALORE-560076  
REP. BY ITS DIRECTOR  
SRI A MOHAN SALIAN.
11. SRI LALITHKUMAR K SHAH  
S/O SRI KISHOREMAL K SHAH  
AGED ABOUT 33 YEARS  
PROP. -M/s.SHREE RAJGURU  
JEWELLERS, NO.3, G-2,  
HARIHARA MANSION  
3RD CROSS, GANDHINAGAR  
BANGALORE-560053.

12. SRI GIRISH S POOJARY  
S/O SRI SOMAPPA  
PROP.- M/s.INDUSTRIAL CATERERS  
AGED ABOUT 49 YEARS  
NO.910, K N EXTENSION  
6TH CROSS, 2ND MAIN  
YESHWANTHPUR  
BANGALORE-560022.
13. SRI DEEPAK KUMAR JAIN  
S/O LATE SRI DEVENDER KUMAR JAIN  
PROP. M/s.ADI ENGINEERING  
AGED ABOUT 41 YEARS  
NO.211, GARDEN VILAS  
RESIDENTIAL ASSN.,  
NAGARBHAVI,  
BANGALORE-560072.
14. M/s.AGNI EARTH MOVERS PVT., LTD.,  
NO. 585, 2ND BLOCK  
2ND MAIN ROAD, RAJAJINAGAR  
BANGALORE-560010  
REP. BY ITS DIRECTOR  
SRI G V S N MURTHY.
15. SRI M PRABHAKAR SHETTY  
S/O SRI B.MUDANNA SHETTY  
AGED ABOUT 65 YEARS  
NO.58, GROUND FLOOR  
RAILWAY PARALLEL ROAD  
KUMARAPARK WEST  
BANGALORE-560020. ... PETITIONERS

(BY SRI. ASHOK A KULKARNI, ADVOCATE)

**AND:**

1. THE DEPUTY COMMISSIONER

OF INCOME TAX  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAWAN, SECTOR-3,  
VAISHALI, GHAZIABAD, U.P-201010.

2. UNION OF INDIA  
REPRESENTED BY THE SECRETARY  
DEPARTMENT OF REVENUE  
MINISTRY OF FINANCE  
NORTH BLOCK  
NEW DELHI-110 001. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ANNEXURE-A DTD.15.2.2014 WITH REFERENCE DTD.18.11.2013 VIDE ANNEX-A1 REFERENCE DTD.8.9.2013 VIDE ANNEX-A2 REFERENCE DTD.14.11.2013 VIDE ANNEX-A3 REFERENCE DTD.14.11.2013 VIDE ANNEX-A4, A5, A6, A7, REF. DTD.4.5.2013 VIDE ANNEX-A8, REF. DTD. 14.11.2013 VIDE ANNEX-A9, REF. DTD.13.11.2013 VIDE ANNEX-A10, REF.DTD.7.9.2013 VIDE ANNEX-A11, REF. DTD. 6.12.2013 VIDE ANNEX-A12, REF. DTD.10.11.2013 VIDE ANNEX-A13 AND A14, REF.NO.10.11.2013 VIDE ANNEX-A14, REF. DTD. 3.2.2014 VIDE ANNEX-A15 TO THE EXTENT THEY PURPORT TO LEVY AND COLLECT FEE U/S.234E AS INDICATED THEREIN ABOVE SAID ALL ANNEXURES PASSED BY R-1.

**W.P.NOs.19762-19775/2014:**

**BETWEEN:**

1. M/s.TEE ENN ENTERPRISES  
REPRESENTED BY ITS PARTNER

SRI K.K.PANDURANGA,  
AGED 57 YEARS,  
NO.312, 10TH MAIN, 5TH CORSS,  
I BLOCK, JAYANAGAR,  
BANGALORE-560 011.

2. K.K. PANURANGA  
AGED 57 YEARS,  
NO.31, KRISHNAVENI COMPLEX,  
COMMERCIAL STREET,  
BANGALORE-560 001.
3. K.P.SHARADA,  
AGED 52 YEARS,  
NO.38/3, II FLOOR,  
LAKSHMI COMPLEX,  
LALBAGH ROAD,  
BANGALORE-560 027.
4. M/s.NUKAPUR HOSPITAL,  
REPRESENTED BY ITS PARTNER  
SRI V.H.NUKAPUR,  
AGED ABOUT 70 YEARS,  
SHARADA TALKIES ROAD,  
NEAR BUS STAND,  
KOLAR-563 101.

... PETITIONERS

(BY SRI. RAMA MURTHY R, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS FINANCE SECRETARY,  
MINISTRY OF FINANCE,  
SOUTH BLOCK,  
NEW DELHI-110 001.
2. DEPUTY COMMISSIONER OF

INCOME TAX,  
CENTRALIZED PROCESSING  
CELL-TDS, AAYKAR BHAVAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, U.P.201010.

3. THE COMMISSIONER OF  
INCOME TAX (TDS),  
HMT BHAVAN, BELLARY ROAD,  
GANGANAGAR,  
BANGALORE-560 032. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONERS ARE FILED UNDER  
ARTICLES 226 & 227 OF THE INDIAN CONSTITUTION OF  
INDIA PRAYING TO DECLARE & STRIKE DOWN  
PROVISIONS OF SEC.234E OF THE INCOME TAX ACT 1961  
AS UNCONSTITUTIONAL & VIOLATIVE OF ARTICLE 14 OF  
THE CONSTITUTION OF INDIA.

**W.P.NOs.23541-23549/2014:**

**BETWEEN:**

1. SRI CHANDRAKAR K KAMATH  
AGED ABOUT 57 YEARS,  
S/O SRI ANANDARAYA K KAMATH,  
RESIDING AT D.NO.4-219-1,  
"SANIDHYA",  
KANJARKATTE, POST SANTHOOR,  
UDUPI-574 139.
2. SRI M.SRINAGESH HEGDE  
(MANAGING PARTNER:  
HEGDE & COMPANY)  
AGED ABOUT 58 YEARS,

S/O LATE M.SRINIVAS HEGDE,  
R/AT JANAKI KUTEERA,  
BEEDINAGUDDE,  
UDUPI-576 101.

3. SRI ASHOK K. PAI,  
(PROP:KALSANKAR DEEPAM SILKS)  
AGED ABOUT 47 YEARS,  
S/O SRI K.GOKULDAS PAI,  
RESIDING AT "MATRAPADA"  
LIC HOUSING COLONY,  
KADABETTU, UDUPI-586 101.
4. SRI ARNOLD D'SILVA,  
AGED ABOUT 62 YEARS,  
S/O. SRI LOUIS D'SILVA,  
RESIDING AT 12-1-84C,  
MOTHER CARE,  
K.M. MARG, SUPER BAZAP,  
UDUPI-576 101.
5. SRI K. SATHISH K. KAMATH  
(PROP:ARUNA CLINIC),  
AGED ABOUT 52 YEARS,  
S/O SRI K. VAMAN KAMATH,  
RESIDING AT 2-4-14C8,  
RAJ TOWERS,  
NEAR CITY BUS STAND,  
UDUPI-576 101.
6. SRI H. GANESH NAYAK,  
(PROFESSIONAL COURIER),  
AGED ABOUT 49 YEARS,  
S/O SRI H. DEVADAS NAYAK,  
RESIDING AT COURT BACK  
ROAD, UDUPI-576 101.
7. SRI JAYARAJ SHETTY,  
AGED ABOUT 45 YEARS,

S/O SRI VASU SHETTY,  
R/AT 16-58B, CHANDRAMAA,  
ANANATHNAGAR,  
FIRST STAGE, MANIPAL,  
UDUPI-576 101.

8. SRI BALAKRISHNA I,  
(PARTNER :SUMUKH SERVICES)  
AGED ABOUT 37 YEARS,  
S/O. SRI GANAPATHI NAYAK,  
R/AT "SHAIPRAJA NILAYA",  
PAREEKA POST, PARKALA,  
UDUPI-576 109.
9. MS. HELEN V. SALINS,  
(HEADMISTRESS:CHRISTIAN  
HIGH SCHOOL),  
AGED ABOUT 53 YEARS,  
D/O. MR. LEMUEL SALINS,  
R/AT "NEIL" NEAR KRISHNA GAS,  
KINNIMULKY OLD ROAD,  
UDUPI-576 101.

... PETITIONERS

(BY SRI. S PARTHASARATHI, SRI P DINESH AND MS.JINITA  
CHATTERJEE, ADVOCATES)

**AND:**

1. THE DEPUTY COMMISSIONER  
OF INCOME TAX,  
CENTRALIZED PROCESSING CELL-TDS,  
AAYKAR BHAWAN,  
SECTOR -3, VAISHALI,  
GHAZIABAD, U.P-201 010.
2. UNION OF INDIA,  
THROUGH THE SECRETARY,  
DEPARTMENT OF REVENUE,

MINISTRY OF FINANCE,  
NEW DELHI-110 001.

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH AND TO HOLD THE PROVISIONS OF SECTION 234E OF THE ACT AS ULTRA VIRES OF THE CONSTITUTION OF INDIA.

**W.P.NOs.25841-25848/2014:**

**BETWEEN:**

1. MINTENT SERVICED APARTMENTS  
PVT LTD.,  
NO.436, 10TH CROSS,  
27TH MAIN, HSR LAYOUT,  
SECTOR-1,  
BANGALORE-560 034.  
BY ITS DIRECTOR  
SRI.K.KRISHNAMOORTHY,  
S/O KAILASAM,  
AGED 63 YEARS.
2. PRABHAT JEWELLARY MART  
NO.817, CHICKPET,  
BANGAKIRE-560053,  
BY ITS PROPRIETOR  
M.S.AMARNATH  
S/O M.S.SREE RAMAIAH SHETTY,  
AGED 52 YEARS.
3. WEB TECHNOLOGIES  
NO.52, 46TH CROSS, 4TH BLOCK,  
RAJAJINAGAR,

BANGALORE-560 010  
BY ITS MANAGING PARTNER  
SRI.AYAZ AHMED KHAN,  
S/O IQBAL AHMED KHAN,  
AGED 44 YEARS

4. S.L.V. BUILDERS AND DEVELOPERS  
NO.256, 14TH MAIN,  
7TH SECTOR, BDA COMPLEX,  
HSR LAYOUT, BANGALORE-560102  
BY ITS PARTNER  
SRI.A.K.NAIDU  
S/O KRISHNAMA NAIDU,  
AGED 37 YEARS.
5. SKYTECH INFINITE PLATFORM PVT.LTD.,  
NO.6/1, MUNISWAMAPPA ROAD,  
MARUTHI SEVA NAGAR POST,  
BANASWADI MAIN ROAD,  
BANGALORE-560033  
BY ITS DIRECTOR  
SRI.P.DEIVEEKAN  
S/O N.PARAMASIVAN,  
AGED 42 YEARS
6. STRATYCON BUSINESS  
SOLUTIONS PVT. LTD.  
NO.319, 14TH CROSS,  
2ND BLOCK, JAYANAGAR,  
BANGALORE-560 011  
BY ITS DIRECTOR  
SRI.RAVIPRAKASH KONI,  
S/O GANAPAYYA MADHYASTHA KONI
7. T-TEL COMMUNICATIONS  
INDIA PVT. LTD.  
NO.424 (NEW #8) 21ST CROSS,  
EJIPURA MAIN ROAD,  
VIVEKANAGAR POST,

BANGALORE-560047,  
 BY ITS DIRECTOR  
 SRI.TEDDY JOSEPH  
 S/O THOOMBUNKAL THOMAS JOSE  
 AGED 41 YEARS.

