**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.22821 OF 2016
DATE OF DECISION : 22nd DECEMBER, 2016

M/s. Cairn India Limited, DLF Atria Building, Gurgaon

…. Petitioner

Versus

**Deputy Commissioner of Income Tax,
Circle 1 (1), Gurgaon & another**

…. Respondents

**CORAM : HON'BLE MR. JUSTICE S. J. VAZIFDAR
HON'BLE MR. JUSTICE A. B. CHAUDHARI**

* * * *

Present : Ms. Radhika Suri, Senior Advocate with
Ms. Rinku Dahiya, Advocate for the petitioner.

Mr. Tajinder K. Joshi, Advocate for the respondents.

* * * *

S. J. VAZIFDAR, CJ. (ORAL)

By order dated 07.11.2016 the Division Bench clarified that the pendency of this writ petition would not be a ground for the respondents not deciding the petitioner's application for rectification. However, by our order dated 22.11.2016 we directed the respondents to decide the petitioner's application for rectification under Section 154 and directed the respondents to pass a speaking order.

Mr. Joshi, Advocate appearing on behalf of the respondents has tendered the rectification order dated 16.12.2016. The same only narrates earlier facts, without dealing with the petitioner's application for rectification.

The petitioner, *inter alia*, contended that the Department had not granted it the credit for the TDS actually paid and as reflected on the Income Tax Department's website to the extent of about ₹245 crores. This aspect has not even been adverted to in the order.

It appears that the officer has considered herself bound by what has shown up in the Department's AST. That cannot be a ground for not complying with our orders directing the officer to consider the petitioner's application for rectification for the actual amount of the TDS paid.

The petition is, therefore, disposed of by directing the officer to decide the petitioner's representations dated 02.02.2016 and 15.11.2016 (Annexure P-8 & Annexure P-14 to the petition), by passing a reasoned order. It is clarified that the order shall take into consideration the amount of TDS actually paid. In the event of rectification resulting in a refund being due to the petitioner, the same shall be paid over to the petitioner in accordance with law. The order shall be passed by the officer concerned by 15th January, 2017.

The copy of this order be supplied to counsel for the parties under the signatures of the Bench Secretary.

(S. J. VAZIFDAR)
CHIEF JUSTICE

22nd December, 2016
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No.