$~
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
1.
\+ **W.P.(C) 2510/2016**

BHARAT SANCHAR NIGAM LTD. ..... Petitioner
Through: Mr M. S. Syali, Senior Advocate with Ms Husnal Syali and Mr Tarun Singh, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS. ..... Respondents
Through: Mr P. Roy Chaudhuri, Senior Standing counsel with Ms Lakshmi Gurung, Junior Standing counsel.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **04.04.2016**

1. The prayer in this writ petition by the Bharat Sanchar Nigam Ltd. (BSNL) is for directing the Respondent Income Tax Department ('Department') to give appeal effect to the order dated 28th December, 2015 passed by the Commissioner of Income Tax (Appeals)-2, New Delhi for the Assessment Year (AY) 2011-12, which should result in a refund being issued in favour of the Petitioner. The delay in the Department taking the necessary action, has driven the BSNL to approach this Court for relief.

2. On instructions, Mr P. Roy Chaudhuri, learned Senior Standing counsel for the Department, assures the Court that by 30th April, 2016 orders giving

appeal effect to the order of the CIT (A) for AY 2011-12 will be passed.

3. Mr Syali, learned Senior counsel for the BSNL, draws the attention of the Court to Instruction No. 1952 dated 14th August 1998 issued by the Central Board of Direct Taxes where, *inter alia,* it was stipulated as under:

> "3. No refund may be withheld merely to be adjusted against demand to be created in future, as the same would be against the spirit of Law embodied in section 245 of the Income-tax Act, which permits set off of refunds only against tax remaining payable under the Act by the person to whom the refund is due and not against any tax demands which may arise in future in case of that person."

4. Mr Syali further pointed out that Section 241 of the Income Tax Act, 1961which permitted adjustment of refunds against future demands was repealed by the Finance Act, 2001 with effect from 1st June, 2001.

5. The Department is mandated to keep in view the above instruction while processing applications for refund in future.

6. In the event, the above assurance is not adhered to, it will be open to the BSNL to apply to the Court for directions. The writ petition is disposed of in the above terms.

S.MURALIDHAR, J

VIBHU BAKHRU, J

APRIL 04, 2016/MK