8. CRAIGMORE TEXTILES PVT. LTD.  
 NH4, TAVAREKERE ROAD,  
 NELAMANGALA,  
 BANGALORE-562123  
 BY ITS DIRECTOR  
 SRI.S.RAMACHANDRA,  
 S/O SHIVANDAS L.THANVANI,  
 AGED 75 YEARS, .. PETITIONERS

(BY SRI. S R SHIVAPRAKASH, ADVOCATE, SRI.CHAITANYA  
 V.M., ADVOCATE)

**AND:**

1. UNION OF INDIA  
 REP. BY ITS SECRETARY  
 MINISTRY OF FINANCE  
 SOUTH BLOCK NEW DELHI  
 NEW DELHI-100 010.
2. CENTRAL BOARD OF DIRECT TAXES  
 REP. BY ITS CHAIRMAN  
 DEPARTMENT OF REVENUE  
 4TH FLOOR, JEEVAN DEEP BUILDING  
 PARLIAMENT STREET,  
 NEW DELHI-110 001.
3. THE COMMISSIONER OF  
 INCOME TAX  
 BANGALORE-11  
 CENTRAL REVENUE BUILDING  
 QUEENS ROAD,  
 BANGALORE-560 001.

4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, UP-201010. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE FINANCE ACT NO.2 OF 2012 BY WAY OF INSERTION OF SECTION 234E TO INCOME TAX ACT, 1961 IS UNREASONABLE AND UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 AND 277 OF THE CONSTITUTION OF INDIA, WHEREFORE, IT IS MOST RESPECTFULLY AND MOST HUMBLY SUBMITTED THAT THIS HON'BLE COURT BE PLEASED TO HOLD THE SAID IMPUGNED PROVISION OF SECTION 234E OF THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION AND FOR WHICH THE PETITIONER SHALL EVER BE GRATEFUL.

**W.P.NOs.26586-26587/2014:**

**BETWEEN:**

M/s.BUILDMET PRIVATE LIMITED  
45, YAMUNABAI ROAD  
MADHAVANAGAR  
BANGALORE - 560 001  
REPRESENTED BY ITS  
DIRECTOR , SRI H N VARADARAJAN  
AGED ABOUT 74 YEARS  
SON OF SRI H R NIGAMANTHAN ... PETITIONER

(BY SRI. S PARTHASARATHI, SRI P DINESH AND MS.JINITA  
CHATTERJEE, ADVOCATES)

**AND:**

1. THE DEPUTY COMMISSIONER  
OF INCOME-TAX  
CENTRALIZED PROCESSING CELL-TDS  
AAYKAR BHAWAN, SECTOR-3  
VAISHALI, GHAZIABAD  
UP- 201 010.
2. UNION OF INDIA  
THROUGH THE SECRETARY  
DEPARTMENT OF REVENUE  
MINISTRY OF FINANCE  
NEW DELHI 110 001. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE  
226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO  
QUASH AND TO HOLD THE PROVISIONS OF SEC.234E OF  
IT ACT AS ULTRA VIRES OF THE CONSTITUTION OF INDIA.

**W.P.NO.26588/2014:**

**BETWEEN:**

M/s. MEDHA PROJECTS  
9, 17TH CROSS  
MALLESWARAM  
BANGALORE -560 055  
REPRESENTED BY ITS  
MANAGING PARTNER  
SMT SANDHYA S

AGED ABOUT 51 YEARS  
WIFE OF SRI G R SURESH.

... PETITIONER

(BY SRI. S PARTHASARATHI, SRI P DINESH AND MS.JINITA  
CHATTERJEE ADVOCATES)

**AND:**

1. THE DEPUTY COMMISSIONER  
OF INCOME-TAX  
CENTRALIZED PROCESSING  
CELL-TDS, AAYKAR BHAWAN  
SECTOR-3, VAISHALI  
GHAZIABAD, UP- 201 010.

2. UNION OF INDIA  
THROUGH THE SECRETARY  
DEPARTMENT OF REVENUE  
MINISTRY OF FINANCE  
NEW DELHI 110 001.

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THIS WP FILED UNDER ARTICLES 226 & 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH & HOLD  
THE PROVISIONS OF SEC.234E OF IT ACT AS ULTRA  
VIRES OF THE CONSTITUTION OF INDIA.

**W.P.NOs.10243/2014 & 11891-11894/2014:**

**BETWEEN:**

DR V. NARAYANASWAMY  
AGED ABOUT 43 YEARS,  
S/O VENKATAPPA,  
RESIDING AT #133,  
LEELA HOSPITAL,  
10TH CROSS, MARGOSA ROAD,

MALLESHWARAM,  
BANGALORE-560003.

... PETITIONER

(BY SRI. BALRAM R RAO, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY THE  
SECRETARY TO THE  
GOVERNMENT OF INDIA,  
FINANCE DEPARTMENT,  
NEW DELHI-110 001.
2. CENTRAL BOARD OF DIRECT TAXES,  
REP. BY ITS COMMISSIONER  
DEPARTMENT OF REVENUE,  
MINISTRY OF FINANCE,  
GOVERNMENT OF INDIA,  
NEW DELHI-110 001.
3. COMMISSIONER OF INCOME TAX (TDS)  
INCOME TAX DEPARTMENT,  
THIRD FLOOR, HMT BHAVAN,  
BELLARY ROAD,  
BANGALORE-560 001.
4. DEPUTY COMMISSIONER  
OF INCOME TAX  
CENTRALISED PROCESSING  
CELL-TDS, AYKAR BHAVAN,  
SECTOR-3,  
VAISHALI, GHAZIABHAD,  
UTTAR PRADESH-201010.

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ONLINE INTIMATIONS/ORDERS OF THE R-5 DTD.14.11.2013 AND 15.11.2013 PASSED UNDER SECTION 200A OF THE ACT FOR THE FINANCIAL YEAR 2012-13 AND 2013-14 IN COMMUNICATION VIDE ANNEXURES-A1-A5.

**W.P.NO.s.15476/2014 & 16111-16113/2014:**

**BETWEEN:**

CENTRAL POWER RESEARCH INSTITUTE  
P B NO.8066,  
PROF. SIR C V RAMAN ROAD  
BANGALORE-560080  
REPRESENTED BY ITS  
CHIEF ADMINISTRATIVE OFFICER  
SRI.N R PADMANABHA  
S/O SRI N S RANGANATHA RAO  
ABOUT 56 YEARS.

... PETITIONER

(BY SMT.VANI H, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY O FINANCE  
SOUTH BLOCK NEW DELHI,  
NEW DELHI-110001.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR, JEEVAN DEEP BUILDING  
PARLIAMENT STREET  
NEW DELHI-110001.

3. THE COMMISSIONER OF INCOME TAX  
CENTRAL REVENUE BUILDING  
QUEENS ROAD,  
BANGALORE-560001.

4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM  
REP. BY ITS CHAIRMAN  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI  
GHAZIABAD, UTTAR PRADESH-201010

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER  
ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA  
PRAYING TO DECLARE THE NEWLY INSERTED SECTION  
234E TO INCOME TAX ACT 1961 BY FINANCE ACT 2012 AS  
VIOLATIVE OF ARTICLES 14, 265 AND 277 AND THUS  
ULTRA VIRES THE CONSTITUTION OF INDIA IN SO FAR AS  
THE PETITIONER IS CONCERNED.

**W.P.NO.24023/2014:**

**BETWEEN:**

CENTRAL POWER  
RESEARCH INSTITUTE,  
P B NO.8066,  
PROF. SIR C V RAMAN ROAD,  
BANGALORE-560080  
REPRESENTED BY ITS  
CHIEF ADMINISTRATIVE OFFICER,  
SRI. N R PADMANABHA,  
S/O SRI.N S RANGANATHA RAO  
AGED ABOUT 56 YEARS

... PETITIONER

(BY SMT.VANI H, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK NEW DELHI,  
NEW DELHI-110 001.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR JEEVAN DEEP BUILDING,  
PARLIMENT STREET,  
NEW DELHI-110 001.
3. THE COMMISSIONER OF INCOME TAX  
CENTRAL REVENUE BUILDING,  
QUEENS ROAD  
BANGALORE-560 001.
4. THE DEPUTY COMMISSIONER  
TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM  
TDS CPC, AAYKAR BHAVAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD,  
UTTAR PRADES-201010. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THE NEWLY INSERTED SECTION 234E TO INCOME TAX ACT, 1961 BY FINANCE ACT, 2012 AS VIOLATIVE OF ARTICLES 14, 265 AND 277 AND THUS ULTRA VIRES THE

CONSTITUTION OF INDIA IN SO FAR AS THE PETITIONER IS CONCERNED.

**W.P.NO.46360/2014:**

**BETWEEN:**

CENTRAL POWER  
RESEARCH INSTITUTE,  
P.B. NO.8066, PROF. SIR C V RAMAN ROAD,  
BANGALORE-560 080,  
REPRESENTED BY ITS  
CHIEF ADMINISTRATIVE OFFICER,  
SRI N R PADMANABHA,  
S/O SRI N S RANGANATHA RAO,  
AGED ABOUT 56 YEARS. ... PETITIONER

(BY SMT. VANI H, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY,  
MINISTRY OF FINANCE,  
SOUTH BLOCK NEW DELHI,  
NEW DELHI-110 001.
2. CENTRAL BOARD OF DIRECT TAXES,  
REP. BY ITS CHAIRMAN,  
DEPARTMENT OF REVENUE,  
4TH FLOOR, JEEVAN DEEP BUILDING,  
PARLIAMENT STREET,  
NEW DELHI-110 001.
3. THE COMMISSIONER OF INCOME TAX,  
CENTRAL REVENUE BUILDING,  
QUEENS ROAD,  
BANGALORE-560 001.

4. THE DEPUTY COMMISSIONER  
OF INCOME TAX,  
TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM,  
TDS CPC, AAYAKAR BHAWAN,  
SECOTR-3, VAISHALI,  
GHAZIABAD,  
UTTAR PRADESH-201010.

... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THE NEWLY INSERTED SECTION 234E TO INCOME TAX ACT, 1961 BY FINANCE ACT, 2012 AS VIOLATIVE OF ARTICLES 14 AND 265 AND THUS ULTRA VIRES THE CONSTITUTION OF INDIA IN SO FAR AS THE PETITIONER IS CONCERNED.

**W.P.NCs.41614-41617/2014:**

**BETWEEN:**

1. SRI. FATHERAJ SINGHVI  
AGED ABOUT 60 YEARS,  
S/O LATE SRI P R SINGHVI  
NO.416 & 232,"SHANTHI"  
#8,VISHRANTHI ENCLAVE  
KANAKAPURA ROAD,  
DODDAKALASANDRA POST,  
BANGALORE-560 062
2. SRI D DEVARAJ  
AGED ABOUT 61 YEARS,  
S/O LATE SRI K DEVAPPA,  
NO.202, PARIJAT, 45/1,  
FAIR FIELD LAYOUT,

RACE COURSE ROAD,  
BANGALORE-560 001

3. SRI UNNI RAJAGOPAL  
AGED ABOUT 60 YEARS,  
S/O LATE SRI K P RAJAGOPAL  
NO.B-1503, GODREJ WOODSMAN  
ESTATE,  
AMCO BATTERIES COMPOUND,  
BELLARY ROAD,  
BANGALORE-560 024.

4. SRI SEKHAR VASAN  
AGED ABOUT 61 YEARS,  
S/O SRI S S VASAN,  
NO.51, RANGA RAO ROAD,  
BASAVANAGUDI  
BANGALORE-560 004.

... PETITIONERS

(BY SRI SHANKAR A, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY,  
MINISTRY OF FINANCE  
SOUTH BLOCK NEW DELHI  
NEW DELHI-110 001.

2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN,  
DEPARTMENT OF REVENUE  
4TH FLOOR, JEEVAN DEEP BUILDING  
PARLIAMENT STREET,  
NEW DELHI-110 001.

3. THE COMMISSIONER OF INCOME TAX  
BANGALORE-II  
CENTRAL REVENUE BUILDING,

QUEENS ROAD,  
BANGALORE-560 001

4. TDS RECONCILIATION ANALAYSIS AND  
CORRECTION ENABLING SYSTEM  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD,  
UTTAR PRADESH-201010.

... RESPONDENTS

(BY SRI. K.V. ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE FINANCE ACT NO.2 OF 2012 BY WAY OF INSERTION OF SECTION 234E TO INCOME TAX ACT, 1961 IS UNREASONABLE AND UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 AND 277 OF THE CONSTITUTION OF INDIA. WHEREFORE, IT IS MOST RESPECTFULLY AND MOST HUMBLY SUBMITTED THAT THIS HON'BLE COURT BE PLEASED TO HOLD THE SAID IMPUGNED PROVISION OF SECTION 234E OF THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION AND FOR WHICH THE PETITIONER SHALL EVER BE GRATEFUL.

**W.P.NO.41618/2014:**

**BETWEEN:**

M/s.SUN ZONE SOLAR SYSTEMS  
REP. BY ITS MANAGING PARTNER  
SRI.PADMANABH.S.T  
AGED ABOUT 52 YEARS,  
SON OF SRI.SHIVARAPPA T

NO.1/4, BALAGANGADHAR NAGAR,  
BEHIND KANYAKUMARI SCHOOL,  
MALLATHAHALLI,  
BANGALORE-560 056.

... PETITIONER

(BY SRI. SHANKAR A, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK, NEW DELHI  
NEW DELHI-110 001.
2. CENTRAL BOARD OF DIRECT TAXES  
REPRESENTED BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR,  
JEEVAN DEEP BUILDING  
PARLIAMENT STREET  
NEW DELHI-110 001.
3. THE COMMISSIONER OF  
INCOME TAX  
BANGALORE-II  
CENTRAL REVENUE BUILDING  
QUEENS ROAD,  
BANGALORE-560 001.
4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM,  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD,  
UTTAR PRADESH-201010.

REP. BY DEPUTY COMMISSIONER  
OF INCOME TAX

CENTRALISED PROCESSING  
CELL-TDS.

... RESPONDENTS

(BY SRI. K.V. ARAVIND, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO A WRIT OF DECLARATION OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DECLARING THAT THE FINANCE ACT NO.2 OF 2012 BY WAY OF INSERTION OF SECTION 234E TO INCOME TAX ACT, 1961 IS UNREASONABLE AND UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 AND 277 OF THE CONSTITUTION OF INDIA, AND HOLD THE SAID IMPUGNED PROVISION OF SECTION 234E OF THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION AND FOR WHICH THE PETITIONER SHALL EVER BE GREATFUL.

**W.P.NOs.38130-38134/2014:**

**BETWEEN:**

1. M.S.ARASU BUILDERS AND DEVELOPERS  
NO.175, SRI LAKSHMI DEVI NILAYA,  
5TH FLOOR, BSK 3RD STAGE,  
SRINIVASANAGAR, GIRINAGAR,  
BANGALORE-560085.  
BY ITS PARTNER  
SRI.B.H.MAHALINGAPPA,  
S/O SRI.HUCHHEGOWDA,  
AGED 47 YEARS.
2. RAVINDRA KUMAR GOENKA  
52 YEARS  
5TH CROSS, TEA PAVILION,  
17TH MAIN, 5TH BLOCK,

KHB COLONY, KORAMANGALA,  
BANGALORE-560034.

3. HI-TECH FORGINGS  
(BANGALORE) PVT.LTD.,  
V-1(A), 3RD CROSS, 1ST STAGE,  
PEENYA INDUSTRIAL ESTATE,  
BANGALORE-560058  
BY ITS MANAGING DIRECTOR  
SRI.RAMBABU.D  
S/O LATE SUBBA RAO,  
AGED 60 YEARS. ... PETITIONERS

(BY SRI. S R SHIVA PRAKASH, ADVOCATE &  
SRI.CHAITANYA V.M., ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK NEW DELHI,  
NEW DELHI.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR,  
JEEVAN DEEP BUILDING  
PARLIAMENT STREET,  
NEW DELHI-110 001.
3. THE COMMISSIONER OF  
INCOME TAX  
BANGALORE-II  
CENTRAL REVENUE BUILDING  
QUEENS ROAD  
BANGALORE-560 001.

4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLILNG SYSTEM  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, U.P-201010. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE FINANCE ACT NO.2 OF 2012 BY WAY OF INSERTION OF SECTION 234E TO INCOME TAX ACT, 1961 IS UNREASONABLE AND UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 AND 277 OF THE CONSTITUTION OF INDIA. WHEREFORE, IT IS MOST RESPECTFULLY AND MOST HUMBLY SUBMITTED THAT THIS HON'BLE COURT BE PLEASED TO HOLD THE SAID IMPUGNED PROVISION OF SEC. 234E OF THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION AND FOR WHICH THE PETITIONER SHALL EVER BE GRATEFUL.

**W.P.NOs.53286-53289/2014 & 53290-53291/2014:**

**BETWEEN:**

1. M/s.MAHRISHI MELTCHEMS  
PRIVATE LIMITED  
REP. BY ITS MANAGING DIRECTOR  
SRI RAM BILAS BHUTARA  
AGED ABOUT 57 YEARS  
S/O SRI SUGAN CHAND BHUTARA  
THE COMPANY IS SITUTATED AT  
NO.3, MAHRISHI MANSION,  
3RD CROSS, MYSORE ROAD,  
BANGALORE-560 026.

2. M/s. SUDHA MELTCHMES PRIVATE LIMITED  
REP. BY ITS MANAGING DIRECTOR  
SRI RAJARAM BHUTARA  
AGED ABOUT 64 YEARS,  
S/O SRI SUGAN CHAND BHUTARA  
THE COMPANY IS SITUATED AT  
NO.3, MAHRISHI MANSION,  
3RD CROSS, MYSORE ROAD,  
BANGALORE-560 026.
3. M/s.MAHRISHI ALLOYS PRIVATE LIMITED  
REP. BY ITS MANAGING DIRECTOR  
SRI RAJARAM BHUTARA  
AGED ABOUT 64 YEARS,  
S/O SRI SUGAN CHAND BHUTARA  
THE COMPANY IS SITUATED AT  
NO.3, MAHRISHI MANSION,  
3RD CROSS, MYSORE ROAD,  
BANGALORE-560 026. ... PETITIONERS

(BY SRI. SHANKAR A, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY,  
MINISTRY OF FINANCE,  
SOUTH BLOCK NEW DELHI,  
NEW DELHI-110 001.
2. CENTRAL BOARD OF DIRECTOR TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE,  
4TH FLOOR, JEEVAN DEEP BUILDING,  
PARLIAMENT STREET,  
NEW DELHI-110 001.
3. THE COMMISSIONER OF INCOME TAX  
BANGALORE-II,

CENTRAL REVENUE BUILDING,  
QUEENS ROAD,  
BANGALORE-560 0001.

4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD,  
UTTAR PRADESH-201010. .. RESPONDENTS

(BY SRI.K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER  
ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA  
PRAYING TO DECLARE THAT THE FINANCE ACT NO.2 OF  
2012 BY WAY OF INSERTION OF SECTION 234E TO  
INCOME TAX ACT, 1961 IS UNREASONABLE AND  
UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265  
AND 277 OF THE CONSTITUTION OF INDIA, AND HOLD  
THE SAID IMPUGNED PROVISION OF SECTION 234E OF  
THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE  
CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN  
THIS PETITION AND FOR WHICH THE PETITIONER SHALL  
EVER BE GRATEFUL.

**W.P.NOs.38127-38129/2014:**

**BETWEEN:**

SREE C B EDUCATIONAL AND  
CULTURAL TRUST  
SY NO.122 & 124,CBIT  
SRINIVASPURA ROAD  
TORADEVANDA HALLI (V)  
KOLAR- 563 101

BY ITS SECRETARY  
SRI V KRISHNA REDDY  
S/O SRI LATE BENKATASWAMY  
AGED 52 YEARS.

... PETITIONER

(BY SRI. S R SHIVA PRAKASH, ADVOCATE &  
SRI. CHAITANYA V.M., ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK NEW DELHI  
NEW DELHI -110 001.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN  
DEPARTMENT OF REVENUE  
4TH FLOOR,  
JEEVAN DEEP BUILDING,  
PARLIAMENT STREET  
NEW DELHI- 110 001.
3. THE COMMISSIONER OF INCOME TAX  
BANGALORE- II  
CENTRAL REVENUE BUILDING  
QUEENS ROAD  
BANGALORE -560 001.
4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENABLING SYSTEM  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, U P -201010.  
REP. BY ITS  
ASST. COMMISSIONER I.T. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE FINANCE ACT NO.2/12 BY WAY OF INSERTION OF SEC.234E TO INCOME TAX ACT, 1961 IS UNREASONABLE & UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 & 277 OF THE CONSTITUTION OF INDIA & BE PLEASED TO HOLD THE SAID IMPUGNED PROVISION OF SEC.234E OF THE INCOME TAX ACT 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION & FOR WHICH THE PETITIONER SHALL EVER BE GRATEFUL, VIDE ANNEXURES-A1 TO A3 SO FAR PETITIONER CONCERNED.

