



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF MARCH, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE B M SHYAM PRASAD**

**WRIT PETITION NO. 4483 OF 2021 (T-RES)**

**C/W**

**WRIT PETITION NO. 4496 OF 2021 (T-RES)**

**IN W.P. NO. 4483/2021**

**BETWEEN:**

M/S VODAFONE IDEA LIMITED,  
(EARLIER KNOWN AS VODAFONE  
MOBILE SERVICES LTD)  
HAVING ITS OFFICE AT NO.9, HOSUR ROAD,  
PRESTIGE BLUE CHIP GROUND FLOOR  
BLOCK-1, BENGALURU 560029.  
THROUGH ITS AUTHORIZED  
REPRESENTATIVE MR. SUBHASISH SARKAR.

...PETITIONER

(BY SRI. BHARATH RAICHANDANI, ADVOCATE FOR  
SRI. ARJUN RAO, ADVOCATE)

**AND:**

1. UNION OF INDIA  
MINISTRY OF FINANCE,  
THROUGH ITS SECRETARY,





DEPARTMENT OF REVENUE,  
NORTH BLOCK,  
NEW DELHI- 110001.

2. STATE OF KARNATAKA,  
THROUGH ITS CHIEF SECRETARY,  
M. S. BUILDING, AMBEDKAR VEEDHI,  
BENGALURU 0 560 001.
3. THE COMMISSIONER OF SALES TAX  
VANIJYA TERIGE KARYALAYA BUILDING  
GANDHINAGAR  
BANGALORE 560 009.
4. THE COMMERCIAL TAX OFFICER  
(AUDIT)-4.3, DVO-4, VTK-2,  
KORAMANGALA,  
BANGALORE 560047.
5. THE JOINT COMMISISONER OF  
COMMERICAL TAXES, APPEALS 4  
BMTc BUS STAND, 2<sup>ND</sup> FLOOR  
SHANTHINAGAR  
BENGALURU – 560 027.

...RESPONDENTS

(BY SRI.K. HEMA KUMAR, AGA FOR R2 TO R5;  
SRI. HARSHA P BANAD, CSC FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLE  
226 OF THE CONSTITUTION OF INDIA PRAYING TO  
CALL FOR THE RECORDS PERTAINING TO THE  
PETITIONER CASE, AND AFTER GOING INTO THE  
VALIDITY AND LEGALITY THEREOF QUASH AND SET



ASIDE THE LETTER DATED 27.10.2020 VIDE ANNEXURE-A, ISSUED BY THE R-4 AND REFUND THE MONEY TO THE BANK ACCOUNT NO.054-053905-001; DIRECT THE R-4 TO RETURN THE AMOUNT WHICH HAS BEEN RECOVERED/EN-CASHED FROM THE ATTACHED HSBC BANK ACCOUNT NO.054-053905-001 IN EXCESS OF 30 PERCENT ALONG WITH INTEREST; DIRECT THE R-4 TO RETURN THE ABOVE SAID AMOUNT MENTIONED IN (b) WITH APPLICABLE INTEREST ON PRINCIPLE AMOUNT THEREON.

**IN WP NO. 4496/2021**

**BETWEEN:**

M/S VODAFONE IDEA LIMITED  
(EARLIER KNOWN AS VODAFONE SOUTH LTD.)  
HAVING ITS OFFICE AT NO.9, HOSUR ROAD,  
PRESTIGE BLUE CHIP GROUND FLOOR  
BLOCK-1, BENGALURU 560029.  
THROUGH ITS AUTHORIZED REPRESENTATIVE  
MR. SUBHAISH SARKAR.

...PETITIONER

(BY SRI. BHARATH RAICHANDANI., ADVOCATE FOR  
SRI. ARJUN RAO, ADVOCATE)

**AND:**

1. UNION OF INDIA  
MINISTRY OF FINANCE,  
THROUGH ITS SECRETARY,  
DEPARTMENT OF REVENUE,



NORTH BLOCK,  
NEW DELHI- 110001.

2. STATE OF KARNATAKA  
THROUGH ITS SECRETARY  
M.S. BUILDING, AMBEDKAR VEEDHI  
BANGALORE – 560 001.
3. THE COMMISSIONER OF SALES TAX  
VANIJYA TERIGE KARYALAYA BUILDING  
GANDHINAGAR,  
BANGALORE 560009.
4. THE COMMERCIAL TAX OFFICER  
(AUDIT) 4.3, DVO-4, VTK-2,  
KORAMANGALA,  
BANGALORE 560047.
5. THE JOINT COMMISSIONER OF  
COMMERCIAL TAXES  
(APPEALS)-4, BMTc BUS STAND  
2<sup>ND</sup> FLOOR, SHANTHINAGAR  
BENGALURU – 560 027.

