

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.9474 & 9475 of 2006
and W.M.P.Nos.10502 and 10504 of 2006

W.P.No.9474 of 2006

M/s.Cognizant Technology Solutions
India Private Limited,
Circular Building,
38 & 39, Whites Road,
Chennai 600 014
Rep.by its Director,
R.Rajagopalan

.. Petitioner

vs.

- 1.Union of India,
Ministry of Finance,
Rep.by its Secretary, Ministry of Law,
Justice & Company Affairs,
Government of India,
Sasthri Bhawan, R.P.Marg.
New Delhi 110 002.
- 2.The Central Board of Direct Taxes,
Government of India,
Ministry of Finance, Department of Revenue,
New Delhi, Rep.by its Secrerary.

- 3.The Assistant Commissioner of Income tax,
TDS Circle-1,
Room No.711, 7th Floor, New Block Aayakar Bhavan,
121, Mahatma Gandhi Road,
Nunambakkam, Chennai 600 034.
- .. Respondents

Prayer : Writ petition is filed under Article 227 of the Constitution of India, praying for a writ of certiorari calling for the records in proceedings in No.TAN CHECO 2509 D dated 17th February 2006 on the file of the 3rd respondent and quash the same.

W.P.No.9475 of 2006
M/s.Cognizant Technology Solutions
India Private Limited,
Circular Building,
38 & 39, Whites Road,
Chennai 600 014
Rep.by its Director,
R.Rajagopalan

.. Petitioner

vs.

- 1.Union of India,
Ministry of Finance,
Rep.by its Secretary, Ministry of Law,
Justice & Company Affairs,
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New Delhi 110 002.
- 2.The Central Board of Direct Taxes,
Government of India,
Ministry of Finance, Department of Revenue,
New Delhi, Rep.by its Secrerary.
- 3.The Assistant Commissioner of Income tax,
TDS Circle-1,
Room No.711, 7th Floor, New Block Aayakar Bhavan,
121, Mahatma Gandhi Road,
Nunambakkam, Chennai 600 034.
- 4.The Director(TPL),
The Central Board of Direct Taxes,
Government of India,
New Delhi.
- 5.The Deputy Secretary,
The Central Board of Direct Taxes,
Government of India,
New Delhi

.. Respondents

Prayer : Writ petition is filed under Article 227 of the Constitution of India, prayin for a writ of certiorari calling for the records relating to the Circular No.715 dated 8.8.1995 issued by the 4th respondent as amended by Circular No.5 of 2002 dated 30.07.2002 issued by the 5th respondent.

For petitioner : Mr. N.V.Balaji
(In both W.Ps.)

For Respondents : M/s.Hema Murali Krishnan
(in both W.Ps.) Sr.Standing Counsel

C O M M O N O R D E R

The petitioner has challenged the show cause notice vide impugned circular No.715 dated 9.08.1995 and Circular No.5 of 2002 dated 30.07.2002.

2. Though the elaborate arguments were made by the learned counsel for the petitioner prima facie it appears that circular is in favour of the petitioner and therefore challenging the show cause notice, pursuant to the circular appears to be without any justification. That apart, the petitioner has alternate remedy to participate in the show cause notice proceedings. The Hon'ble Supreme Court reported in Commissioner of Central Excise, Haldia vs Krishna Wax (P) Ltd, Manu /SC/1567/2019 has held that writ petition cannot be entertained against the show cause notice proceedings.

3. In view of the above, both the writ petitions are disposed. The petitioner is directed to file its reply before the third respondent-Assistant Commissioner of Income Tax, within a period of 30 days from the date of receipt of a copy of this order. The 3rd respondent shall thereafter pass a speaking order after affording an opportunity of hearing to the petitioner and pass an order within a period of three months thereafter in accordance with law. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Secretary,
Union of India, Ministry of Finance,
Ministry of Law,
Justice & Company Affairs,
Government of India,
Sasthri Bhawan, R.P.Marg.
New Delhi 110 002.

2. The Secretary,
Central Board of Direct Taxes,
Government of India,
Ministry of Finance, Department of Revenue,
New Delhi.

3. The Assistant Commissioner of Income tax,
TDS Circle-1,
Room No.711, 7th Floor, New Block Aayakar Bhavan,
121, Mahatma Gandhi Road,
Nunambakkam, Chennai 600 034.

4.The Director(TPL),
The Central Board of Direct Taxes,
Government of India,
New Delhi.

5.The Deputy Secretary,
The Central Board of Direct Taxes,
Government of India,
New Delhi.

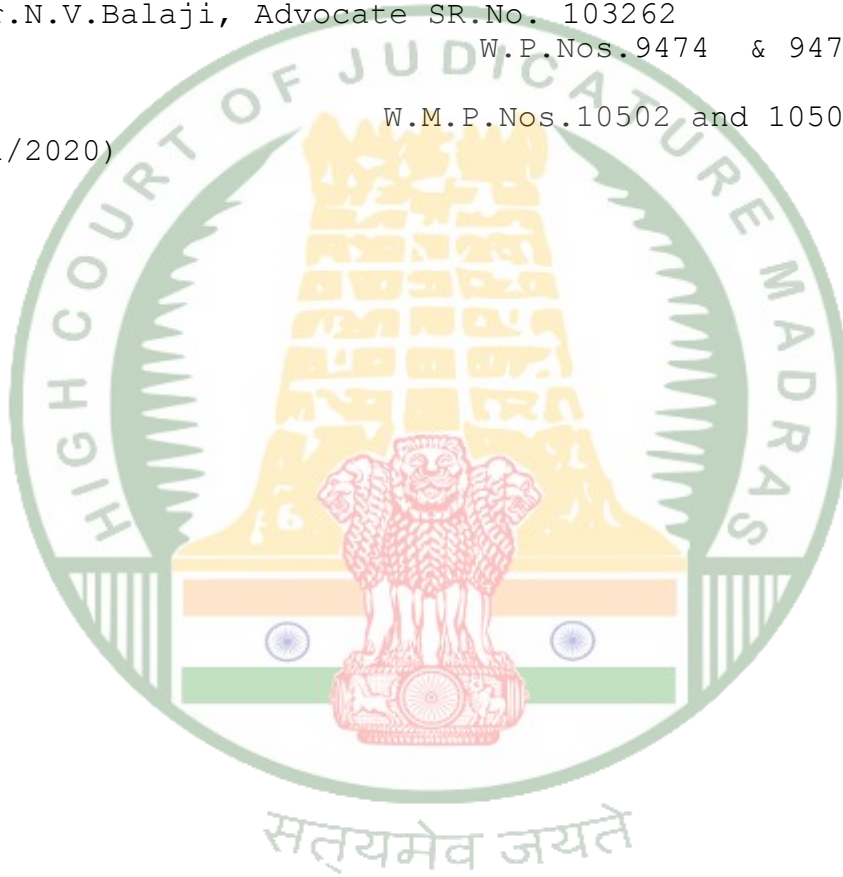
+1cc to M/s.Hema Murali Krishnan , Advocate SR.No. 102702

+1cc to Mr.N.V.Balaji, Advocate SR.No. 103262

W.P.Nos.9474 & 9475 of 2006
and

W.M.P.Nos.10502 and 10504 of 2006

A.SK(28/01/2020)



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