(2025) 06 KL CK 0881

In the High Court Of Kerala

Case No : Writ Petition (C) Nos.9520, 9521 Of 2014

IBS Software Services Private Limited — APPELLANT

Vs

Union Of India Represented By The Secretary — RESPONDENT

Date of Decision : 16-06-2025

Acts Referred:

Income Tax Act 1961 — Section 144C(2)(b), 144C, 144C(1), 144C(2), 144C(4), 144C(5), 144C(13), 153, 153B

Citation : (2025) 06 KL CK 0881

Hon'ble Judges : S.Manu, J

Bench : Single Bench

Advocate : M.Gopikrishnan Nambiar, Benny P. Thomas, K.John Mathai, Raja Kannan, Jose Joseph, P.G.Jayashankar, G.Keerthivas

Final Decision : Disposed Of

Judgement

S.Manu, J

1. In these writ petitions assessment orders issued by the competent authority of the Income Tax Department are under challenge mainly on the ground that they were issued beyond the time limit under sub-section (13) of Section 144C of the Act.

2. Section 144C of the Income Tax Act is extracted hereunder:-

"144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,-

(a) file his acceptance of the variations to the Assessing Officer; or

(b) file his objections, if any, to such variation with,-

(i) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if -

(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) no objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in section 153 [or section 153B], pass the assessment order under sub-section (3) within one month from the end of the month in which,-

(a) the acceptance is received; or

(b) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:-

(a) draft order;

(b) objections filed by the assessee;

(c) evidence furnished by the assessee;

(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(e) records relating to the draft order,

(f) evidence collected by, or caused to be collected by, it; and

(g) result of any enquiry made by, or caused to be made by, it.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),-

(a) make such further enquiry, as it thinks fit; or

(b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.

(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and

passing of the assessment order.

"[Explanation.-For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.]

(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 [or section 153B], the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.

"[(14A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the "[Principal Commissioner or] Commissioner as provided in sub-section (12) of section 144BA.]

"[(14B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency, transparency and accountability by-

(a) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.

(14C) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2024.

(14D) Every notification issued under sub-section (14B) and sub-section (14C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.]

(15) For the purposes of this section,-

(a) "Dispute Resolution Panel" means a collegium comprising of three "[Principal Commissioners or] Commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,-

(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and

(ii) any non-resident not being a company, or any foreign company."

[Emphasis supplied]

3. Many specific time limits are stipulated under the provisions of Section 144C. Under sub-section (2), on receipt of draft order issued by the Assessing Officer, an eligible assessee shall file acceptance of the variations or objections within 30 days of the receipt of the draft order. If no objections are received within the said period, Assessing Officer can complete the assessment on the basis of the draft order. Under sub-section (4), time limit of one month from the end of the month is stipulated for the Assessing Officer to complete the assessment if acceptance was received from the assessee or the period for filing of objections under sub-section (2) expired. If objection is filed before the Dispute Resolution Panel (DRP) as provided under Section 144C(2)(b), the DRP shall complete its proceedings within a period of 9 months from the end of the month in which the draft order is forwarded to the eligible assessee. Under sub-section (13), time limit is stipulated for the Assessing Officer to complete the assessment on receipt of the direction from the DRP. The Assessing Officer shall complete the assessment within one month from the end of the month in which such direction is received. The prime ground of challenge in these writ petitions is regarding non-adherence to the time limit fixed under sub-section (13).

4. The relevant dates to be noted in both cases are given below:-

Events

W.P.(C)No. 9520/2014

W.P.(C)No. 9521/2014

Date of issuance of draft assessment order

27.03.2013

20.03.2013

Date of filing of objections before the DRP

26.04.2013

24.04.2013

Date of issuance of directions by DRP

13.12.2013

11.12.2013

Date of issuance of assessment order

25.03.2014

12.03.2014

Therefore in both cases, indisputably the assessment orders were issued beyond the time limit under S.144C (13). Hence the only issue arising for consideration is the consequence of the failure to adhere to the time limit under sub-section 13.

