(2002) 08 DEL CK 0162

In the Delhi High Court

Case No : C.W.P. No''s. 2087 of 1991 and 2985 of 1995

Samtel Color Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 19-08-2002

Acts Referred:

Income Tax Act, 1961 — Section 119, 139, 142, 143, 143(1)(a)

Citation : (2002) 125 TAXMAN 1002

Hon'ble Judges : Sharda Aggarwal, J;D.K. Jain, J

Bench : Division Bench

Advocate : M.S. Syali, Satyen Sethi and Manu K. Giri, for the Appellant; Prem Lata Bansal, Ms. Rashmi Chopra and Ajay Jha, for the Respondent

Judgement

D.K. Jain, J.—Since a common question of law is involved, both the cases are being disposed of by the judgment. The intimation letters sent to the petitioners, hereinafter referred to as the assessees, u/s 143(1)(a) of the income tax Act, 1961 (for short "the Act"), after making certain adjustments to the total income returned by them and demanding additional tax u/s 143(1A) of the Act, are under challenge in these writ petitions.

2. In order to appreciate the issue involved and the rival contentions, we shall briefly refer to the facts of each of the cases.

3. In C.W.P. No. 2087 of 1991, the assessee, engaged in the business of manufacture, sale and export of colour picture tubes, filed its return of income for the previous year ending March 31, 1990, relevant to the assessment year 1990-91, on December 28, 1990, declaring a loss of Rs. 21,16,08,308. The return was accompanied by tax audit report, audited balance sheet, profit and loss account and some other documents. While arriving at the said loss the assessee suo motu offered certain expenses for disallowance in accordance with the provisions of the Act. However, out of the expenses booked under various heads, entertainment and presents, the assessee claimed respectively Rs. 1,14,933 and Rs. 65,818 as allowable expenditure. In the annexures to the

return, it was also stated that during the relevant previous year the assessee had exported 54,923 picture tubes and duty drawback on the said picture tubes was accounted for in the profit and loss account at Rs. 700 per picture tube. However, by the end of the previous year, duty drawback was sanctioned only for export of 25,000 tubes and for the balance picture tubes, the assessee''s application for brand rate fixation was pending with the concerned authorities and, therefore, unsanctioned claim was not treated as income for the relevant assessment year.

4. Not accepting the stand of the assessee and holding all the aforesaid three items as inadmissible/includible in the total income, the assessing authority whittled down the returned loss of Rs. 21,16,08,308 to Rs. 19,04,81,443 and sent to the assessee the impugned intimation dated 27-3-1991, along with an adjustment explanatory statement. Thus adding back a total sum of Rs. 2,11,26,851, the Assessing Officer proceeded to levy an additional tax, amounting to Rs. 22,81,700 u/s 143(1A) of the Act.

5. In C.W.P. No. 2895 of 1995, the assessee, engaged in the business of manufacture and sale of portable gensets, filed its return of income for the previous year ending 31-3-1992, relevant to the assessment year 1992-93, on 30-12-1992, declaring income at nil. In the computation of the total income, forming part of the return, net profit as per profit and loss account, amounting to Rs. 2,77,41,947 was enhanced to Rs. 5,33,05,555 by adding depreciation, miscellaneous expenditure, entertainment expenditure and loss on sale of fixed assets. From the said profit of Rs. 5,33,05,555, an amount of Rs. 78,54,965 being sales promotion assistance received from Honda Motor Co. Ltd., Japan, was reduced on the plea that it was a capital receipt. Thus, the profit was reduced to Rs. 4,54,50,950. After claiming certain statutory allowances/ disallowances, the commercial profits were arrived at Rs. 4,86,00,563, against which the assessee claimed deduction u/s 80-I of Rs. 1,21,50,141, being 25 per cent of commercial profits, viz., without deducting depreciation for the current year. From the resultant figure, depreciation of Rs. 2,84,25,907 was reduced and taxable business income was arrived at Rs. 8,24,515. Setting off this income against the brought forward losses of earlier years, nil income was returned.

