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

+ **W.P.(C) 2981/2020 & C.M. Nos.10339-41/2020**

M/S. BT INDIA PRIVATE LTD. Petitioner
Through Mr. Deepak Chopra and Mr.
Abhimanyu Chopra, Advocates.
Versus
INCOME TAX OFFICER Respondent
Through Mr. Sunil Agarwal, Sr. Standing
Counsel with Mr. Tushar Gupta, Advocate.

+ **W.P.(C) 2984/2020 & C.M. Nos.10347-49/2020**

M/S. BT INDIA PRIVATE LTD. Petitioner
Through Mr. Deepak Chopra and Mr.
Abhimanyu Chopra, Advocates.
Versus
INCOME TAX OFFICER Respondent
Through Mr. Sunil Agarwal, Sr. Standing
Counsel with Mr. Tushar Gupta, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **22.04.2020**

1. The matters have been heard through Video Conferencing.
2. W.P. (C) 2981/2020 has been filed by the petitioner praying *inter alia* for issuance of a writ of mandamus for quashing the order, bearing DIN and Letter No.ITBA/COM/F/17/2019-20/1026889793 (1), dated 26.3.2020, passed by the Income Tax Officer for the Assessment Year 2012-2013 under

Section 201 of the Income Tax Act, 1961 (in short '**The Act**'), for quashing the demand notice dated 26.3.2020, issued by the Income Tax Officer Ward INT Tax (1) (2), Delhi, vide DIN and Letter No.ITBA/COM/17/2019-20/1026890226 (1) dated 26.3.2020, issued under Section 156 of the Act for the Assessment Year 2012-13 raised pursuant to the impugned order dated 26.3.2020 and lastly, for quashing of the penalty proceedings initiated by the respondent/Income Tax Department under Section 271C of the Act pursuant to the order dated 26.3.2020.

3. The connected writ petition, registered as W.P. (C) 2984/2020, has been filed by the petitioner praying *inter alia* for issuance of the writ of mandamus for quashing the order dated 26.3.2020, bearing DIN and Letter No.ITBA/COM/F/17/2019-20/1026889224 (1) dated 26.3.2020, passed by the Income Tax Officer for the Assessment Year 2013-14 under Section 201 (1) (1A) of the Act, for quashing of the demand notice, bearing No.DIN and Letter No.ITBA/COM/F17/2019-20/1026890238 (1), dated 26.3.2020, issued by the Income Tax Officer Ward INT Tax (1) (2), Delhi, under Section 156 of the Act dated 26.2.2020 for the Assessment Year 2013-14 pursuant to passing of the impugned order dated 26.3.2020. Lastly, the petitioner seeks quashing of the penalty proceedings initiated by the respondent/Income Tax Department under Section 271C of the Act, pursuant to passing of the order dated 26.3.2020.

4. The gravamen of the grievance raised in both the petitions is that the respondent has acted with undue haste in passing the impugned orders in both the matters knowing very well that the Notices to show cause was issued to the petitioner on 17.3.2020, calling upon it to show cause as to why

proceeding should not be initiated against it under Section 201 (1) (1A) of the Act and for seeking necessary explanation from the petitioner on or before 20.3.2020. Mr. Chopra, learned counsel for the petitioner submits that in response to the show cause notices dated 17.3.2020, issued by the respondent for the relevant Assessment Years, the petitioner had immediately sent an e-mail and letter dated 19.3.2020, requesting for a period of three weeks to respond to the same on account of the lockdown declared by the Government of India across India so as to effectively deal with the Covid-19 pandemic. It was explained by the petitioner that its officers were working from home and they did not have access to the official records to enable them to reply to the show cause notices.

5. It is submitted that despite the aforesaid position, the respondent proceeded to issue another Notice to show cause dated 23.3.2020 to the petitioner and they were required to comply with the said notice on or before 24.3.2020. Once again, the petitioner sought time to furnish the requisite information and reply to the show cause notice, but to no avail. Finally, the impugned order dated 26.3.2020 came to be passed by the respondent.

6. Ironically, while passing the impugned order dated 26.3.2020, the Income Tax Officer has noted in para 3 that the assessee has given a reply requesting for an adjournment but the said request was turned down and thereafter, in para 5, gone on to observe that he had gone through the contentions raised in the submissions and the case law cited by the assessee, which were found to be meritless. The paradoxicality of the aforesaid observations made in the impugned order is apparent on the face of the record.

7. At this stage, Mr. Sunil Aggarwal, learned Senior Standing Counsel of the respondent/Department submits on advance instructions that the respondent will withdraw the impugned orders dated 26.3.2020 passed in respect of the petitioner for the Assessment Years 2012-13 and 2013-14 and all consequent orders and shall afford an opportunity to the petitioner to reply to the Show cause notices dated 17.3.2020.

8. Immediately after the lockdown is withdrawn by the Government, a period of two weeks reckoned therefrom is granted to the petitioner to reply to the Notices to the show cause issued by the respondent. Immediately after receiving replies to the Notices to show cause, the respondent shall be at liberty to take further steps in both the matters, in accordance with law.

9. Both the petitions are disposed of alongwith the pending applications in terms of the aforesaid statement made by the learned Senior Standing Counsel of the respondent/Department and the order passed above. It is made clear that the aforesaid order has been passed in the peculiar facts and circumstances of the present cases and shall not be treated as a precedent in any other matter.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

APRIL 22, 2020

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