5. Sri.Raja Kannan, learned counsel for the petitioner pointed out that Section 144C was incorporated in the Income Tax Act by Finance Act, 2009 with effect from 1.4.2009. He referred to the budget speech of the Hon'ble Minister of Finance in which objective of incorporating the provision was explained. An alternative dispute resolution mechanism was proposed to be introduced within the Income Tax Department, for the resolution of transfer pricing disputes in order to facilitate speedy resolution of tax disputes, taking into account the necessity to improve the investment climate in the country. Learned counsel also made reference to the notes on clauses. Regarding Section 144C, it was mentioned in the notes on clauses as under:-

"Clause 55 of the Bill seeks to insert a new section 144C in the Income Tax Act relating to Dispute Resolution Panel.

The subjects of transfer pricing audit and the taxation of foreign company are at nascent stage in India. Often the Assessing Officers and Transfer Pricing Officers tend to take a conservative view. The correction of such view take very long time with the existing appellate structure.

With a view to provide speedy disposal, it is proposed to amend the Income Tax

Act so as to create an alternative dispute resolution mechanism within the Income Tax Department and accordingly, section 144C has been proposed to be inserted so as to provide inter alia the Dispute Resolution Panel as an alternative dispute resolution mechanism.

This amendment will take effect from 1st October, 2009.”

6. Further, the learned counsel made reference to the memorandum explaining the provisions in the Finance Bill, 2009. The relevant extract reads as under:-

“Provision for constitution of alternate dispute resolution mechanism

The dispute resolution mechanism presently in place is time consuming and finality in high demand cases is attained only after a long drawn litigation till Supreme Court. Flow of foreign investment is extremely sensitive to prolonged uncertainty in tax related matter. Therefore, it is proposed to amend the Income Tax Act to provide for an alternate dispute resolution mechanism which will facilitate expeditious resolution of disputes in a fast track basis.”

7. The learned counsel submitted in view of the above that the incorporation of Section 144C of Income Tax Act was with the laudable goal of speedy resolution/ mitigation of disputes. He therefore submitted that the time limits ingrained in the provisions of Section 144C are so consciously incorporated by the law makers with the aim of introducing a fast-track mechanism. He hence contended that any breach of the time limits would consequently vitiate the proceedings and the provisions of Section 144C are not merely procedural in nature. The learned counsel made reference to various reported judgments. He placed heavy reliance on the judgment of a Division Bench of Bombay High Court reported in Vodafone Idea Limited v. Central Processing Centre and Others [2023 SCC OnLine Bom 2464]. The Division Bench of the Bombay High Court considered the provisions of Section 144C and held that it is a self-contained provision, which carves out a separate class of assessees, i.e. eligible assessees. Further, it was held that if the provisions of Section 144C are not strictly adhered to, the entire object of providing an alternate redressal mechanism in the form of DRP would stand defeated. The Bombay High Court, considered challenge against an assessment order passed by the Assessing Authority two years after the DRP issued its direction and held that it was time barred and cannot be sustained. Relevant discussions in the judgment of the Bombay High Court are extracted hereunder:-

“21. Section 144C of the Act is a self contained provision which carves out a separate class of assessees, i.e., 'eligible assessee'. Section 144C of the Act was inserted in the Finance Act of 2009 and came into effect from 1st October 2009. In the notes on clauses to the Finance Bill, 2009 (Budget 2009-2010), the reason for insertion of Section 144C is given as under :

"The subjects of transfer pricing audit and the taxation of foreign company are at nascent stage in India. Often the Assessing Officers and Transfer Pricing Officers tend to take a conservative view. The correction of such view take very long time with the existing appellate structure.

With a view to provide speedy disposal, it is proposed to amend the Income Tax Act so as to create an alternative dispute resolution mechanism within the income-tax department and accordingly, Section 144C has been proposed to be inserted so as to provide inter alia the Dispute Resolution Panel as an alternative dispute resolution mechanism."