6. Treating the sales promotion assistance as the revenue receipt and disallowing the relief, as computed, u/s 80-I of the Act, the Assessing Officer made adjustments of Rs. 2,00,05,106. Although the total income was computed at nil because of set-off of brought forward losses but on account of the said adjustment additional tax amounting to Rs. 20,70,528 was charged vide the impugned intimation dated 30-7-1993. Against the said intimation, the assessee filed an application u/s 154 of the Act for rectification on the plea that both the adjustments were beyond the scope of section 143(1)(a) of the Act read with the first proviso thereto. The application was, however, rejected vide order dated 28-12-1993. Aggrieved, the assessee preferred a revision petition to the Commissioner of income tax u/s 264 of the Act, but without any success.

7. The impugned intimations are challenged on various grounds. It is urged

that : (i) since the word "adjustment" is qualified by the phrase '' prima facie '' only such adjustments can be made u/s 143(1)(a) of the Act on which no two views are possible; (ii) disputed claims cannot be equated with prima facie inadmissible claims; (iii) the adjustment of taxability of receipt/source of income is outside the scope of prima facie adjustments; (iv) the adjustments can be made only on the basis of material on record; and (v) the correctness of the return has to be tested in the light of the law prevailing at the time of filing of the return and not with reference to events subsequent thereto.

A bare reading of section 143(1)(a) of the Act, makes it clear that if, on the basis of the return filed by the assessee, any tax or interest is found due after adjustments, as set out in the section, an intimation has to be sent to the assessee specifying the sum so payable. Similarly, if any refund is found due to the assessee on the basis of the said return, it shall be granted. However, the first proviso to the section authorises the Assessing Officer to make certain adjustments while calculating the tax or interest payable or while granting refund. The adjustments permitted to be made are also specified under the proviso. In the present case, we are concerned with clause (iii) of the first proviso. Relevant part of section 143(1)(a) of the Act with the first proviso thereto is set down below:

143. Assessment.-- (1)(a) Where a return has been made u/s 139, or in response to a notice under sub-section (1), of section 142,--

(i) if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid, any tax paid on self-assessment, and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued u/s 156 and all the provisions of the Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the income or loss declared in the return, namely:--

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any loss carried forward, deduction, allowance or relief, which, on the basis of the information available in such return, accounts or documents, is prima facie admissible but which is not claimed in the return, shall be allowed;

(iii) any loss carried forward, deduction, allowance or relief claimed in the return, which, on the basis of the information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed:

[Emphasis provided]

8. Since there is no controversy with regard to the interpretation of sub-section (1A) of section 143 of the Act, we shall make a passing reference to the provision. It provides that where after making the adjustment u/s 143(1)(a) it is found that the total income so determined exceeds the income declared in the return by any amount, the Assessing Officer shall further increase the income tax payable by additional income tax calculated at 20 per cent of the tax payable on such excess amount. The additional income tax so calculated has to be specified in the intimation (notice of demand) to be sent u/s 143(1)(a) of the Act.

9. Reverting back to the main dispute, on a plain reading of clause (iii) of the first proviso, reproduced above, it is clear that unless the return or the accompanying documents or accounts show that the deduction, allowance or relief claimed therein is prima facie inadmissible on the basis of information available in the said documents, such deduction or allowance claimed cannot be disallowed. It is also evident that only those adjustments can be made under the said clause which on the basis of return and documents accompanying it are '' prima facie '' inadmissible.

10. Therefore, the first and the foremost question which arises for consideration is as to what the phrase '' prima facie '', used in clause (iii) to the first proviso means.

11. The phrase '' prima facie '' is not defined in the Act. In common parlance the phrase '' prima facie '' means ''on the face of it''. According to Black''s Law Dictionary (sixth edition), the phrase '' prima facie '' means : ''At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure;...."

Thus, going by the literal and dictionary meaning of the phrase '' prima facie '', for the purposes of adjustments under clause (iii) of the proviso, a deduction claimed must be inadmissible on the face of the return, documents and accounts accompanying it. If the deduction or allowance or relief so claimed is capable of a debate or requires further proof in connection therewith, an adjustment in respect thereof cannot be made under clause (iii) of the proviso to section 143(1)(a) of the Act.

