IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No. 3775 of 2016 (O&M)
Date of decision: 25.05.2016

Harvinder Singh Gulati ...**Petitioner**

Vs.

Union of India & Others ...**Respondents**

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present : Mr. A. S. Gulati, Advocate
for the petitioner.

Ms. Urvashi Dhugga, Advocate
for the respondents.

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AJAY KUMAR MITTAL, J. (Oral)

1. The prayer made in this writ petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ of mandamus directing the respondents to refund the amount of tax collected in excess of any tax payable against the petitioner for the assessment year 2001-02.

2. According to the petitioner, the Assessing Officer has recorded certain unexplained investments of ₹3,75,000/- vide order dated 25.03.2004 (Annexure P-1) which was assailed before the Commissioner of Income Tax (Appeals). The Commissioner of Income Tax (Appeals) upheld the order of the Assessing Officer on 27.04.2006 (Annexure P-2) dismissing the appeal. Being dissatisfied, further appeal was carried to the Income Tax Appellate Tribunal (in short 'the Tribunal'). Vide order dated 09.04.2007 (Annexure P-3), the Tribunal referred back the matter with regard to addition of ₹3,75,000/- to the file of the Assessing Officer.

3. It was urged that in view of Section 153 (2A) of the Income Tax Act, 1961 (for short 'the Act') no fresh assessment order was passed within the time prescribed thereunder, and therefore, the petitioner was entitled for refund of the amount which was deposited by him amounting to ₹ 1,94,235/- along with interest.

4. Learned counsel for the respondent has produced a communication dated 23.05.2016 addressed to her received from Ms. Indu Bala, Income Tax Officer, Ward-5(2), Chandigarh intimating that an amount of ₹3,00,259/- which includes the interest allowed under Section 244A of the Act has been paid to the petitioner. However, learned counsel for the petitioner disputed the amount which has been refunded to the petitioner on the question of interest.

5. Without expressing any opinion on the question and quantum of interest, this writ petition is disposed of as infructuous while granting liberty to petitioner to file a representation to the respondents by giving detailed calculations with regard to claim of balance interest. If any such representation is filed by the petitioner before the respondents within a month from today, the same shall be decided by the concerned Authority preferably within next three months from its filing by passing a speaking order and after affording an opportunity of hearing to the petitioner in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(RAJ RAHUL GARG)
JUDGE

May 25, 2016
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