**W.P.NO.37689/2014:**

**BETWEEN:**

M/s.PRAKASH BUS CORPORATION PVT., LTD.,  
 SURVEY NO.26 & 1,  
 KENDATTI GOLOLAHALLI VILLA,  
 VAKKALERI HOBLI,  
 KOLAR TALUK-563133,  
 REPRESENTED BY ITS DIRECTOR,  
 SIR SUBASH KAUL,  
 AGED ABOUT 52 YEARS,  
 S/O SRI AVTAR KRISHEN KAUL. ... PETITIONER

(BY SRI. S PARTHASARATHI, ADVOCATE &  
 SRI P. DINESH AND JINITA CHATTERJEE  
 ADVOCATES)

**AND:**

1. THE DEPUTY COMMISSIONER OF  
 INCOME-TAX,  
 CENTRALIZED PROCESSING CELL-TDS,

AAYKAR BHAWAN, SECTOR-3,  
VAISHALI, GHAZIABAD,  
UP-201010.

2. UNION OF INDIA  
THROUGH THE SECRETARY,  
DEPARTMENT OF REVENUE,  
MINISTRY OF FINANCE,  
NEW DELHI-110001. ... RESPONDENTS

(BY SRI. K V ARAVIND, ADVOCATE)

THIS W.P. FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH AND TO HOLD THE PROVISIONS OF SECTION 234E OF THE ACT EXTRACTED AT PAGE NO. 5 ABOVE AS ULTRA VIRES OF THE CONSTITUTION OF INDIA VIDE ANNEXURES-A, A1 & A2.

**W.P.NOs.5641-5658/2015**

**BETWEEN:**

1. LOCAL AUDIT CIRCLE  
DAVANAGERE  
NO.49, 2ND FLOOR,  
D C OFFICE, LOCAL AUDIT CIRCLE,  
DAVANGERE-577006  
BY ITS ASSISTANT CONTROLLER  
SHRI BASAVARAJU B S  
S/O SHANKARAPPA,  
AGED 59 YEARS
2. SRI VEERAMAHESHWARA CREDIT  
CO- OPERATIVE SOCITEY LTD.,  
#683/2, 8TH MAIN,  
P J EXTENSION,

DAVANGERE-577002  
BY ITS SECREARY  
SMT T N TANUJA  
AGED 46 YEARS.

3. SHRI ARUNA CONSTRUCTION PVT., LTD.,  
#372/373, SRI DEVI PROPERTIES,  
80FT ROAD, A SECTOR,  
YELAHANKA NEW TOWN,  
BANGALORE-560064  
BY ITS MANAGING DIRECTOR  
SRI J RAMA RAJU  
S/O S SATYA NARAYANA RAJU  
AGED 48 YEARS.
4. SRI BHARANI CONSTRUCTIONS  
A NAGARJUNA ENG. COLLEGE AND  
VENKATAKA GIRI KOTE POST,  
DEVANA HALLI,  
BANGALORE-562110.  
BY ITS MANAGING PARTNER  
I V R V NARASIMHA RAJU  
S/O V SATYANARAYANA RAJU  
AGED 57 YEARS.
5. SRI KRISHNA CONSTRUCTIONS  
#786, 1ST FLOOR, 8TH CROSS,  
YELAHANKA NEW TOWN,  
BANGALORE-560064  
BY ITS MANAGING PARTNER  
SRI A NARASIMHA RAJU  
S/O A SATYANARAYANA RAJU  
AGED 46 YEARS.
6. SRI GAYATRI CONSTRUCTIONS  
H NO.3, MATHRU LAYOUT,  
7TH CROSS,  
YELAHANKA NEW TOWN,

BANGALORE-560065  
BY ITS MANAGING PARTNER  
SRI A NARASIMHA RAJU  
S/O A SATYNARAYANA RAJU  
AGED 46 YEARS.

7. SRI SATYA CONSTRUCTIONS  
# 437, HIG A SECTOR,  
9TH CROSS,  
YELAHANKA NEW TOWN,  
BANGALORE-560064  
BY ITS MANAGING PARTNER  
SRI J VENUGOPALA KRISHNA RAJU  
S/O J SATYANARAYANA RAJU  
AGED 47 YEARS.
8. SRI BALAJI CONSTRUCTIONS  
#1001, RIVERA BLOCK,  
PRESTIGE MO,  
PUTTENHALLI YELAHANKA,  
BANGALORE-560064  
BY ITS M SURYANARAYANA RAJU,  
S/O M SURYANARAYANA RAJU  
AGED 65 YEARS. ... PETITIONERS

(BY SRI. S R SHIVA PRAKASH, ADVOCATE &  
SRI.CHAITANYA V.M., ADVOCATE)

**AND:**

1. UNION OF INDIA  
REP. BY ITS SECRETARY  
MINISTRY OF FINANCE  
SOUTH BLOCK, NEW DELHI,  
NEW DELHI.
2. CENTRAL BOARD OF DIRECT TAXES  
REP. BY ITS CHAIRMAN

DEPARTMENT TO REVENUE  
4TH FLOOR,  
JEEVAN DEEP BUIDLING,  
PARLIAMENT STREET  
NEW DELHI-110001.

3. THE COMMISSIONR OF INCOME TAX  
BANGALORE-II  
CENTRAL REVENUE BUILDING  
QUEENS ROAD,  
BANGALORE-560001.

4. TDS RECONCILIATION ANALYSIS AND  
CORRECTION ENAPLING SYSTEM  
TDS CPC, AAYKAR BHAWAN,  
SECTOR-3, VAISHALI,  
GHAZIABAD, U P-201010  
REP. BY DEPUTY COMMR. OF  
INCOME TAX, CPC TDS.

.. RESPONDENTS

(BY SRI.K V ARAVIND, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE FINANCE ACT NO.2/2012 BY WAY OF INSERTION OF SEC. 234E TO INCOME TAX ACT, 1961 IS UNREASONABLE AND UNCONSTITUTIONAL BEING OPPOSED TO ARTICLE 265 AND 277 OF THE CONSTITUTION OF INDIA. WHEREFORE, IT IS MOST RESPECTFULLY AND MOST HUMBLY SUBMITTED THAT THIS HON'BLE COURT BE PLEASED TO HOLD THE SAID IMPUGNED PROVISION OF SEC. 234E OF THE INCOME-TAX ACT, 1961 AS VIOLATIVE OF THE CONSTITUTION OF INDIA FOR THE REASONS SET OUT IN THIS PETITION FOR WHICH THE PETITIONER SHALL EVER BE GRATEFUL.

THESE WRIT PETITIONS BEING HEARD AND RESERVED, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

In all these petitions the constitutional validity of Section 234E of the Income Tax Act, 1961 (for short 'Act') has been challenged contending it is ultra vires of Constitution of India and/or to declare by an appropriate writ that under the newly inserted Section 234E of the Act, fee could be levied only after affording the petitioners a reasonable opportunity and for consequential relief of quashing the intimations whereunder fee has been levied under Section 234E for late filing of TDS statements.

2. I have heard the arguments of Sriyuths K.P.Kumar, M.V.Seshachala, learned Senior Advocates, Sriyuths P.Dinesh, Smt.Jinita Chatterjee for Sri.S.Parthasarathi, R.Ramamurthy R., Chythanya K.K., S.R.Shivaprakash, Chaitanya V. Mudrabetu, Aravind V.

Chavan, T.Suryanarayana, Smt.Lakshmy Iyengar, Ashok A. Kulkarni, Balram R. Rao, Smt.Vani H., Shankar A., learned advocates appearing for petitioners and Sri.K.V.Aravind, learned Senior standing counsel along with Sri.Jeevan J. Neeralagi appearing for respondents.

3. The learned advocates appearing for the petitioners have contended as under:

(a) Levy or impost is regarded as a written or consideration for services rendered and in the instant case the Government is not providing any service to the deductors and as such levy of fee under Section 234E of the Act is invalid.

(b) The imposition of a **fee** on tax deductors without any corresponding

service being rendered to them is wholly unjustified and leads to arbitrary and high pitched demands being raised under the Act, more so without an opportunity of hearing being extended to the deductors.

(c) For levy of 'fee' services should be rendered by the State and it is quid-pro-quo. In the absence of any services being rendered by the State to demand 'fee' or levy of such fee would be without authority of law. There being no rational or nexus to 'levy' of fee under the impugned provision for 'service' being rendered by the State (which is none), such imposition is bad-in-law, unconstitutional and ultra vires of the Constitution.

(d) The impugned provision overrides the charging Section namely Section 4(1) of the Act or in other words it militates against Section 4 and as such the impugned provision is unconstitutional.

(e) When the reasons for introduction of impugned provision indicates that as a deterrence against delayed filing of the TDS statements, Fee is sought to be recovered under Section 234E, it is levy of penalty in disguise though the impugned Section is included under Chapter XVII of the Act.

(f) Section 271H provides for penalties imposable and if the delay in filing TDS statements is beyond one

year, then both Sections 234E and 271H will be attracted for the same default and no person can be punished for the same default/offence more than once and it is hit by Article 20(2) of the Constitution of India.

(g) Impugned provision is against the principle of “**audi alterum partem**” - no one should be condemned unheard, inasmuch as Section 272A(2)(k) was replaced by introduction of two Sections namely Section 234E and 271H and undisputedly as per repealed Section 272A(4) of the Act such penalty could not had been levied unless opportunity of being heard is extended to the person. Whereas the impugned

provision does not afford an opportunity of being heard to the deductor before levy of penalty.

(h) The impugned provision is beyond the legislative competence of Parliament under Article 246(1) read with Entry 82 of List I of Schedule 7 of the Constitution of India since by the impugned provision it seeks to impose a 'fee' for delay in filing the statement of taxes deducted at source visa-viz., 'taxes on income' as envisaged in Entry 82 of List I of Schedule 7.

(i) Taxes having been deducted at source and having been remitted to the credit of the Central Government by the deductors within the stipulated time, no loss is caused to exchequer

and as such the impugned levy under Section 234E of the Act amounts to abuse of legislative power.

(j) The impugned provision is violative of Article 19(1)(g) of the Constitution of India as it imposes unreasonable restriction on the business carried on by petitioners by imposing unnecessary and excessive levies under the garb of a 'fee'.

(k) When various causes for delay in filing of the statements of taxes deducted at source would be there, if same is not taken into account, it would lead to unreasonable and unwarranted hardship to the deductors and therefore imposition of fee without affording an opportunity of hearing to

explain the cause for such delay has to be struck down as being opposed to principles of natural justice.