12. Support to this interpretation is lent by a Circular issued by the CBDT, bearing No. 549, dated 31-10-1989. The circular throws considerable light in understanding and appreciating the intention behind the introduction of the said provision. While explaining the scope of adjustments to be made in the income or loss declared in the return under the proviso to clause (a) of sub-section (1), in paragraph 5.4, it is stated thus:

5.4 The prima facie adjustments mentioned at (ii) above can be made only on the basis of information available in the return or the accompanying accounts or documents and not on the basis of the past records of the assessee.

Some twelve examples of such prima facie admissibles or inadmissibles in respect of which adjustments can be made to the returned income or loss of various deductions are given in the circular to illustrate the scope of adjustments.

13. It is not necessary to reproduce here the long list of instances given in the circular. However, a perusal of these makes one thing sufficiently clear that only such adjustments in respect of deductions/allowances can be made u/s 143(1)(a) of the Act, which are claimed either less or excessive and are ex facie not allowable on a plain reading of the relevant section, without there being any scope for doubt or debate.

14. While dealing with the said provision of law in S.R.F. Charitable Trust Vs. Union of India and others, a Division Bench of this Court had said that in a way clause (iii) of the first proviso to section 143(1)(a) is analogous to section 154 of the Act. It was also observed that where it is evident from the return as filed, along with the documents in support thereof, that the claim of the assessee is inadmissible, only then an adjustment under the said proviso can be made. As an illustration, it was pointed out that if, in a case, proof in support of the claim was not furnished by an assessee, then for the lack of proof, no disallowance or an adjustment could be made under the said provision and the only option left to the Assessing Officer in such a case was to require the assessee to furnish proof by issuing a notice u/s 143(2) of the Act.

15. At this stage it is also pertinent to mention that in another Circular No. 581, dated 28-9-1990, issued by the Central Board of Direct Taxes, it has been stated that the scope of the powers to make prima facie adjustments u/s 143(1)(a) is "somewhat co-terminus with the power to rectify a mistake apparent from the record u/s 154 of the Act." It is trite that circulars issued by the Board under the provisions of section 119 of the Act are binding on the revenue - UCO Bank, Calcutta Vs. Commissioner of Income Tax, West Bengal, and Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala and Others,

16. In the context of the aforenoted circular and the dictum in S.R.F. Charitable Trust''s case (supra), holding that clause (iii) of the first proviso to section 143(1)(a) of the Act, is analogous to section 154 of the Act, it would be appropriate to notice the scope of section 154 as well. The section provides for rectification of "mistake apparent from the record". While interpreting the scope of the said section, the Supreme Court in T.S. Balaram, Income Tax Officer, Company Circle IV, Bombay Vs. Volkart Brothers, Bombay, held that a mistake apparent on the record within the meaning of section 154 of the Act must be an ''obvious'' and ''patent'' mistake and not something which can be established by a long drawn process of reasoning on points on which there may be conceivably two opinions. A decision on a debatable point of law is not a mistake apparent from the record. In Hotz Hotels Pvt. Ltd. Vs. Commissioner of Income Tax, , a Division Bench of this Court, to which one of us (D.K. Jain, J.) was a party observed thus:

... In order to attract the application of section 154, the mistake must exist and the same must be apparent from the record. The power to rectify the mistake, however, does not cover cases where a revision or review of the order is intended. ''Mistake'' means to take or understand wrongly or inaccurately; to make an error in interpreting; it is an error; a fault, a misunderstanding, a misconception. ''Apparent'' means visible; capable of being seen, obvious; plain. It means ''open to view, visible, evident, appears, appearing as real and true, conspicuous, manifest, obvious, seeming.'' A mistake which can be rectified u/s 154 is one which is patent, which is obvious and whose discovery is not dependent on argument or elaboration.... (p. 651)

17. In Master Construction Co. (P.) Ltd. v. State of Orissa [1966] 17 STC 360, the Supreme Court dilated on the term "an error apparent from record" to be one which is not an error which depends for its discovery on elaborate arguments on questions of fact or law. A similar view has been expressed by the Apex Court in a recent decision in Commissioner of Income Tax (CNTL), Ludhiana Vs. Hero Cycles Pvt. Ltd., Ludhiana, wherein it is again said that for invoking jurisdiction u/s 154 of the Act, for exercising power of rectification of mistake, it is a condition precedent that the mistake must be ''glaring and obvious''.

