

\$~13 & 14 (2021)

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

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Date of decision: 17.11.2021

+ **W.P.(C) 7644/2021 & CM APPL. 23916/2021**

GE INDIA INDUSTRIAL PVT LTD. AS SUCCESSOR IN
INTEREST TO GE INDIA TECHNOLOGY CENTRE PVT. LTD.,
NOW AMALGAMATEDPetitioner

Through: Mr. Sachit Jolly, Mr. Rohit Garg,
Ms. Disha Jham, Ms. Mehak
Sachdeva and Mr. Sohum Dua,
Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 10 1
NEW DELHI & ANR.Respondents

Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Income Tax Department.

+ **W.P.(C) 7645/2021 & CM APPL. 23918/2021**

GE INDIA INDUSTRIAL PVT. LTD. (AS SUCCESSOR IN
INTEREST TO GE INDIA EXPORTS PVT. LTD., NOW
AMALGAMATED)Petitioner

Through: Mr. Sachit Jolly, Mr. Rohit Garg,
Ms. Disha Jham, Ms. Mehak
Sachdeva and Mr. Sohum Dua,
Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, OSD-10, NEW
DELHI & ANR.Respondents

Through: Mr. Abhishek Maratha, Sr. Standing
Counsel, Income Tax Department.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J.: (ORAL)

[Court hearing convened via video-conferencing on account of COVID-19]

Signature Not Verified

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RANI

Signing Date: 22.11.2021 11:12 **W.P.(C) 7644/2021 & 7645/2021**

Page 1 of 3

1. On the previous date, i.e., 11.11.2021, we had heard the counsel for the parties and made, thereafter, the following observations in W.P.(C) 7644/2021:

“1. Mr. Abhishek Maratha, Advocate has entered appearance on behalf of the respondents/revenue.

2. Mr. Sachit Jolly, who appears for the petitioner-company, says that, apart from anything else, the impugned notice issued under Section 148 of the Income Tax Act, 1961 [in short "the Act"], is flawed, for the reason that it was served on an entity i.e., GE India Technology Centre Pvt. Ltd., which was not in existence at the relevant time, as it had merged with the petitioner-company i.e., GE India Industrial Pvt. Ltd.

3. Prima facie, there appears to be merit in the contention advanced by Mr. Jolly.

3.1. Mr. Maratha says that, he will revert with instructions on this aspect of the matter.

4. We may also note that although opportunity was given to the respondents/revenue to file a counter-affidavit in the matter; no affidavit has been filed, as yet.

5. List the matter for directions on 17.11.2021.

6. Interim order dated 05.08.2021 is made absolute during the pendency of the writ petition. CM No.23918/2021 is, accordingly, disposed of.”

1.1. Similar observation were made in the order dated 11.11.2021, passed in W.P.(C) 7645/2021.

2. Mr. Abhishek Maratha, learned counsel appearing for the respondents/revenue, has reverted with instructions.

2.1. Mr. Maratha says that, admittedly, notice(s) were issued to entities i.e., GE India Technology Centre Pvt. Ltd. and GE India Exports Pvt. Ltd., which were not in existence at the relevant time, as they had merged with the petitioner-company i.e., GE India Industrial Pvt. Ltd.

2.2. It is, however, Mr. Maratha's contention that it was an inadvertent

error, and therefore, the respondents/revenue are entitled in law to issue fresh notice(s) in the above-captioned matters, under Section 148 of the Income Tax Act, 1961 [in short “the Act”], and that these notice(s) will relate to the period prior to 30.06.2021.

2.2(a) However, Mr. Jolly, vehemently, opposes the aforesaid submissions adverted by Mr Maratha.

3. To our minds, the impugned notice(s) issued under Section 148 of the Act cannot be sustained, as they were issued to entities [i.e., GE India Technology Centre Pvt. Ltd. in W.P.(C) 7644/2021 and GE India Exports Pvt. Ltd. in W.P.(C) 7645/2021], which were not in existence at the relevant time, as they had merged with the petitioner-company i.e., GE India Industrial Pvt. Ltd.

3.1. Therefore, the impugned notice(s) dated 30.06.2021 are set aside.

4. The respondents/revenue will have liberty to take next steps in the matter, *albeit* as per law. In case any such steps are taken, the petitioner-company will have the liberty to assail the same, in accordance with law.

5. The above-captioned writ petitions are disposed of in the aforesaid terms. Consequently, pending application(s) shall also stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

NOVEMBER 17, 2021/pa

[Click here to check corrigendum, if any](#)

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Signing Date:22.11.2021 11:12 W.P.(C) 7644/2021 & 7645/2021

Page 3 of 3