22. Thus, if the provisions of Section 144C as mandated by the Statute are not strictly adhered the entire object of providing for an alternate redressal mechanism in the form of DRP stand defeated. That is not the intention of the legislature when the provision was introduced in the Act. Section 144C(10) of the Act provide that the directions of DRP are binding on the AO. By failing to pass any order in terms of the provision, the AO cannot be permitted to defeat the entire exercise and render the same futile. When a Statute prescribes the power to do a certain thing in a certain way, then the thing must be done in that way and other methods of performance are forbidden. Once the statute has prescribed a limitation period for passing the final order, it is expected that the internal procedure of the department should mould itself to give meaning to and act in aid of the provision. Any procedural defect (there is none in this case) in the internal mechanism of the working of E-assessment Scheme, cannot operate against the interest of assessee. Hence, the FAO cannot be believed that the DRP direction was received by him only on 23rd August 2023 despite being uploaded on the ITBA portal on 25th March 2021. The failure on the part of department to follow the procedure under Section 144C of the Act is not merely a procedural irregularity, but is an illegality and vitiates the entire proceeding.

23. In a decision in the matter of Turner International India Private Limited v. Deputy Commissioner of Income Tax, Circle-25(2), New Delhi, the Delhi High Court has held that the question "whether the final assessment order stands vitiated for failure to adhere to the mandatory requirements of Section 144C of the Act?", is no longer res integra and any order passed contrary to Section 144C of the Act cannot be sustained.

24. In a decision cited by Mr. Mistri in the matter of Shell India Markets (P.) Ltd. (supra), this Court has also held as follows :

"10. Sub-section (13) of Section 144C, therefore, is very clear inasmuch as the Assessing Officer shall, upon receipt of the directions issued under Sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the Assessing Officer can complete the assessment without providing any further opportunity of being heard to the assessee.

This means that the moment the Assessing Officer receives the directions under Sub-section (5), he has to straight away complete the assessment and he does not even have to hear the assessee. The Assessing Officer shall simply comply with the directions received from the DRP within one month from the end of the month in which such directions is received."

25. In view of the aforesaid discussion, we have no hesitation in holding that the assessment order dated 31st August 2023 passed by FAO two years after the DRP directions, is time barred and cannot be sustained. Consequently, the ROI as filed has to be accepted. Petitioner is entitled to receive the refund together with interest, in accordance with law. The procedure to be completed within 30 days of this order being unloaded. This would, however, not preclude revenue, should the need arise, from reopening the assessment by following due process and in accordance with law."

8. He also placed reliance over a judgment of a learned Single Judge of this Court in Allianz Cornhill Information Services Private Limited, Rep. by its Chief Financial Officer v. Union of India rep. by Secretary, Ministry of Finance (Department of Revenue) and Others [2023 SCC OnLine Ker. 11076]. This Court in the said judgment considered a case in which the assessment order was issued beyond the period stipulated under Section 144C(13). There was a delay of about two months in passing the assessment order. Following observations made by this Court in the said judgment are germane:-

"14. On a perusal of Section 144C of the Act, it is found that, time is the essence of the proceedings. The specific time frame given under various sub-sections would clearly reflect the essentiality of the time factor, in which proceedings contemplated under Section 144C are to be completed by the respective authorities. A dilution of the time limits envisaged under the statutory frame work of Section 144C would, therefore, defeat the very purpose and object behind the insertion of the said provision. Section 153 of the Act deals with the time limit contemplated for the completion of assessments and re-assessments under the Act. It is relevant to note that in addition to the non-obstante clause under Section 144C(1) with respect to other provisions of the Act, there is a specific exclusion of the application of Section 153 from the frame work of Section 144C. This specific exclusion of Section 153 from the proceedings under Section 144C, exemplifies the rigour of the specific time limits provided under Section 144C. Under Section 153 of the Act, longer time limit is prescribed, whereas, specific time limit is prescribed under Section 144C of the Act. The specific exclusion of Section 153 from the ambit of Section 144C is a conscious action of the law-maker. If the legislature does not have any intention to stick on with the time limit prescribed in Section 144C, there was no necessity of insertion of Section 144C, since there was already a provision under Section 153 contemplating time limit for completion of assessments or re-assessments. Hence, it cannot be said that Section 144C is procedural, but, on the other hand, it is a substantive provision specifying time limit for completing proceedings by the assessee, the assessing officer and the DRP.

