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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 8666/2019**

SAMTEL INDIA LTD., ... Petitioner

Through Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Mr. Udit Naresh, Advocates

versus

PR. COMMISSIONER OF INCOME-TAX-8, NEW DELHI & ORS. ..... Respondents

Through Mr. Raghvendra Singh, Senior standing counsel & Mr. Vipul Agrawal, Junior standing counsel

\+ **W.P.(C) 8667/2019**

SAKSHI KAURA DESIGNS PVT. LTD, ... Petitioner

Through Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Mr. Udit Naresh, Advocates

versus

PR. COMMISSIONER OF INCOME-TAX-8, NEW DELHI & ORS. ..... Respondents

Through Mr. Raghvendra Singh, Senior standing counsel & Mr. Vipul Agrawal, Junior standing counsel

\+ **W.P.(C) 8668/2019**

SWAKA CONSULTANTS LTD., ... Petitioner

Through Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Mr. Udit Naresh, Advocates

versus

PR. COMMISSIONER OF INCOME-TAX-8, NEW DELHI & ORS.
..... Respondents

Through Mr. Raghvendra Singh, Senior standing counsel & Mr. Vipul Agrawal, Junior standing counsel

\+ **W.P.(C) 8669/2019**

SAMTEL MACHINES AND PROJECTS LTD., ... Petitioner

Through Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Mr. Udit Naresh, Advocates

versus

PR. COMMISSIONER OF INCOME-TAX-8, NEW DELHI & ORS.
..... Respondents

Through Mr. Raghvendra Singh, Senior standing counsel & Mr. Vipul Agrawal, Junior standing counsel

\+ **W.P.(C) 8670/2019**

SAMTEL AVIONICS LTD., ... Petitioner

Through Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Mr. Udit Naresh, Advocates

versus

PR. COMMISSIONER OF INCOME-TAX-8, NEW DELHI, & ORS.
..... Respondents

Through Mr. Raghvendra Singh, Senior standing counsel & Mr. Vipul Agrawal, Junior standing counsel

\+ **W.P.(C) 8671/2019**

SAMTEL HAL DISPLAY SYSTEMS LTD ..... Petitioner

Through Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Mr. Udit Naresh, Advocates

versus

PR. COMMISSIONER OF INCOME-TAX-8, NEW DELHI, & ORS.

..... Respondents

Through Mr. Raghvendra Singh, Senior standing counsel & Mr. Vipul Agrawal, Junior standing counsel

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **09.08.2019**

CM Appl. 35784/2019 & 35785/2019 (Exemption) in WP(C) 8666/2019
CM Appl. 35787/2019 & 35788/2019 (Exemption) in WP(C) 8667/2019
CM Appl. 35790/2019 & 35791/2019 (Exemption) in WP(C) 8668/2019
CM Appl. 35797/2019 & 35798/2019 (Exemption) in WP(C) 8669/2019
CM Appl. 35800/2019 & 35801/2019 (Exemption) in WP(C) 8670/2019
CM Appl.35803/2019 & 35804/2019 (Exemption) in WP(C) 8671/2019

1. Exemption allowed, subject to all just exceptions.

WP(C) No.8666/2019 & CM Appl.No. 35783/2019 (stay)
WP(C) No.8667/2019 & CM Appl.No. 35786/2019 (stay)
WP(C) No.8668/2019 & CM Appl.No. 35789/2019 (stay)
WP(C) No.8669/2019 & CM Appl.No. 35796/2019 (stay)
WP(C) No.8670/2019 & CM Appl.No. 35799/2019 (stay)
WP(C) No.8671/2019 & CM Appl.No. 35802/2019 (stay)

2. Notice. Mr. Raghvendra Singh, Senior Standing counsel accepts notice for the Respondents.

3. The challenge in the present petitions is to the impugned order dated 25th June, 2019 passed by the Principal Commissioner of Income Tax, Delhi-8 New Delhi ('PCIT Delhi-8') (Respondent No.1) rejecting the objections of

the Petitioners to the centralising of all the cases concerning the Petitioners with the DCIT/ACIT Central Circle No.2, NOIDA for detailed coordinated investigation pursuant to search and survey operation in the Samtel Avionics Limited and other group of cases on 18th January 2018,.

4. Under Section 127(2) of the Income Tax Act, 1961(‘Act’) before passing such an order the officer concerned is expected to give “the assessee reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order.”

5. Consistent with the above requirement, the Respondents issued show cause notices (SCNs) dated 17th January, 2019 and 8th May, 2019 to the Petitioners. By letter dated 6th February, 2019 all the parties except M/s SW Consultants Private Limited and M/s Samtel Colour Limited filed a common reply. They placed before the Respondents seven objections which have been noted in Para 3 of the impugned order.

6. Thereafter in Para 4 of the impugned order the reasons for the centralisation of the cases are indicated. It appears that those reasons were mentioned in a communication dated 13th March, 2018 received at the Delhi office through the Principal Commissioner of Income Tax, Central, Kanpur. However, the impugned order does not deal with any of the objections of the Petitioners as noted in Para 3. In Para 5 it is simply stated that the objections “are not tenable”.

7. It is not in dispute that all of the Petitioners are located in Delhi and that

the search and survey operation took place in Delhi. The alleged incriminating documents were found and seized from the offices in Delhi.

8. Ms. Kavita Jha, learned counsel appearing for the Petitioners, states categorically that the Petitioners are not opposed to centralisation of the cases for the purposes of investigation. However, it is contended that there is no need to shift the cases to the DCIT/ACIT, Central, Circle No. 2, NOIDA. According to the Petitioners the cases could be centralised with a DCIT/ACIT in Delhi. Reliance is placed on the decision of this Court in ***ATS Promoters & Builders Private Limited v. CCIT 179 Taxman 41 (Del).***

9. The Court finds that the impugned order does not actually deal with the objections raised by the Petitioners to shifting of the cases outside Delhi. The exercise to be undertaken by the PCIT in terms of Section 127 (2) of the Act is not an empty formality. After giving the affected party a hearing, he has to record reasons, which necessarily have to deal with the objections raised to the transfer of the cases.

10. In that view of the matter, the impugned orders are set aside. The matter is placed once again before the PCIT, Delhi-8, New Delhi for passing a reasoned order afresh dealing with each of the seven objections raised by the Petitioners as noted in Para 3 of the impugned order that has been set aside. This exercise be completed not later than 15 days from the date of receipt of a certified copy of this order by the PCIT, Delhi-8. The fresh decision will be communicated by the PCIT Delhi-8 to each of the Petitioners not later than 10 days thereafter.

11. Since the PCIT, Delhi-8 has already given a hearing to the Petitioners, he may proceed to pass the order afresh with or without giving any further hearing to the Petitioners. However, if he decides to hear the Petitioners afresh, he will give them at least three days' advance notice. The Petitioners are not permitted to raise any fresh objections apart from those noted by the PCIT in para 3 of the impugned order.

12. Mr. Raghvendra Singh, learned Senior Standing counsel for the Respondents raised an issue regarding the period during which the impugned order was challenged and up to the passing of a fresh order pursuant to the remand of the matter to the PCIT by this Court affecting the period of limitation under Section 153 B of the Act. That question is left open to be considered at the appropriate stage.

13. The writ petitions are disposed of in the above terms. The pending applications are also disposed of.

14. A copy of this order be given *dasti* under the signatures of Court Master.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 09, 2019/mw