(l) The Department itself is not clear as to whether it is a 'fee' or a 'penalty' or what service is being rendered and if so, to whom. But on the other hand, the objects or reasons for introducing the impugned Section 234E would indicate it is qualitatively imposition of penalty.

(m) When there is a civil obligation and consequences which flow from non compliance entails such person of being extended an opportunity to explain. In the absence of such in built provision being available the

provision would be against principles of natural justice.

(n) On the principles of proportionality the impugned provision has to be struck down since fee is not levied on quantum of income but on the number of days delay.

(o) The scheme of Section 234E appears to be irrational and failure to classify properly amongst deductors, there is intelligible differentia between the same class of persons.

In support of their submissions they have relied upon the following Judgments:

- (1) High Court of Judicature at Bombay - **W.P.771/2014** – Mr.Rashmikant Kundalia and another Vs Union of India and others

- (2) **2006 STC Vol.145 544** –  
Jindal Stainless Ltd., and another Vs  
State of Haryana and others
- (3) **AIR 1996 SC 767** –  
Secretary to Government of Madras and  
anr Vs P.R.Sriramulu and anr
- (4) **AIR 1989 SC 100** –  
P.M.Ashwathanarayana Setty and others  
Vs State of Karnataka and others
- (5) **AIR 2003 SC 4650** –  
State of U.P. and others Vs Vam Organic  
Chemicals Ltd., and others
- (6) **AIR 1974 SC 555** –  
E.P.Royappa Vs State of Tamil Nadu and  
another
- (7) **(2001)2 SCC 386** –  
Om Kumar and others Vs Union of India
- (8) **1993 ITR Vol.199 530** –  
C.B.Gautam Vs Union of India and  
others
- (9) **2002 ITR Vol.254 755** –  
Dr.Prannoy Roy and another Vs  
Commissioner of Income Tax and  
another
- (10) **2009 ITR Vol.309 231** –  
Commissioner of Income-Tax and  
another Vs Pranoy Roy and another

- (11) **(2007)10 SCC 342** –  
State of Uttar Pradesh and others Vs  
Deepak Fertilizers and Petrochemical  
Corporation Ltd.
- (12) **ITA Nos.2564/2005 C/W 2565/2005** –  
Commissioner of Income Tax and anr Vs  
Manjunatha Cotton and Ginning Factory
- (13) **(2006) 206 CTR 0175** –  
Civil Appeal No.4633/2006 – Rajesh  
Kumar and ors Vs Deputy Commissioner  
of Income tax and others
- (14) **(2008)216 CTR 0303** –  
Civil Appeal Nos.2783 & 2784/2008 –  
Sahara India (Firm) Vs Commissioner of  
Income Tax and anr
- (15) **(2010)234 CTR 0153** –  
Civil Appeal Nos.7541 & 7542/2010- GE  
India Technology Centre (P) Ltd. Vs  
Commissioner of Income Tax and anr
- (16) **AIR 1954 SC 282 (Vol.41)** –  
The Commissioner, Hindu Religious  
Endowments, Madras Vs Sri.Lashmindra  
Thirtha Swamiar of Sri.Shirur Mutt
- (17) **(1995)1 SCC 655** –  
Krishi Upaj Mandi Samiti and others Vs  
Orient Paper and Industries Ltd.

- (18) **AIR 1981 SC 1863** –  
Southern Pharmaceuticals and  
Chemicals, Trichur and others Vs State  
of Kerala and others
- (19) **W.P.6918-6938/2014**
- (20) **(1980) 1 SCC 416** –  
Kewal Krishan Furi and anr Vs State of  
Punjab and another

4. Per contra, the learned panel counsel Sriyuths K.V.Aravind and Jeevan J. Neeralagi would support the impugned provision and contend that the 'fee' leviable by the impugned provision has nothing to do with quantum of money involved and it is based on the number of days delay in filing the TDS statements. They would elaborate their submissions by contending that tax deduction at source (TDS) is one of the modes of collection of taxes which after deduction by the deductor, same is required to be credited to the account of the Central Government within a prescribed period and thereby the deductee gets the credit of the amount

so deducted against his tax liability and same can be taken note off by the jurisdictional assessing Officer of deductee only on the information that would be furnished by the deductor to the Department. It is contended that the significance of TDS lies in the fact that it prepones the collection of tax to ensure regular source of revenue and wider base for tax.

5. It is contended that under the Act there is an obligation on the Department to process the income tax returns filed by the assessee within specified period and such processing can be done only when the information relating to the details of tax deducted is furnished in the statement filed by the deductor within the prescribed time. Such timely process is the bedrock of efficient tax administration system and in cases of where refund claims are not processed timely, it results in:

- Confidence of a general tax payer being eroded.
- Late payment of refund results in payment of interest.
- Delay in receipt of refund results into cash flow crunch –especially for business activity.

6. It is contended that Section 119(2)(a) has been introduced simultaneously which provides for hardship, reasons beyond control etc., to be explained by the deductor and as such the contention of petitioners that impugned provision being hit by doctrine of *'audi alterum partem'* is not at all attracted to the facts on hand. It is submitted that to mitigate the hardship Section 119(2)(a) simultaneously introduced along with the impugned provision and it would act as a succor. It is also contended that services rendered by the State need not be direct for levy of fee and the principle of quid-pro-quo for levy of fee would not be

attracted to the facts of the present case and even otherwise if remote nexus to services rendered is present, it would suffice to sustain the constitutional validity.

7. Sri.K.V.Aravind, learned panel counsel appearing for the respondent-Department would also very heavily rely upon the Division Bench Judgment of Mumbai High Court rendered in W.P.No.771/2014 on 09.02.2015 upholding the constitutional validity of the impugned provision and prays for dismissal of the present writ petitions on identical grounds and also by rejecting the contentions raised by the learned advocates appearing for the petitioners. In support of his submissions he has relied upon the following Judgments:

- (1) **(1983) 3 SCC 229-**  
Municipal Corporation of Delhi &  
others vs. Mohd. Yasin

- (2) **(1983) 3 SCC 353-**  
Sreenivasa General Traders & Others  
vs. State of Andhra Pradesh & Others
- (3) **(1995) 1 SCC 655-**  
Krishi Upaj Mandi Samiti & Others vs.  
Orient Paper & Industries Ltd.,
- (4) **(2004) 8 SCC 556-**  
State of H.P & Others vs. Shivalik Agro  
Poly Products & others
- (5) **(1995) 215 ITR 758 (kar.)**  
Union Home Products Ltd & Others vs.  
Union of India & others
- (6) **1989 Supp(1) SCC 696-**  
P.M. Aswathanarayana Setty & Others  
vs. State of Karnataka
- (7) **(1996) 1 SCC 345-**  
Secretary Government of Madras vs.  
P.R. Sriramulu and another
- (8) **(2008) 4 SCC 720-**  
Government of Andhra Pradesh vs. P.  
Laxmi Devi

8. Having heard the learned advocates appearing for the parties and on perusal of the pleadings as well as case laws relied upon by the learned advocates appearing for the parties, this Court

is of the considered view that only issue which requires to be examined is:

“Whether Section 234E of the Income Tax Act, 1961 inserted by Finance Act, 2012 is to be struck down or its validity is to be upheld?”

**PREFACE:**

9. The Courts normally lean against a construction which reduces the statute to a futility. The maxim “*ut res magis valeat quam pereat*” – a liberal construction should be put upon written instruments, so as to uphold them, if possible, and carry into effect the intention. It is on application of this principle that Courts while pronouncing upon the constitutionality of a statute start with a presumption in favour of constitutionality and prefer a construction which keeps the statute within the competence of the legislature. Lord Denning stated the principle in **FAWCETT PROPERTIES VS BUCKINGHAM COUNTY COUNCIL**

reported in **(1960) 3 All England Report 503** to the following effect:

“But when a statute has some meaning even though it is obscure or several meanings, even though it is little to choose between them, the Courts have to say what meaning the statute is to bear, rather than reject it as a nullity”.

10. A statute is designed to be workable, and the interpretation thereof by the Courts should be to secure that object, unless crucial omission or clear direction makes that end unattainable. Therefore, the Courts would reject that construction which will defeat the plain intention of the legislature even though there may be some inexactitude in the language and if the choice is between two interpretations the Courts would accept the bolder construction, based on the view that the Parliament would legislate only for the purpose of bringing about an effective result rather than accepting the narrower view fail to achieve the manifest purpose of

legislation or in other words a construction which would reduce the legislation to futility would normally would not be eschewed. Thus, the purposive interpretation will have to be taken note of while examining the legislative competence of a statute or a provision in a statute when the same is under challenge.

11. Keeping the above principles in mind, the challenge to the vires of Section 234E of the Income Tax Act in these petitions is being examined. This Court is of the considered view that it would be necessary to take note of the relevant provisions of the Act which have bearing on the rival contentions raised in these writ petitions and as such they are extracted herein below and same is analysed, discussed in the background of the case laws and the conclusion is accordingly drawn.

**Charge of Income-Tax.-**

**4.** (1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall

be charged for that year in accordance with, and subject to the provisions (including provisions for the levy of additional income-tax) of, this Act in respect of the total income of the previous year of every person:

**Provided** that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

**Instructions to subordinate authorities.**

**119. (1) xxx**

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of Sections [115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK,] [139,] 143, 144, 147, 148, 154, 155 [158BFA], [sub-section (1A) of Section 201, Sections 210, 211, 234A, 234B, 234C], 271 and 273 or otherwise), general or special orders in respect of any class of incomes [or fringe benefits] or class of cases, setting forth directions or instructions (not being prejudicial to assesseees) as to the guidelines, principles or procedures to be

followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

**Duty of person deducting tax.-**

**200.** (1) Any person deducting any sum in accordance with [the foregoing provisions of this Chapter] shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

(2) Any person being an employer, referred to in sub-section (1A) of Section 192 shall pay, within the prescribed time, the tax to the credit of the Central Government or as the Board directs.

(3) Any person deducting any sum on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section (1A) of Section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, [prepare such statements for such period as may be prescribed] and deliver or cause to be delivered to the prescribed income-tax authority or the

person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

<sup>1</sup>**(Provided** that the person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be specified by the authority)

**Fee for defaults in furnishing statements.**

**234E.** (1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of Section 200 or the proviso to sub-section (3) of Section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-Section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.