....

16. By inserting Section 144C, the legislature had a specific intention that the

time limit prescribed in the provision has to be strictly complied with and notwithstanding anything contained in Section 153, the assessing officer has to pass the assessment order. Hence, it is clear that the intention of the legislature was to comply with the time limit prescribed in the said section in order to avail the benefit of fast track assessment. The assessing officer cannot, at their whims and fancies, pass any order under Section 144C, but, they have to strictly comply with the statutory provisions envisaged under Section 144C.

…..

19. Section 144C is inserted in the Finance Act, 2009 with a view to provide a speedy disposal to create an alternative dispute resolution mechanism within the Income Tax Department. If the provisions of Section 144C as mandated by the statute are not strictly adhered to, the entire object of providing an alternative dispute resolution mechanism in the form of DRP would stand defeated. The legislature had clear intention while the said provision was inserted in 2009 to facilitate an expeditious resolution of disputes on a fast track basis. If the assessing officer fails to pass any order in accordance with the statutory provisions, as mandated under Section 144C, it will defeat the entire exercise and render the same futile. The directions in Ext.P3 given by the DRP are binding on the assessing officer, who has to finalize the assessment order even without affording the assessee an opportunity of being heard. There was nothing more to do by the assessing officer than to pass an assessment order on receipt of Ext.P3. Once the statute has prescribed limitation period for passing a final order, the officers of the Department should act accordingly in order to provide the assessee an expeditious resolution of the disputes. The impugned orders were passed by the assessing authority beyond the time prescribed under Section 144C(13). Therefore, I am of the opinion that the impugned order passed by the assessing officer cannot be sustained."

This Court set aside the impugned assessment order issued beyond the time limit prescribed under Section 144C(13). Learned Counsel submitted, relying on the said decision, that it was rendered on almost identical set of facts and hence these writ petitions may also be allowed.

9. Sri.P.G.Jayashankar, the learned Standing Counsel for the Income Tax Department, submitted that the charging provisions of the Act and the provisions providing for machinery are to be understood and interpreted differently. He contended that Section 144C is essentially a machinery provision which provides for a swift procedure. He submitted that a breach of the time limit prescribed under sub-section (13) cannot be considered as a vitiating factor affecting the very validity of the assessment order. He submitted that the Assessing Authority is not vested with any discretion under Section 144C when the DRP issues directions. Once the DRP issues directions, the Assessing Authority has to issue an assessment order following the directions as such. The Assessing Authority in such a situation exercises only an administrative power. He therefore contended that even if the Assessing Authority takes time more than that is provided under

sub-section (13) of Section 144C, no prejudice is caused and the assessment need not be considered as vitiated. He referred to various provisions of Section 144C and contended that accepting the interpretation canvassed by the learned counsel for the petitioner would result in the machinery provisions defeating the charging provisions.