18. We are, therefore, of the considered opinion that u/s 143(1)(a) of the Act it is not open to the Assessing Officer to make any adjustment in the returned income by disallowing any claim for deduction, allowance or relief, unless he is satisfied on the basis of information available in the return, documents, and the accounts accompanying it that such a claim is inadmissible on the face of it and there is no possibility of any debate thereon on such claim, etc. If anything more is read into the power of the Assessing Officer to make unilateral adjustments, it would render the provision wholly arbitrary and unreasonable because : (a) a disallowance is made without giving an opportunity to the assessee to explain his viewpoint in support of the deduction or allowance, and (b) additional tax on the increased amount is charged from him arbitrarily. This would not only be in total violation of the principles of natural justice, it will also be not in consonance with the spirit of the provision to cause minimum inconvenience to the assessee and at the same time put the assessee on guard against claiming inadmissible deductions and allowances. On the contrary, the above interpretation of section 143(1)(a) of the Act will not cause any prejudice to the Revenue. In a given case where the Assessing Officer has any doubt about the allowability of deduction or claim made by the assessee, it is open to him to issue a notice under sub-section (2) of section 143 and have the evidence in support thereof. Similar view have been expressed on the subject by the Bombay High Court in Khatau Junkar Ltd. v. K.S. Pathania, Dy. CIT [1992] 196 ITR 552, the Calcutta High Court in Modern Fibotex India Ltd. and Another Vs. Deputy Commissioner of Income Tax and Others, the Karnataka High Court in GOD GRANITES Vs. CENTRAL BOARD OF DIRECT TAXES and Others, and some other High Courts as well.

19. The next question raised for consideration is as to the law prevailing at a particular time--whether the time when the return was filed or when the

Assessing Officer makes the adjustments--would be relevant for judging whether the deduction, allowance or relief claimed by the assessee in the return of income was correct or not? Alternatively put, whether the question of correctness of the return is to be considered in the light of the law prevailing at the time of filing of the return or at the time of adjustment by the Assessing Officer.

20. In Modern Fibotex India Ltd.''s case (supra), the Calcutta High Court, when called upon to consider a similar question, held that the power of the Assessing Officer u/s 143(1)(a) of the Act was to determine the correctness of the return in the light of the law prevailing at the time when the return was filed. It was observed:

Without going into the question as to whether the provisions are penal in nature, but keeping in mind the consequences of an adjustment made and the insistence upon the assessee filing a correct return, it would follow that the date for judging the question of adjustment must be the actual date of the return in the light of the law then prevailing. To hold otherwise, manifestly shocks one''s sense of justice that an act, correct at the time of doing it, should become incorrect by some new enactment.... (p. 512)

21. Clarifying further with reference to the amendment in law involved in that case the court said:

Additionally, the change in the law by amendment of section 28 took place several months after the return was filed by the assessee. This court is not determining the validity of the amendment of section 28, but is merely determining the scope of the power u/s 143(1)(a). The assessee''s return could have been taken up by the Assessing Officer u/s 143 prior to the amendment. In that event, no adjustment would have been made and no intimation would have been sent. An assessee''s liability cannot be made to depend upon such a fortuitous circumstances. (p. 512)

22. The view expressed in Modern Fibotex India Ltd.''s case (supra) was upheld by the Supreme Court in CIT v. Hindustan Electro Graphites Ltd. [2000] 243 ITR 481.

23. It is, however, submitted by Ms. Bansal, learned counsel for the respondents, the correctness of the decision in Hindustan Electro Graphites Ltd.''s case (supra) has since been doubted by the Supreme Court in Assistant Commissioner of Income Tax Vs. J.K. Synthetics Ltd., Having carefully gone through the two judgments, we are of the view that in J.K. Synthetics Ltd.''s case (supra), the court has expressed reservation about the correctness of the judgment in Hindustan Electro Graphites Ltd.''s case (supra) only to the extent it pertains to the interpretation of sub-section (1A) of section 143 of the Act. As noted above, we have no controversy in hand insofar as the said provision in concerned.