(3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of Section

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<sup>1</sup>. Inserted by Finance Act (No.2) Act, 2014 w.e.f. 1-10-2014

200 or the proviso to sub-section (3) of Section 206C.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of Section 200 or the proviso to sub-section (3) of Section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

**Penalty for failure to furnish statements, etc.—**

**271H.** (1) Without prejudice to the provisions of the Act, (the Assessing Officer may direct that a person shall pay by way of) penalty, if, he—

(a) fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of Section 200 or the proviso to sub-section (3) of Section 206C ; or

(b) furnishes incorrect information in the statement which is required to be delivered or cause to be delivered under sub-section (3) of Section 200 or the proviso to sub-section (3) of Section 206C.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(3) Notwithstanding anything contained in the foregoing provisions of this Section, no penalty shall be levied for the failure

referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of Section 200 or the proviso to sub-section (3) of Section 206C before the expiry of a period of one year from the time prescribed for delivering or causing to be delivered such statement.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of Section 200 or the proviso to sub-section (3) of Section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

**Penalty for Failure to Answer Questions, Sign Statements, Furnish Information, Returns or Statements, Allow Inspections, Etc.**

**272 (1) xxx**

(2) If any person fails-

(a) to (f) xxx

(g) to furnish a certificate as required by Section 203 (or Section 206C); or

(h) to (j) xxx

(k) to deliver or cause to be delivered a copy of the statement within the time specified in sub-section (3) of

Section 200 or the proviso to sub-section (3) of Section 206C.

He shall pay, by way of penalty, a sum [of one hundred rupees] for every day during which the failure continues:

**Penalty not to be imposed in certain cases.-**

**273B.** Notwithstanding anything contained in the provisions of (clause (b) of sub-section (1) of) (Section 271, Section 271A, Section 271AA), Section 271B, (Section 271BA), (Section 271BB), Section 271C, (Section 271CA), Section 271D, Section 271E, (Section 271F, Section 271FA), (Section 271FB), (Section 271G), (Section 271H), clause (c) or clause (d) of sub-section (1) or sub-section (2) of Section 272A, sub-section (1) of Section 272AA) or (Section 272B or) sub-section (1) (or sub-section (1A)) of Section 272BB or) (sub-section (1) of Section 272BBB or) clause (b) of sub-section (1) or clause (b) or clause (c) of sub-section (2) of Section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure).

**INCOME TAX RULES, 1961**

Statement of deduction of tax under sub-section (3) of Section 200.

**31A.** (1) Every person responsible for deduction of tax under Chapter XVII-B,

shall, in accordance with the provisions of sub-section (3) of Section 200, deliver, or cause to be delivered, the following quarterly statements to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), namely:—

(a) Statement of deduction of tax under Section 192 in Form No. 24Q;

(b) Statement of deduction of tax under Sections 193 to 196D in—

(i) Form No. 27Q in respect of the deductee who is a non-resident not being a company or a foreign company or resident but not ordinarily resident; and

(ii) Form No. 26Q in respect of all other deductees.

2) Statements referred to in sub-rule (1) for the quarter of the financial year ending with the date specified in column (2) of the Table below shall be furnished by—

(i) the due date specified in the corresponding entry in column (3) of the said Table, if the deductor is an office of Government; and

(ii) the due date specified in the corresponding entry in column (4) of the said Table, if the deductor is a person other than the person referred to in clause (i)

3) (i) The statements referred to in sub-rule (1) may be furnished in any of the following manners, namely:—

- (a) furnishing the statement in paper form;
- (b) furnishing the statement electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (5);
- (c) furnishing the statement electronically along with the verification of the statement in Form 27A or verified through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (5).

(ii) Where,—

(a) the deductor is an office of the Government; or

(b) the deductor is the principal officer of a company; or

(c) the deductor is a person who is required to get his accounts audited under Section 44AB in the immediately preceding financial year; or

(d) the number of deductee's records in a statement for any quarter of the financial year are twenty or more,

the deductor shall furnish the statement in the manner specified in [item (b) or item (c) of clause(i)].

(iii) Where deductor is a person other than

the person referred to in clause (ii), the statements referred to in sub-rule (1) may, at his option, be delivered or cause to be delivered in the manner specified in [item (b) or item (c) of clause (i)].

(3A) A claim for refund, for sum paid to the credit of the Central Government under Chapter XVII-B, shall be furnished by the deductor in Form 26B electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (5)].

(4) The deductor at the time of preparing statements of tax deducted shall,—

- (i) quote his tax deduction and collection account number (TAN) in the statement;
- (ii) quote his permanent account number (PAN) in the statement except in the case where the deductor is an office of the Government;
- (iii) quote the permanent account number of all deductees;
- (iv) furnish particulars of the tax paid to the Central Government including book identification number or challan identification number, as the case may be;
- (v) furnish particulars of amount paid or credited on which tax was not deducted in view of the issue of certificate of no deduction of tax under Section 197 by the Assessing Officer of the payee;

(vi) furnish particulars of amount paid or credited on which tax was not deducted in view of the compliance of provisions of sub-section (6) of Section 194C by the payee;]

(vii) furnish particulars of amount paid or credited on which tax was not deducted in view of the furnishing of declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of Section 197A by the payee]

(viii) furnish particulars of amount paid or credited on which tax was not deducted in view of the notification issued under sub-section (1F) of Section 197A]

(5) The Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of furnishing and verification of the statements or claim for refund in Form 26B and shall be responsible for the day-to-day administration in relation to furnishing and verification of the statements or claim for refund in Form 26B in the manner so specified.]

(6) Where a statement of tax deducted at source is to be furnished for tax deducted before the 1st day of April, 2010, the provisions of this rule and rule 37A shall apply as they stood immediately before their substitution or omission by the Income-tax (Sixth Amendment) Rules, 2010].

**ANALYSIS OF STATUTORY PROVISIONS:**

12. Section 4 of the Act is the charging Section. The scheme of Section 200 of the Act would indicate that the duty is cast on the person deducting the tax to pay within the prescribed time the sum so deducted to the credit of the Central Government. When the tax has been deducted at source, it does not lie at the risk of the revenue and unless the tax so deducted is deposited or paid, the person who has deducted, continues to be responsible. Sub-section (3) of Section 200 would indicate that a person deducting any sum is required to deliver to the prescribed authority such statement in the form verified by setting forth the particulars within the time prescribed. Rule 31A of the Rules prescribe the various Forms under which quarterly statements are required to be delivered or cause to be delivered by the deductor in accordance with Section 200(3) of the Act to the Director General of Income Tax (Systems) or

the person authorised by him. Section 200A inserted by Finance Act 2/2009 effective from assessment year 2011-12 is an enabling provision necessitated by the centralized electronic processing system consequent on mandatory e-filing of return. Section 201 spells out the consequences which would follow the assessee, who fails to deduct tax and deposit the same within the time permissible under the statute. Section 202 makes it clear that the power to recover tax by deduction of tax at source under the foregoing provisions of Chapter XVII is in addition to and without prejudice to any other mode of recovery provided in the Act. Section 203 makes it obligatory on the person deducting tax to issue a certificate to the person from whom the tax has been deducted. Section 203A provides that it is obligatory on the part of a person who is liable for tax deduction at source to get this number within the prescribed time and it is also obligatory for such person to quote this

number in all challans for payment of any sum under Section 200, all certificates under Section 203 and in all returns filed under Sections 206, 206A and 206B, besides any other documents which may be included for this purpose. Section 203AA provides that prescribed Income Tax Authority or the person authorised by such authority should prepare and deliver a statement containing the details of tax deducted or paid and such other prescribed particulars on or after 01.04.2008 to every person from whose income, tax has been deducted or in respect of whose income, tax has been paid. Section 204 defines persons responsible for paying the tax deducted at source. Such responsibility depends upon category of payment. Section 205 makes it clear that where tax is deductible at source under the provisions of the Act, the assessee himself will not be called upon to pay the tax to the extent to which tax had been deducted from the income. Section 206

makes it obligatory on the part of the person deducting the tax at source to file a return within the prescribed time in the prescribed form. Section 206C deals with the procedure of tax collection at source. Section 200(3) or proviso to Section 206C(3) would require a person to deliver a statement as required in the respective section. If the statement is not furnished within the time prescribed, deductor is liable to pay, by way of fee, a sum of Rs.200/- for every day during which the failure continues and such fee would not exceed the tax deductible or collectable as per Section 234E of the Act.

**DISCUSSION AND CONCLUSION:**

13. The main thrust of the arguments addressed by the learned advocates appearing on behalf of the petitioners as noticed hereinabove is that the levy of fee under Section 234E for default in furnishing the statements is in the guise of penalty and there is no nexus to the services rendered by the department. In

order to examine as to whether the fee charged under Section 234E is in fact fee or penalty or compensatory tax, it could be seen from Section 199 of the Act that any deduction made in accordance with Section 200 to Section 206 would be treated as a payment of tax on behalf of the person from whose income the deduction was made. An assessee while computing his income for being assessed under self assessment as provided under Section 140A will construe the deductions made on his behalf as a component in his return of income for claiming deduction in the payment of tax. A bare perusal of Section 244A of the Act would indicate that where refund of any amount becomes due to the assessee under the Act, such assessee would be entitled to receive in addition to the amount of refund of tax, simple interest at the rate of one-half percent for every month or part of a month comprised in the period from the 1<sup>st</sup> day of April of the assessment year to the date on

which refund is granted as indicated in sub-section(1)(a) of the Act. A bare perusal of Section 271H which came to be inserted by Finance Act, 2012 with effect from 01.07.2012 would indicate it provides for levy of penalty for failure to furnish statements of tax deducted at source under Section 200(3) or under proviso to Section 206C or for furnishing incorrect information. As per sub-section (2), penalty will be not less than 10,000/- and it may extend upto ₹1,00,000/-. Section 273B indicates that no penalty shall be imposable on the person or the assessee for any failure referred to in the said provision if he proves that there was reasonable cause for such failure. Section 273B has also been amended by adding Section 271H and as already noticed under Section 271H(2)(k) penalty can be imposed for failure to furnish statement within prescribed time. However, by incorporating Section 271H in Section 273B, it would indicate that penalty

need not be imposed under Section 271H if reasonable cause is shown. The contention of the assessee is that there is no similar provision in the impugned provision namely Section 234E and as such it takes away the valuable right of the assessee. The said contention does not hold water inasmuch as Section 119(2)(a) enables the Board to issue general or special orders in respect of any class of incomes or class of cases from time to time, which includes sub-section(1A) of Section 201 and as such no hardship would be caused to the assessee. As such contention raised in this regard cannot be accepted.