10. The learned Standing Counsel made reference to various reported judgments. He made reference to the judgment reported in Panchamahal Steel Ltd. v. U.A.Joshi, ITO and another [(1997) 225 ITR 458]. The Hon'ble Supreme Court in the said judgment examined the provisions of Section 144B and observed that once a draft order is made and the matter is referred to the Inspecting Assistant Commissioner on receiving the objections of the assesssee, the function of the Income Tax Officer practically comes to an end and the remaining thing to do by him is to pass a final order of assessment in accordance with the directions given by the Inspecting Assistant Commissioner. The learned Standing Counsel submitted that the Assessing Officer is in a comparable situation when he receives the directions from the DRP. The learned Standing Counsel made reference to the judgment of a Division Bench of this Court reported in Joseph Kuruvila v. Commissioner of Income Tax [(1989) 179 ITR 139]. This Court held in the said case that failure to confirm to Section 144B is only an irregularity. The learned Standing Counsel pointed out a recent judgment of this Court in Parameswara Krishna Kaimal v. Union of India and others [(2024) 462 ITR 154 (Ker)]. A learned Single Judge of this Court observed in the said judgment that Section 144C is not a substantive provision. Further it was held that it is a machinery provision which has been incorporated for the benefit of assessees. The learned Standing Counsel made further reference to the judgment of a Constitution Bench of the Hon'ble Supreme Court reported in J.K.Synthetics Limited and Birla Cement Works and Ors. v. Commercial Taxes Officer and State of Rajasthan and Ors [(1994) 4 SCC 276]. The Hon'ble Supreme Court in the said judgment held that ordinarily the charging section which fixes the liability is strictly construed but that rule of strict construction is not extended to the machinery provisions which are construed like any other statute. Further, the Hon'ble Supreme Court held that the machinery provisions must no doubt be so construed as would effectuate the object and purpose of the statute and not defeat the same. The learned Standing Counsel contended relying on the above said judgment that the provisions of Section 144C being machinery provisions, strict interpretation of the same in such a manner as argued by the petitioners would be erroneous. Such an interpretation would lead to defeating the provisions of the Act. He further submitted that the judgment of the Bombay High Court, relied on by the learned counsel for the petitioner was rendered in a case in which the assessment order was issued more than 2 years after the DRP issued directions. Hence, according to the learned Standing Counsel the same is distinguishable on facts. He also pointed out that the judgment of the learned Single Judge of this Court relied on by the learned counsel for the petitioner is under challenge before the Division Bench of this

Court. He hence submitted that the writ petitions are liable to be dismissed, upholding the assessment.

11. Though the judgment of the learned Single Judge in Allianz Cornhill Information Services Private Limited, Rep. by its Chief Financial Officer v. Union of India rep. by Secretary, Ministry of Finance (Department of Revenue) and Others [2023 SCC OnLine Ker 11076] is under challenge in writ appeal, no orders have been passed by the Division Bench touching its operation and precedential value. However, as the learned Standing Counsel for Income Tax Department strenuously argued that the interpretation adopted in the said judgment of this Court and also by the Bombay High Court in Vodafone Idea Limited v. Central Processing Centre and Others [2023 SCC OnLine Bom 2464] is against the accepted principles of interpretation, to be fair to him, I find it appropriate to address his contentions.

12. The submission of the learned Standing Counsel that the function of the Assessment Officer after receiving directions from the DRP is comparable to the position of the Income Tax Officer after obtaining directions from the Inspecting Assistant Commissioner, with reference to Section 144B and relying on judgments of the Hon'ble Supreme Court in Panchamahal Steel Ltd.'s case and Joseph Kuruvila's case, does not appear to be perfectly sound. It may be correct that no discretion is vested with the Income Tax Officer in the mentioned circumstances and the Assessing Officer acting pursuant to the directions from the DRP. However, for that reason alone it cannot be concluded that as in the case of Section 144B, breach of the provisions of Section 144C should be treated as a mere irregularity.

13. It is true that a learned Single Judge of this Court in Parameswara Krishna Kaimal's case observed that Section 144C is not a substantive provision. However, the observations and findings, virtually to the contrary, made in an earlier decision by a co-ordinate bench in Allianz Cornhill Information Services Private Limited, Rep. by its Chief Financial Officer v. Union of India rep. by Secretary, Ministry of Finance (Department of Revenue) and Others [2023 SCC OnLine Ker. 11076] were not brought to the notice of the learned Judge. The argument of the learned Standing Counsel that the judgment of the Bombay High Court in Vodafone Idea Limited v. Central Processing Centre and Others [2023 SCC OnLine Bom 2464] is distinguishable on facts, as the Court was considering a case involving delay of more than 2 years, also cannot be accepted, as the question considered by the Court was the consequence of not following strictly, the time limit stipulated under Section 144C(13). Extent of delay in passing the assessment order was immaterial.