24. Relying on Jiyajeerao Cotton Mills Ltd. Vs. Income Tax Officer, "C" Ward and Others, and Mysore Cements Ltd. v. Dy. Commissioner of Commercial Taxes

(Assessment) [1994] 93 STC 464 (Kar.), it is submitted by learned counsel for the revenue that since the Supreme Court only declares the law, the question of adjustment has to be adjudged by applying the law prevailing at the time of making such adjustment. We are not convinced with the submission. An assessee is not, in fairness, supposed to know as to what interpretation is going to be finally placed by the Apex Court on a particular provision of law.

25. We have, therefore, no hesitation in holding that the question of prima facie adjustment u/s 143(1)(a) has to be considered with reference to the date on which the return of income is filed and not with reference to events subsequent thereto.

26. It was vehemently submitted by learned counsel for the revenue that in the present cases a close look at the returns and the accompanying documents would show that all the adjustments made by the Assessing Officers were prima facie inadmissible as there was no controversy with regard to their disallowance and that the Assessing Officer could, without anything more, justifiably act within their jurisdiction to make the adjustments in the income returned. We are unable to persuade ourselves to agree fully with learned counsel for the revenue.

27. Reverting first to the facts in C.W.P. No. 2087 of 1991, the first claim which has been disallowed by the Assessing Officer in this case is in respect of the presentation articles of the value of Rs. 65,818 under rule 6B of the income tax Rules, 1962. The said rule provides that allowance of expenditure on advertisement in respect of articles intended for presentation shall not exceed Rs. 50 per article. In its return, the assessee had stated that though the tax audit report mentions Rs. 65,818 as expenditure on articles presented in excess of Rs. 50 per article the same is not to be disallowed as no advertisement, as envisaged in the press note issued by the Ministry of Finance, had taken place as the article did not bear either the logo or the name of the company and, therefore, the articles were not meant for advertisement. In the adjustment explanatory sheet, except for noting down the said provision, there is no indication why the aforesaid note in the return has been ignored by the Assessing Officer. In our view this was clearly an arguable point, particularly in view of various judgments available on the subject.

28. The next disallowance is 1/3rd of the amount out of the entertainment expenses, which, according to the assessee, could not be considered as entertainment being expenditure incurred on the company''s officials. The mere fact that a similar issue travelled up to the Punjab and Haryana High Court in a reference in CIT v. Haryana Financial Corpn. Ltd. [1989] 180 ITR 181, relied upon by learned counsel for the Revenue, shows that the issue, whether directors act as employees of a company, was not free from doubt.

29. The third and the last adjustment made by the Assessing Officer was by the addition on account of the claim of duty drawback preferred but not approved by the authorities concerned during the previous year. In the Annexure to the return

the assessee had stated that though they had made a claim for duty drawback on export of 29,923 picture tubes the same was pending approval as on the last date of the previous year and, therefore, the entire claim could not constitute taxable income for the relevant previous year. Only that part of the claim had been included in the total income, which had been sanctioned by the Government. It was submitted by learned counsel for the assessee that till the claim of the petitioner was approved by the Central Government, it could not be said that there was any existing right in favour of the petitioner to receive the amount of Rs. 2,09,46,100, claimed as duty drawback, creating a debt in favour of the petitioner. It is asserted that since the assessee had not acquired any right to receive the said amount, the same could not be included in its total income on accrual basis. Without going into the merits of the assessee''s stand at this juncture, we are of the view that the stand of the assessee could not be said to be ex facie unsustainable. It required deeper consideration before the amount claimed as duty drawback in the books of account of the assessee could be added as revenue receipt for the relevant previous year. The adjustment on this account was also clearly beyond the scope of section 143(1)(a) of the Act.

30. In our considered opinion, the inadmissibility of the deduction/ disallowance of all the three subject claims in this case was not so clear and self-evident from the return or accompanying documents that the Assessing Officer could have taken recourse to the adjustment u/s 143(1)(a) by making the disallowance. May be that ultimately the petitioner is not found entitled to the claims/allowances in question but that would not mean that recourse could be had by the Assessing Officer to disallow the same under the said section, denying an opportunity to the assessee to challenge his decision.