14. Now turning my attention to the issue regarding the construction of the levy of fee contemplated under the impugned provision namely as to whether it is in disguise a **'tax'** or a **'fee simplicitor'** or it is **'compensatory tax'**, it requires to be noticed that tax is a compulsory extraction of money by the

Government and fee is an amount received towards expenditure for rendering the service. The Hon'ble Apex Court in the case of **THE COMMISSIONER, HINDU RELIGIOUS ENDOWMENTS, MADRAS V. SRI LAKSHMINDRA THIRTHA SWAMIAR OF SRI SHIRUR MUTT**, reported in **AIR 1954 SC 282** has succinctly laid down the law on this issue having explained the distinction of these levies. It has been held that a tax is a compulsory extraction of money by public authority for public purposes enforceable by law and is not payment for services rendered. A fee is generally defined to be a charge for a special service rendered to individuals by some Governmental agencies. The said Judgment came to be followed by the Hon'ble Apex Court in **KRISHI UPAJ MANDI SAMITI & OTHERS VS. ORIENT PAPER & INDUSTRIES LTD.**, reported in **(1995) 1 SCC 655** and held that the power of any legislature to levy a fee is conditioned by the fact that it

must be by and large *quid pro quo* for the services rendered. However, co-relationship between the levy and services rendered is one of general character and not of mathematical exactitude. It came to be held by the Hon'ble Apex Court, all that is necessary is that there should be relationship between levy of the fees and services rendered. After analyzing the various Judgments on this aspect, it came to be held as under:

“21. Thus what emerges from the conspectus of the aforesaid decisions is as follows:

(1) Though levying of fee is only a particular form of the exercise of the taxing power of the State, our Constitution has placed fee under a separate category for purposes of legislation. At the end of each one of the three Legislative Lists, it has given power to the particular legislature to legislate on the imposition of fee in respect of every one of the items dealt with in the list itself, except fees taken in Court.

(2) The tax is a compulsory exaction of money by public authority for public purposes enforceable by law and is not payment for services rendered. There is no *quid pro quo*

between the taxpayer and the public authority. It is a part of the common burden and the quantum of imposition upon the taxpayer depends generally upon his capacity to pay.

(3) Fee is a charge for a special service rendered to individuals or a class by some governmental agency. The amount of fee levied is supposed to be based on the expenses incurred by the Government in rendering the service though in some cases the costs are arbitrarily assessed. Ordinarily, the fees are uniform and no account is taken of the varying abilities of different recipients to pay. These are various kinds of fees and it is not possible to formulate a definition that would be applicable to all cases.

(4) The element of compulsion or coerciveness is present in all kinds of impositions though in different degrees and it is not totally absent in fees. Hence it cannot be the sole or even a material criterion for distinguishing a tax from fee. Compulsion lies in the fact that payment is enforceable by law against an individual in spite of his unwillingness or want of consent and this element is present in taxes as well as in fees.

(5) The distinction between a tax and a fee lies primarily in the fact that a tax is levied as a part of the common burden while a fee is a payment for a special benefit or privilege. Fees confer a special capacity although the special advantage is secondary to the primary motive of regulation in the public interest. Public interest seems to be at the basis of all impositions but in a fee it is some special benefit which is conferred and accruing which is the reason for imposition of the levy. In the case of a tax, the particular advantage if it exists at all, is an incidental result of State action. A fee is a sort of return or consideration for services rendered and hence it is primarily necessary that the levy of fee should on the face of the legislative provision be correlated to the expenses incurred by Government in rendering the services. As indicated in Article 110(2) of the Constitution ordinarily there are two classes of cases where Government imposes fees upon persons. The first is of grant of permission or privilege and the second for services rendered. In the first class of cases, the cost incurred by the Government for granting of permission or privilege may be very small and the amount of imposition levied is based not necessarily upon the costs incurred by the Government but upon the benefit that the individual receives. In such

cases, the tax element is predominant. If the money paid by privilege holders goes entirely for the expenses of matters of general public utility, the fee cannot but be regarded as a tax. In the other class of cases, the Government does some positive work for the benefit of persons and the money is taken as the return for the work done or services rendered.

(6) There is really no generic difference between tax and fee and the taxing power of the State may manifest itself in three different forms, viz., special assessments, fees and taxes. Whether a cess is tax or fee, would depend upon the facts of each case. If in the guise of fee, the legislature imposes a tax it is for the Court on a scrutiny of the scheme of the levy, to determine its real character. In determining whether the levy is a fee, the true test must be whether its primary and essential purpose is to render specific services to a specific area or classes. It is of no consequence that the State may ultimately and indirectly be benefited by it. The amount of the levy must depend upon the extent of the services sought to be rendered and if they are proportionate, it would be unreasonable to say that since the impost is high it must be a tax. Nor can the method prescribed by the legislature for recovering the levy by

itself alter its character. The method is a matter of convenience and though relevant, has to be tested in the light of other relevant circumstances.

(7) It is not a postulate of a fee that it must have relation to the actual service rendered. However, the rendering of service has to be established. The service, further, cannot be remote. The test of quid pro quo is not to be satisfied with close or proximate relationship in all kinds of fees. A good and substantial portion of the fee must, however, be shown to be expended for the purpose for which the fee is levied. It is not necessary to confer the whole of the benefit on the payers of the fee but some special benefit must be conferred on them which has a direct and reasonable correlation to the fee. While conferring some special benefits on the payers of the fees, it is permissible to render service in the general interest of all concerned. The element of quid pro quo is not possible or even necessary to be established with arithmetical exactitude. But it must be established broadly and reasonably that the amount is being spent for rendering services to those on whom the burden of the fee falls. There is no postulate of a fee that it must have a direct relation to the actual services rendered by the authorities

to each individual to obtain the benefit of the service. The element of quid pro quo in the strict sense is not always a sine qua non for a fee. The element of quid pro quo is not necessarily absent in every tax. It is enough if there is a broad, reasonable and general corelationship between the levy and the resultant benefit to the class of people on which the fee is levied though no single payer of the fee receives direct or personal benefit from those services. It is immaterial that the general public may also be benefited from some of the services if the primary service intended is for the payers of the fees.

(8) Absence of uniformity is not a criterion on which alone it can be said that the levy is of the nature of a tax. The legislature has power to enact appropriate retrospective legislation declaring levies as fees by denuding them of the characteristics of tax.

(9) It is not necessary that the amount of fees collected by the Government should be kept separately. In view of the provisions of Article 266, all amounts received by the Governments have to be credited to the Consolidated Funds and to the public accounts of the respective Governments.”

15. As to whether the 'fee' are the amounts paid for a privilege and or not an obligation, but the payment is voluntarily came to be examined by the Hon'ble Apex Court in **SOUTHERN PHARMACEUTICALS & CHEMICALS, TRICHUR & ORS. ETC. V. STATE OF KERALA & ORS. ETC., AND MUNICIPAL CORPORATION OF DELHI & ORS., V. MOHD. YASIN** reported in **AIR 1991 SC 1863** and held:

"25. 'Fees' are xxx consolidated fund. It is also increasingly realized that the element of quid pro quo stricto sensu is not always a sine qua non of a fee. It is needless to stress that the element of quid pro quo is not necessarily absent in every tax. We may, xxx (AIR 1980 SC 1008 at p.1015): the element of quid pro quo xxx it par took the nature of a tax. It seems that the Court proceeded on the assumption that the element of quid pro quo must always be present in a fee. The traditional concept of quid pro quo is undergoing transformation.

16. The Hon'ble Apex Court in **JINDAL STAINLESS STEEL AND ANR VS STATE OF HARYANA AND OTHERS** reported in **(2006) 145 STC**

**544** while laying down the parameters of the judicially evolved concept of 'compensatory tax' vis-a-vis Article 301 has explained the difference between a tax, a fee and a compensatory tax in the following manner:

42. To sum up, the basis of every levy is the controlling factor. In the case of "a tax", the levy is a part of common burden based on the principle of ability or capacity to pay. In the case of "a fee", the basis is the special benefit to the payer (individual as such) based on the principle of equivalence. When the tax is imposed as a part of regulation or as a part of regulatory measure, its basis shifts from the concept of "burden" to the concept of measurable/quantifiable benefit and then it becomes "a compensatory tax" and its payment is then not for revenue but as reimbursement/ recompense to the service/facility provider. It is then a tax on recompense. Compensatory tax is by nature hybrid but it is more closer to fees than to tax as both fees and compensatory taxes are based on the principle of equivalence and on the basis of reimbursement/recompense. If the impugned law chooses an activity like trade and commerce as the criterion of its operation and if the effect of the operation of the enactment is to impede trade and commerce then Article 301 is violated".

17. The element of quid pro quo would not be always a sine qua non for levy of fee. If there is broad correlation between the two it would suffice. The Hon'ble Apex Court in **MUNICIPAL CORPORATION OF DELHI & OTHERS VS. MOHD. YASIN** reported in **(1983) 3 SCC 229** has held to the following effect:

“9. What do we learn from these precedents? We learn that there is no generic difference between a tax and a fee, though broadly a tax is a compulsory exaction as part of a common burden, without promise of any special advantages to classes of taxpayers whereas a fee is a payment for services rendered, benefit provided or privilege conferred'. Compulsion is not the hall-mark of the distinction between a tax and a fee. That the money collected does not go into a separate fund but goes into the consolidated fund does not also necessarily make a levy a tax. Though a fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere causal relation may be enough. Further, neither the incidence of the fee nor the service rendered need be uniform. That others besides those paying the fees are also benefited does not detract from the character of the fee. In fact the special benefit or advantage to the payers of the fees may even be secondary as compared

with the primary motive of regulation in the public interest. Nor is the Court to assume the role of a cost accountant. It is neither necessary nor expedient to weigh too meticulously the cost of the services rendered etc. against the amount of fees collected so as to evenly balance the two. A broad correlationship is all that is necessary. Quid pro quo in the strict sense is not the one and only true index of a fee; nor is it necessarily absent in a tax.”

18. This aspect of existence of actual quid pro quo for a fee was held not to be an essential element by the Apex Court in **SREENIVASA GENERAL TRADERS & OTHERS VS. STATE OF ANDHRA PRADESH & OTHERS** reported in **(1983) 4 SCC 353** and it came to be held by the Hon’ble Apex Court as under:

“31. The traditional view that there must be actual quid pro quo for a fee has undergone a sea change in the subsequent decisions. The distinction between a tax and a fee lies primarily in the fact that a tax is levied as part of a common burden, while a fee is for payment of a specific benefit or privilege although the special advantage is secondary to the primary motive of regulation in public interest. If the element of revenue for general purpose of the State predominates, the levy becomes

a tax. In regard to fees there is, and must always be, correlation between the fee collected and the service intended to be rendered. In determining whether a levy is a fee, the true test must be whether its primary and essential purpose is to render specific services to a specified area or class; it may be of no consequence that the State may ultimately and indirectly be benefited by it. The power of any legislature to levy a fee is conditioned by the fact that it must be "by and large" a quid pro quo for the services rendered. However, correlation between the levy and the services rendered (sic or) expected is one of general character and not of Mathematical exactitude. All that is necessary is that there should be a reasonable "relationship" between levy of the fee, and the services rendered. If authority is needed for this proposition, it is to be found in the several decisions of this Court drawing a distinction between 'tax' and 'fee'. See: *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, supra; *H. H. Sundhundra Thirtha Swamiar v. Commissioner for Hindu Religious & Charitable Endowments, Mysore*, *The Hingir-Rampur Coal Co. Ltd. v. State of Orissa*; *H.H. Shri Swamiji of Shri Admar Mutt vs. Commissioner, Hindu Religious & Charitable Endowments Department; Southern Pharmaceuticals & Chemicals, Trichur & Ors. etc. v. State of Kerala & Ors. etc.*, and *Municipal Corporation of Delhi & Ors., v. Mohd. Yasin*,

32. There is no generic difference between a tax and a fee. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person inspite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to be of that character merely because there is an element of compulsion or coerciveness present in it, nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual who obtains the benefit of the service. It is now increasingly realized that merely because the collections for the services rendered or grant of a privilege or licence are taken to the consolidated fund of the State and not separately appropriated towards the expenditure for rendering the service is not by itself decisive. Presumably, the attention of the Court in the Shirur Mutt case was not drawn to Art. 266 of the Constitution. The Constitution nowhere contemplates it to be an essential element of fee that it should be credited to a separate fund and not to the consolidated fund. It is also increasingly realized that the element of quid pro quo in the strict sense is not always a sine qua non for a fee. It is needless to stress that the element of quid pro quo is not necessarily absent in every tax: Constitutional Law of India by H.M. Seervai, Vol.2, Second Edn., p. 1252, paras 22, 39.”