...RESPONDENTS

(BY SRI.HARSHA P BANAND., CGC FOR R1;  
SRI. K. HEMA KUMAR, AGA FOR R2 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE  
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CALL FOR THE RECORDS PERTAINING TO THE  
PETITIONERS CASE AND AFTER GOING INTO THE  
VALIDITY AND LEGALITY THEREOF QUASH AND SET



ASIDE THE LETTER DATED 27.10.2020 VIDE ANENXUR-A ISSUED BY THE R-4 AND REFUND THE MONEY TO THE BANK ACCOUNT NO.002-489946-002 DIRECT THE R-4 TO RETURN THE AMOUNT WHICH HAS BEEN RECOVERED/EN-CASHED FROM THE ATTACHED HSBC BANK ACCOUNT NO.002-489946-002 IN EXCESS OF 30 PERCENT ALONG WITH INTEREST; DIRECT THE R-4 TO RETURN THE ABOVE SAID AMOUNT MENTIONED IN (b) WITH APPLICABLE INTEREST ON PRINCIPLE AMOUNT THEREON.

THESE PETITIONS, COMING ON FOR FURTHER HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioners in each of these petitions have impugned the Communications dated 27.10.2020 [*Annexure-A*] addressed by the fourth respondent to the corresponding bankers for recovery of demand as per the assessment order dated 18.09.2020 and for a direction to the fourth respondent to return the amount recovered consequent to such communication in excess of 30% of the demand along with interest.



2. These writ petitions relate to the same tax periods but to different assesseees who are now one entity consequent to certain approved merger. Sri Bharath Raichandani, the learned counsel for the petitioner, and Sri Hema Kumar K, the learned Additional Government Advocate, are heard for final disposal of these petitions.

3. The petitioners, after the assessment orders dated 18.09.2020 which are similar but for different tax periods, have filed applications for rectification of these orders. These applications are considered and the demand is revised by the orders dated 06.11.2020. In the meanwhile, the impugned communication dated 27.10.2020 are issued resulting in recovery of the amount in terms of the assessment orders dated 18.09.2020. The petitioners have filed respective appeals in Nos.357087702 and 327087703 against the aforesaid orders. The petitioners' applications for stay are rejected by the



endorsements which read that there would be no occasion for stay in as much as the amounts under demand are recovered.

4. Sri Bharat Raichandani, reiterating the circumstances as aforesaid, canvasses that the fourth respondent's action in issuing the impugned Communications dated 27.10.2020 to the petitioner's banker and in realizing the entire amount, notwithstanding the remedy available to the petitioner in law, would amount to denial of opportunity. He further submits that these proceedings are because the petitioner has not furnished the Statutory Forms *viz.*, C-Forms for the period when there was onset of lock down/restrictions because of COVID-19. The petitioner will produce Statutory C-Forms before the fourth respondent – the Assessing Officer - if an opportunity is granted, and the fourth respondent



can be directed to consider framing assessment in the Statutory C-Forms.

5. Sri Hema Kumar K, the learned Additional Government Advocate, submits that the petitioner really cannot have a grievance because it is only after communication dated 27.10.2020 and the consequential realisation of the amounts in the petitioner's account towards the amounts demanded, the petitioner has filed an application for rectification which is decided on 06.11.2020. However, when queried, he does not controvert that there can be multiple assessments, and if an assessee can justify failure to produce Statutory Forms at the relevant time but can now produce them later, there could be reassessment. He also does not controvert that if the petitioner can produce the Statutory C-Forms even now, the assessing officer [the fourth respondent] can revisit the assessment in the light of the statutory forms that the petitioner can produce.





6. In the light of the submissions and in the peculiarities of the case, the question for consideration would be whether this Court must dispose of the petitionz with only orders on the petitioner's grievance as against the communications dated 27.10.2020 in order to enable effective and complete adjudication. If the law does not prohibit multiple assessments under circumstances and such circumstances could include the subsequent production of statutory C-forms, the petitioner should not be exposed to the travails of multiple proceedings. This Court must also consider the fact that the department has realised the entire demand as way back as in the month of November 2020<sup>1</sup>.

7. If the petitioner is permitted to produce the Statutory C-Forms and the fourth respondent is

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<sup>1</sup> *Sri Hema Kumar K, learned Additional Government Advocate also submits that the amount is realised only after the lapse of the appeal period as against the order dated 18.11.2020.*



directed to reconsider assessment the petitioner's grievance not just against the realisation of the demand but also framing of assessment, there would complete adjudication. As such, the petitions must be disposed of quashing the orders dated 18.09.2020 by the fourth respondent with liberty to both the parties and authorities to place a certified copy of this order before the fifth respondent for disposal of the appeals in Nos.357087702 and 327087703 consequent to this order. Hence, the following:

**ORDER**

- [i] The petitions are disposed of quashing the fourth respondent's orders dated 18.09.2020 and consequentially, the assessment proceedings are restored to the fourth respondent for reframing with due opportunity to the petitioner to file Statutory C-Forms.



- [ii] The petitioner, to avail due opportunity, shall appear before the fourth respondent without further notice on 26.05.2023, and shall be at liberty to produce the Statutory C-forms either on that day or on any such further date as may be allowed by the fourth respondent,
- [iii] The petitioner shall under all circumstances decide on reframing of the assessment in the light of the Statutory C-Forms produced within an outer limit of four [4] weeks from the date of receipt of such statutory forms.
- [iii] The petitioner shall appear before the fourth respondent without further notice on 26.05.2023.

**Sd/-**  
**JUDGE**