



Writ Petition (Civil) No. 5415 / 2020

### CERTIFICATE

1. The case is fit for consignment and that no proceedings are pending either in the High Court of Delhi or in the Supreme Court of India, in terms of rules as provided in Ch-5(C) of the High Court Rules & Orders Vol.-V", as no communication has been received in this respect.
2. It is also certified that all the relevant papers including office noting pertaining to payments and return of FRD/Bank Guarantee or other documents have been removed from Part 'B' and have been placed at the end of Part 'A' at pages 236 to 239.
3. During Covid Period, En-bloc dates W.E.F 17.03.2020 to 14.02.2022 were given by the Hon'ble Court and for such period no court orders were passed by the Hon'ble Court.
4. All the original Documents have been removed and duly kept in safe Custody of DR.

Prepared by: Reehi  
28/05/24

P  
29/05/24  
Dealing Assistant  
I.D No. G 7288860

(E- DATA AVAILABLE IN DIGITEL FORM)

Asst. Registrar/ Dy. Registrar

A.O.J  
12/09/24  
A.O.J (Writs)

( 22/23 )

28  
19/9/24



WP(c) 5414/20  
CM-19537:38/20

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

+ W.P.(C) 5415/2020 & CM APPLs. 19537-19538/2020

BT GLOBAL COMMUNICATIONS  
INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr. Deepak Chopra, Advocate with  
Mr. Abhimanyu Chopra and  
Mr. Ankul Goyal, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX  
& ANR.

..... Respondents

Through: Ms. Vibhooti Malhotra, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**19.08.2020**

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The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

Mr. Deepak Chopra, learned counsel for the petitioner, is directed to supply another set of the paper-book to Ms. Vibhooti Malhotra, learned counsel, during the course of the day.

List on 01<sup>st</sup> September, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

AUGUST 19, 2020/sb

*Handwritten notes:*  
 - All documents of Petitioner filed  
 - CM 19537/20 for directions  
 - CM 19538/20 for exp.



§-3 & 4

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

+ W.P.(C) 5414/2020

BT GLOBAL COMMUNICATIONS  
INDIA PRIVATE LIMITED ..... Petitioner

Through: Mr. Deepak Chopra, Advocate with  
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Mr. Ankul Goyal, Advocates.

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**AND**

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Through: Ms. Vibhooti Malhotra, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

% **01.09.2020**

**CM APPL. 19536/2020 in W.P.(C) 5414/2020**

**CM APPL. 19538/2020 in W.P.(C) 5415/2020**

Allowed, subject to all just exceptions.



**W.P.(C) 5414/2020 & CM APPL. 19535/2020**

**W.P.(C) 5415/2020 & CM APPL. 19537/2020**

The petitions have been heard by way of video conferencing.

While writ petition (C) No. 5415/2020 has been filed challenging the adjustment made by the respondents against pending demands for assessment years 2011-12, and 2013-14 vide order dated 03<sup>rd</sup> July, 2020 passed under Section 143(1) of the Income Tax Act, 1961 for the assessment year 2019-20 and for release of refund amounting to Rs.11,23,33,263/-, writ petition (C) No. 5414/2020 has been filed challenging the legality and validity of the notice/intimation dated 09<sup>th</sup> May, 2020 issued by the second respondent under Section 245 of the Income Tax Act, 1961 proposing to set off/ adjust refund arising from assessment year 2019-20 against alleged demands for assessment years 2014-15, 2015-16 and 2016-2017.

Learned counsel for the petitioner states that the impugned order dated 03<sup>rd</sup> July, 2020 has been passed without considering the objections dated 29<sup>th</sup> May, 2020 filed with Deputy Commissioner of Income Tax as well as the objections filed online with the Centralized Processing Centre by the petitioner in response to the notice/intimation dated 09<sup>th</sup> May, 2020 issued under Section 245 of the Income Tax Act, 1961.

After some arguments, the admitted position that emerges is that though the impugned order dated 03<sup>rd</sup> July, 2020 states that there was no response to the adjustment of demand by the petitioner, yet the objections had been filed in writing with the Assessing Officer on 29<sup>th</sup> May, 2020 as well as online with the Centralized Processing Centre by the petitioner before the impugned order was passed. Consequently, as the impugned order dated 03<sup>rd</sup> July, 2020 has been passed under Section 143(1) of the Income Tax Act, 1961 in violation of principles of natural justice i.e. without dealing with the objections filed by the



petitioner either before the Assessing Officer or before the Centralized Processing Centre, the same is set aside. The Assessing Officer is directed to decide the petitioner's objections to adjustment of refund arising out of assessment year 2019-20 afresh within a period of six weeks by way of a reasoned order after giving an opportunity of hearing to the petitioner. All rights and contentions of the parties are left open.

It is made clear that in the event the objections filed by the petitioner are not decided within the stipulated period, the petitioner shall be entitled to release of refund amounting to Rs.11,23,33,263/- with applicable interest, if any, forthwith.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

SEPTEMBER 01, 2020

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