19. It has been noticed by the Hon'ble Apex Court that the indica for levy of fee as indicated in **Shirur Mutt's** case referred to supra was too technical and rigid and was not in tune with the requirement of the prevailing social conditions and held that there is no generic difference between a tax and a fee and the requirements for levy of fee is separate appropriation of receipts, if necessary and possible and also held that the true test is the comprehensive level of the value of the totality of the services set off against the totality of the receipts. It has been held in **STATE OF H.P & OTHERS VS. SHIVALIK AGRO POLY PRODUCTS & OTHERS** reported in **(2004) 8 SCC 556** as under:

"9. After independence of the country the Governmental functions increased manifold and various legislations were enacted and schemes were introduced for upliftment of the society. Many measures were introduced which contained provisions for imposing compensatory and regulatory fees. It was realized that the indicia of fee indicated in Shirur Mutt case was too technical and rigid and was not in tune with the requirement of the

prevailing social conditions. The characteristics of tax and fee were then examined in considerable detail by a three Judge Bench in *Sreenivasa General Traders. vs. State of Andhra Pradesh* (AIR 1983 SC 1246) and in paragraphs 30 and 31 of the judgment, the Court held as under: (SCC pp.380-81, paras 31-32)

"The traditional view that there must be actual quid pro quo for a fee has undergone a sea change subsequent to decision in *Kewal Krishan Puri vs. State Of Punjab* (AIR 1980 SC 1008). Correlation between the levy and the services rendered/expected is one of general character and not of mathematical exactitude. All that is necessary is that there should be a "reasonable relationship" between the levy of the fee and the services rendered. Moreover, there is no generic difference between a tax and a fee. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person in spite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to be of that character merely because there is an element of compulsion or coerciveness present in it, nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual who obtains the benefit of the service. It is now increasingly realized that merely because the collections for the services rendered or grant of a privilege of licence are taken to the consolidated fund of the State and not separately appropriated towards the expenditure for

rendering the service is not by itself decisive. It is also increasingly realized that the element of quid pro quo in the strict sense is not a sine quo non for a fee."

9.1. It is necessary to mention here that the observation made in para 47 of the judgment in the Shirur Mutt case that: (SCR p. 1043)

"(i) if the money thus paid is set apart and appropriated specifically for the performance of such work and is not merged in the public revenues for the benefit of the general public, it could be counted as fee and not a tax" may not be very accurate at least where the fee is being realized by the Government, Central or State, in view of a constitutional provision. Article 266 of the Constitution provides that all revenues received by Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State". In view of this specific provision any amount realized by way of fee by the Central Government or State Government

has to be credited to Consolidated Fund of India or of the State concerned, as the case may be, and will thus necessarily get merged in the public revenues and cannot be set apart.”

20. There cannot be any dispute to the fact that assessee is required to file e-returns to Central Processing Centre –CPC for processing of statements of tax deducted at source vide Section 200A, which provision is in *para materia* with Section 143(1). While processing the return of income under Section 143(1)(a) no personal hearing is provided to an assessee and as such the same is also not provided under Section 200A. Thus, the doctrine of principles of natural justice is given a go by under impugned provision or its violation thereof would not be a ground available to the petitioners to challenge the impugned provision on this ground. Hence, contention raised in this regard is without merit and stands rejected.

21. A person responsible for deduction of tax namely deductor is required to furnish periodical statements containing the details of deduction of tax within the prescribed due date. Any delay in furnishing TDS statements would result in perennial problems being faced by the department while processing the return of income filed by the assessee. When a return of income is filed by an assessee a statutory obligation is cast on the department to process the said return of income within the specified period from the date of filing. If for want of details such return of income not being processed or assessment order not being framed or would be stalled or in other words the return of income filed by an assessee on whose behalf the tax has already been deducted by the deductor is not furnished within the prescribed time by such deductor, it would consequently have cascading effect namely, it would stall the processing of the return of income filed by the

deductee. In a given case, there might be instances of where the assessee would be entitled to refund and on account of delay occurring due to non delivery of TDS statements by the deductors, it would result in delay in extending the credit of TDS to the person on whose behalf tax is deducted and consequently it would result in delayed issuance of refunds to the deductee or raising of consequential demands against the deductee which otherwise would not have been raised. In this lengthy and unwarranted process it may erode the confidence reposed by the tax payer on the department. Last but not the least, it would result in financial burden to the Government namely on account of late payment of refund interest is to be paid on such refunds and it would also result in cash flow crunch, especially for business entities.

22. It also requires to be noticed that Division Bench of High Court of Judicature at Mumbai in the

case of **RASHMIKANTH KUNDALIA AND ANOTHER VS UNION OF INDIA AND OTHERS** in **W.P.No.771/2014**

disposed of on 06.02.2015 had an occasion to examine the constitutional validity of Section 234E and while upholding its validity and arriving at a conclusion that it is intra vires of the Constitution has opined as under:

“18. We are therefore clearly of the view that the fee sought to be levied under Section 234E of the Income Tax Act, 1961 is not in the guise of a tax that is sought to be levied on the deductor. We also do not find the provisions of Section 234E as being onerous on the ground that the Section does not empower the Assessing Officer to condone the delay in late filing of the TDS return/statements, or that no appeal is provided for from an arbitrary order passed under Section 234E. It must be noted that a right of appeal is not a matter of right but is a creature of the statute, and if the Legislature deems it fit not to provide a remedy of appeal, so be it. Even in such a scenario it is not as if the aggrieved party is left remediless. Such aggrieved person can always approach this Court in its extra ordinary equitable jurisdiction under Article 226/227 of the Constitution of India, as the case may be. We therefore cannot agree with the argument of the Petitioners that simply because no remedy of appeal is provided for, the provisions of Section 234E are

onerous. Similarly, on the same parity of reasoning, we find the argument regarding condonation of delay also to be wholly without any merit”.

This Court is in complete agreement with the view expressed by Mumbai High Court and as such contention of the petitioners cannot be accepted for this reason also.

23. This Court in exercise power vested under Article 226 of the Constitution can declare a statute or a provision in the statute as unconstitutional and there cannot be any dispute with regard to this proposition. However, such power would be exercised where it is clear that impugned Act or provision is beyond its legislative competence or violates the provisions of the Constitution of India. Where two views are possible, one making the statute constitutional and the other making it unconstitutional the former would prevail or would be preferred. Every effort would be made by the Courts to

uphold the constitutional validity of the statute even if it requires giving a constrained construction or narrowing down its scope. The Courts would not sit in arm chair of the legislature to examine as to whether the impugned legislation in its opinion is wise or unwise. Further the statutes relating to economic activities of the State would be viewed with greater latitude than other laws, inasmuch as the Courts do not possess the economic expertise or has administrative expertise and as such judicial restraint is exhibited particularly when economic legislation is under challenge. These facets have been extensively dealt with by the Hon'ble Supreme Court in the case of **GOVERNMENT OF ANDHRA PRADESH AND OTHERS VS P.LAXMI DEVI SMT.** reported in **(2008) 4 SCC 720** and held as under:

“46. In our opinion, there is one and only one ground for declaring an Act of the legislature (or a provision in the Act) to be invalid, and that is if it clearly violates some provision of the Constitution in so evident a manner as to leave no manner of doubt. This violation can, of course, be in

different ways, e.g. if a State legislature makes a law which only the Parliament can make under List I to the Seventh Schedule, in which case it will violate Article 246(1) of the Constitution, or the law violates some specific provision of the Constitution (other than the directive principles). But before declaring the statute to be unconstitutional, the Court must be absolutely sure that there can be no manner of doubt that it violates a provision of the Constitution. If two views are possible, one making the statute constitutional and the other making it unconstitutional, the former view must always be preferred. Also, the Court must make every effort to uphold the constitutional validity of a statute, even if that requires giving a strained construction or narrowing down its scope vide *Rt. Rev. Msgr. Mark Netto v. State of Kerala* SCC para 6: AIR para 6. Also, it is none of the concern of the Court whether the legislation in its opinion is wise or unwise.

67. Hence if two views are possible, one making the provision in the statute constitutional, and the other making it unconstitutional, the former should be preferred vide *Kedarnath Singh v. State of Bihar*. Also, if it is necessary to uphold the constitutionality of a statute to construe its general words narrowly or widely, the Court should do so vide *G.P. Singh's 'Principles of Statutory Interpretation, 9th Edition, 2004 page 497'*. Thus xxx would have become unconstitutional.

68. The Court must, therefore, make every effort to uphold the constitutional validity of a Statute, even if that requires giving the statutory provision a strained meaning, or narrower or wider meaning, than what appears on the face of it. It is only when all efforts to do so fail should the Court declare a statute to be unconstitutional.

80. However, we find no paradox at all. As regards economic and other regulatory legislation judicial restraint must be observed by the Court and greater latitude must be given to the legislature while adjudging the constitutionality of the statute because the Court does not consist of economic or administrative experts. It has no expertise in these matters, and in this age of specialization when policies have to be laid down with great care after consulting the specialists in the field, it will be wholly unwise for the Court to encroach into the domain of the executive or legislative (sic legislature) and try to enforce its own views and perceptions.”

24. Thus, viewed from any angle it cannot be held that Section 234E of the Income Tax Act, 1961 suffers from any vices for being declared to be ultra vires of the Constitution. In other words it has to be held that the impugned Section i.e., 234E of the Income Tax Act, 1961 is intra vires of the Constitution.

25. For the reasons assigned hereinabove, I do not find any merit in these writ petitions and they are hereby dismissed. No costs.

Ordered accordingly.

**Sd/-  
JUDGE**

SBN