31. Now coming to the facts in C.W.P. No. 2895 of 1995, as noticed above, the two adjustments, namely, the sales promotion assistance received by the assessee from their foreign partners (Rs. 78,54,965), claimed by the assessee to be a capital receipt, has been treated as revenue receipt and the relief claimed u/s 80-I of the Act (Rs. 1,21,50,141) against the commercial profits, without taking into consideration depreciation for the current year, has been disallowed.

32. Asserting that there was no impropriety on the part of the assessee in making both the aforenoted claims at the time of filing of the return, Mr. Syali, learned senior counsel for the assessee, submits that insofar as the first claim is concerned, at the time when the return was filed, the assessee''s similar claim in respect of the assessment year 1989-90 had been accepted by the Assessing Officer in a regular assessment completed u/s 143(3) of the Act and even notice by the Commissioner of income tax u/s 263 of the Act, seeking to set aside the assessment was received by the assessee on 22-9-1993, i.e., after the filing of the return. As regards the computation of relief u/s 80-I was concerned, it is contended that there was a conflict of views on the subject between various High Courts and certain decisions of the income tax Appellate Tribunal (for short "the Tribunal") were in assessee''s favour. It is thus, argued that though ultimately

both the issues got settled against the assessee on the date the return of income was filed, it could not be said that there was no debate on the issues.

33. Ms. Bansal, learned counsel for the Revenue, on the other hand, would urge that the stand of the assessee on the first issue having been rejected even by the Supreme Court in Commissioner of Income Tax, Tamil Nadu-V, Madras Vs. Kotagiri Industrial Co-operative Tea Factory Ltd., Kotagiri, and, on the second issue, a decision of this Court in Taylor Instrument Co. (India) Ltd. Vs. Commissioner of Income Tax, being available at the time of filing of the return, both the claims were prima facie inadmissible and, therefore, the Assessing Officer was justified in making the impugned adjustments.

34. Testing the rival stands on the touchstone of the interpretation given by us to the legal provisions, particularly to the first proviso to section 143(1)(a) of the Act, we are of the opinion that insofar as the claim of the assessee in treating the sales promotion assistance as capital receipt is concerned, in view of the fact that a similar claim in respect of an earlier year had been accepted by the Assessing Officer in a regular assessment, it seems difficult to hold that it was prima facie inadmissible as on the date of filing of the return for the relevant assessment year. Merely because, later on, the claim was sought to be withdrawn or the issue was finally decided by the Apex Court against the assessee after the filing of the return, it cannot be held that as far as the assessee is concerned, the claim in the return was incorrect at the threshold.

35. However, as regards the basis adopted by the assessee in computing the relief u/s 80-I of the Act, we are of the view that qua the assessees under the territorial jurisdiction of this court, an authoritative pronouncement of this court, dated 22-4-1992, in Taylor Instrument Co. (India) Ltd.''s case (supra), inter alia, holding that in computing the profits and gains of a priority industry for relief u/s 80-I, depreciation for the current year has to be deducted, being available on the date of filing of the return on 30-12-1992, the assessee cannot be heard to say that since they were not aware of the pronouncement, no fault could be found with the return. Be that as it may, here the moot question arising is whether in the light of the said decision, it could be said that the claim of the assessees u/s 80-I, as computed, was still not prima facie inadmissible? In our opinion, the answer has to be in the negative. While making adjustment the Assessing Officer could not ignore the decision of the jurisdictional High Court, according to which the assessee''s computation, at the time of filing of the return, was not correct. We are, therefore, of the view that the adjustment on the second issue of relief u/ s 80-I fell within the ambit of section 143(1)(a) of the Act read with the first proviso thereto and the action of the Assessing Officer to that extent was valid in law.

36. For the foregoing reasons, Writ Petition No. 2087 of 1991, succeeds in entirety but Writ Petition No. 2985 of 1995, would succeed partly. The impugned intimations are quashed to the extent indicated above and the rule is made absolute accordingly. We have been informed that in both the cases regular

assessments u/s 143(3) of the Act have also been completed for the relevant assessment years. The petitioner in C.W.P. No. 2087 of 1991 will be entitled to costs, which are quantified at Rs. 5,000. However, in C.W.P. No. 2985 of 1995, there will be no order as to costs.

