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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4195-2016
Date of Decision: 16.03.2016

STATE BANK OF PATIALA

...... Petitioner

VS.

THE PRINCIPAL COMMISSIONER OF INCOME TAX AND ANR. ....Respondents

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

Present: Mr. Sanjay Bansal, Senior Advocate,
with Mr. B.M. Monga, Advocate,
for the petitioner.

Mr. Z.S. Klar, Advocate,
for the respondents.

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This order shall dispose of CWP Nos.4195 and 4228 of 2016 both filed by State Bank of Patiala, as according to the learned counsel for the parties, the issue involved therein is identical. However, the brief facts necessary for adjudication are being extracted from CWP No. 4195 of 2016.

2. The petitioner has approached this Court under Article 226 of the Constitution of India of India, seeking quashing of intimation dated 20.01.2016 *(Annexure P-4)* regarding setting off refund under Section 245 of the Income Tax Act, 1961 (in short the Act) and order dated 15.02.2016 *(Annexure P-7)* passed under Section 220(3)/220(6) of the Act. The challenge has also been made to the order dated 18.02.2016 *(Annexure P-10)* passed in

pursuance of the aforesaid intimation by the respondent No. 2. A writ of Mandamus has also been sought to adjust the amount of refund payable to the petitioner for the Assessment Years 2002-03 to 2007-08 against the demand created for the Assessment Year 2013-14.

3. Notice of motion was issued in the aforesaid petition for today. Mr. Z.S. Klar, Advocate, representing the respondent Revenue Department, has produced letter dated 04.03.2016 issued by Assistant Commissioner Income Tax, Circle Patiala, adjusting the amount of refund arising for the assessment years 2002-03 to 2007-08 against the penalty demand in assessment years 2008-09 and 2010-11. The said letter is taken on record, subject to all just exceptions.

4. On the other hand, the learned counsel for the petitioner submitted that a detailed representation dated 07.03.2016 was submitted before respondent No. 2, which is still pending, pointing out that the adjustment so made by the Revenue Department is against the instructions F.No.404/72/93-ITCC dated 29.02.2016 issued by the C.B.D.T., New Delhi. Accordingly, a prayer was made to issue a direction to respondent No. 2 to decide the representation expeditiously.

5 After hearing the learned counsel for the parties, while disposing of the writ petitions, we direct respondent No. 2 to take a decision on the representation dated 07.03.2016 produced by learned counsel for the petitioner in Court today

which is taken on record as Annexure P-11 within three weeks from the date of receipt of certified copy of this order by passing speaking order after affording an opportunity of hearing to the petitioner in accordance with law. Needless to say that till the decision on the aforesaid representation, no coercive measures shall be taken by respondent No 2, for the recovery of amount from the petitioner.

[AJAY KUMAR MITTAL]
JUDGE

[RAJ RAHUL GARG]
JUDGE

March 16, 2016
Suresh Kumar