14. Section 144C was incorporated to the Act by an amendment. Amendments are thoughtful, purpose-driven changes made to an existing legislation by the legislature. When an amendment is made, it must be assumed that the legislature felt it was appropriate to alter the law as it existed prior to the amendment. The legislature, well aware of the scheme and provisions of the

statute as it existed, proceeds to amend the statute when the need of a change is felt. Amendments are hence impelled by the conviction of the legislature regarding changes required to be made for various considerations and reasons.

15. An amended provision becomes an integral part of the statute and it cannot be considered and interpreted in isolation, detached from the other provisions of the statute. However, apart from keeping in mind the object of the statute, it is essential to keep the legislative purpose of effecting the amendment also in mind while attempting to interpret an amended provision. Otherwise, the interpretation may defeat the purpose of the amendment.

16. In Rameshwar Prasad and Ors v. State of UP and Ors [(1983) 2 SCC 195] the Hon’ble Supreme Court held thus:

“Whenever a court is called upon to interpret an amended provision, it has to bear in mind the history of the provision, the mischief which the legislature attempted to remedy, the remedy provided by the amendment and the reason for providing such remedy.”

17. Normally when the legislative intention is clear from the plain language of the provision, the Court need not look into any other aspects. Nevertheless, since the provision was incorporated by an amendment, following the observations of the Hon’ble Apex Court referred above, it is apposite in the case at hand to take note of the objectives of incorporating the provision pointed out by the learned counsel for the petitioner noted in the opening paragraphs of this judgment. As explained by the law makers, Section 144C was incorporated with the objective of providing a speedy mechanism for assessments involving transfer pricing, to reduce possibility of disputes and to avoid time consuming litigations. The said provision was incorporated in the Act to further improve the investment climate in the country. Object of incorporating such a provision will be defeated if it is interpreted in such a manner, so that the same would become watered down and futile.

18. Even in the judgment of the Hon'ble Supreme Court relied on by the learned Standing Counsel for Income Tax Department, reported in J.K.Synthetics Limited and Birla Cement Works and Ors. v. Commercial Taxes Officer and State of Rajasthan and Ors. [1994 (4) SCC 276], the Hon'ble Supreme Court held in clear terms that the machinery provisions must no doubt be so construed as would effectuate the object and purpose of the statute and not defeat the same. In the case at hand, object and purpose of the amendment are to be kept in mind and an interpretation giving the provisions of S.144C proper effect needs to be adopted even if it is assumed that the same is a machinery provision. After the amendment comes to force, the amended provision becomes integral part of the statute and the analysis of the object and purpose of the statute must be taking in to account the amendment also.

19. Viewed from the perspective as explained above despite persuasive submissions of the learned Standing Counsel, I do not find any reason to take a

different view from that adopted by a learned Single Judge of this Court in Allianz Cornhill Information Services Private Limited, Rep. by its Chief Financial Officer v. Union of India rep. by Secretary, Ministry of Finance (Department of Revenue) and Others [2023 SCC OnLine Ker 11076] and Division Bench of the Bombay High Court in Vodafone Idea Limited v. Central Processing Centre and Others [2023 SCC OnLine Bom 2464]. Assessing Officer is bound to adhere to the time limit stipulated in S.144 C (13) of the Income Tax Act and assessment order issued in breach of it shall be invalid.

20. In view of the foregoing discussion, I allow these writ petitions. Impugned Ext.P4 assessment orders in both writ petitions shall stand set aside.

Writ Petitions are disposed of as above.

