

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2539 of 2016, 463 & 26255 of 2017 and 26962 of 2018
and

W.M.P.Nos.2169 of 2016, 490 & 491,
27923 & 27924 of 2017 and 31348 of 2018

W.P.No.2539 of 2016

M/s.Mobis India Limited,
Rep.by its Director, Mr.Kyo Bin Ha
Son of CHUNG IL HA
G-1, SIPCOT Industrial Park,
Irrungattukottai,
Sriperumbudur Taluk,
Kanchipuram District - 602 117. ..Petitioner

Vs.

1.The Secretary,
Dispute Resolution Panel-2, Bangalore
Room No.714, 7th Floor,
Income Tax Office,
BMT Building, 80 feet Road,
Koramangala,
Bangalore - 560 095.

2.Deputy Commissioner of Income Tax,
Large Tax Payer Unit-II,
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar, Western Extension,
Chennai - 600 101.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in F.No.354/DRP-2/BNG/2015-16 dated 16.12.2015 relating to the Assessment year 2011-2012 on the file of the 1st respondent quash the same and directing the 1st respondent it to pass a reasoned order after due opportunity to the petitioner.

W.P.No.463 of 2017

M/s.Mobis India Limited,
Rep.by its Director, Mr.Kyo Bin Ha
Son of CHUNG IL HA
G-1, SIPCOT Industrial Park,
Irrungattukottai,
Sriperumbudur Taluk,
Kanchipuram District - 602 117.

..Petitioner

Vs.

1.The Assistant Commissioner of Income-tax(HQ)
Dispute Resolution Panel-2, Bengaluru
7th Floor, Income Tax Office,
BMTc Building, 80 feet Road,
Koramangala,
Bangalore - 560 095.

2.The Deputy Commissioner of Income Tax,
Large Tax Payer Unit-II,
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar, Western Extension,
Chennai - 600 101.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in F.No.137/DRP-2/BANG/2016-17 dated 20.12.2016 relating to the Assessment year 2012-2013 on the file of the 1st respondent quash the same and direct the 1st respondent to pass a reasoned order after due opportunity to the petitioner.

W.P.No.26255 of 2017

M/s.Mobis India Limited,
Rep.by its Director, Mr.Kyo Bin Ha
Son of CHUNG IL HA
G-1, SIPCOT Industrial Park,
Irrungattukottai,
Sriperumbudur Taluk,
Kanchipuram District - 602 117.

..Petitioner

Vs.

1.The Secretary,
Dispute Resolution Panel-2, Bengaluru
7th Floor, Income Tax Office,
BMTc Building, 80 feet Road,
Koramangala,
Bangalore - 560 095.

2.The Deputy Commissioner of Income Tax,
Large Tax Payer Unit-II,
1775, Jawaharlal Nehru Inner Ring Road,
Anna Nagar, Western Extension,
Chennai - 600 101.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in F.No.407/DRP-2-BNG/2016-17 dated 22.09.2017 relating to the Assessment year 2013-2014 on the file of the 1st respondent, quash the same and direct the 1st respondent to pass a reasoned order considering the objections raised after due opportunity to the petitioner.

W.P.No.26962 of 2018

M/s.Mobis India Limited,
Rep.by its Director,
Mr.Chung Min Kim, Age 41,
G-1, SIPCOT Industrial Park,
Irrungattukottai,
Sriperumbudur Taluk,
Kanchipuram District,
Tamil Nadu - 602 117.

..Petitioner

Vs.

1.The Secretriatic,
Dispute Resolution Panel-2, Bengaluru
'A' Wing, 4th Floor,
Kendriya Sadan, Koramangala,
Bangalore - 560 034.

2.The Deputy Commissioner of Income Tax,
Large Tax Payer Unit-2,
Room No.711, 7th Floor,
New Block,
121, Nungambakkam High Road,
Chennai - 600 034.

3.The Deputy Commissioner of Income Tax,
Transfer Pricing Officer-2(2),
5th Floor, BSNL Building, Tower-1,
16, Greaves Road, Chennai - 600 006.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in F.No.128/DRP-2/BANG/2017-18 dated 18.09.2018 on the file of the 1st respondent and the consequential order of the 2nd respondent in PAN AAECM 3018M

dated 27.09.2018 for the Assessment Year 2014-15 and quash the same and direct the 1st respondent to pass a reasoned order considering the objections raised and binding judicial precedents after due opportunity to the petitioner.

For Petitioner : Mr.Arvind P.Dater
Senior counsel
For M/s.Sandeep Bagmar R
[in all W.Ps]

For Respondents : M/s.Hema Muralikrishnan
Senior Standing Counsel
[Income Tax] [in all W.Ps]

COMMON ORDER

The orders impugned dated 16.12.2015, 20.12.2016, 22.09.2017, 18.09.2018 passed by the first respondent, relating to the Assessment Years 2011-2012, 2012-2013, 2013-2014, 2014-15 are under challenge in the present writ petitions.

2. The learned Senior counsel appearing on behalf of the writ petitioner raised a ground that the orders impugned are passed based on the submission of the respondents/Department and the objections and the materials filed by the writ petitioner are not considered by the Disputes Resolution Panel. Reading of the entire order reveals that there is no discussion or consideration with reference to the defense taken by the writ petitioner and therefore, the orders impugned are untenable.

3. The learned Senior Standing counsel appearing on behalf of the respondents/Department is unable to dispute the said contentions with reference to the findings of the orders impugned. It is needless to state that an adjudication must result in findings with reference to the contentions raised by the respective parties to the lis and in the absence of such consideration, the orders cannot be made tenable.

4. This Court is of the considered opinion that the orders impugned, reveals that there is no whisper about the contentions raised by the writ petitioner before the Disputes Resolution Panel and thus, it is a fit case to remand the matters back for fresh adjudication by providing opportunity to all the parties and pass a speaking order, considering the materials available on record.

5. Accordingly, the orders impugned dated 16.12.2015, 20.12.2016, 22.09.2017, 18.09.2018, relating to the Assessment Years 2011-2012, 2012-2013, 2013-2014, 2014-15 passed by the first respondent in proceedings in F.No.354/DRP-2/BNG/2015-16,

F.No.137/DRP-2/BANG/2016-17, F.No.407/DRP-2-BNG/2016-17,
F.No.128/DRP-2/BANG/2017-18 are quashed and the matters are
remanded back to the first respondent for fresh adjudication on
merits and in accordance with law and by affording opportunity
to all the parties concerned. The said exercise is directed to
be done within a period of six (6) months from the date of
receipt of a copy of this order. The parties to the lis are
directed to co-operate for the early disposal of the case before
the first respondent by avoiding unnecessary adjournments on
flimsy grounds and consequently, all the writ petitions stand
allowed. No costs. Connected miscellaneous petitions are closed.

Kak

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary,
Dispute Resolution Panel-2, Bangalore
Room No.714, 7th Floor,
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Transfer Pricing Officer-2(2),
5th Floor, BSNL Building, Tower-1,
16,Greams Road, Chennai - 600 006.

- 1 cc to M/s. Hema Muralikrishnan, Advocate Sr.23075
- 4 ccs to M/s. Sandeep Bagmar, Advocate Sr.23472, 23473, 23474, 23475

W.P.Nos.2539 of 2016, 463
& 26255 of 2017 and 26962
of 2018

GMV (CO)
EU 7/6/2021



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