IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.Nos.9215 & 9216 of 2016 and
WMP.Nos.8195 and 8196 of 2016

1. Union of India
Central Board of Direct Taxes
Chairman, Department of Revenue
New Delhi 110 001

2. The Chief Commissioner of Income Tax
No.121, MG Road, Nungambakkam
Chennai 600 034 ... Petitioners in both Wps

Vs.

1. The Central Administrative Tribunal
Chennai Bench, rep. by its Registrar
City Civil Court Building
Chennai ... 1st Respondent in both WPs

2.P.V.Palaniswamy ... 2nd Respondent in WP.No.9215/2016

3.R.Subas Chandra Bose ... 2nd Respondent in WP.No.9216/2016

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records of the 1st respondent in O.A.Nos.93 & 96 of 2015 dated 11.09.2015.

For Petitioners : Mr.V.Vijay Shankar (in both Wps)

For Respondents : R1- Tribunal
Mr.Karthik Raja
for M/s.Menon Karthik Mukundan for R2
(in both WPs)

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C O M M O N O R D E R

K.K.SASIDHARAN,J.

The Central Administrative Tribunal in the earlier round of litigation directed the petitioners to refund the amount deducted from the employees within a period of four weeks. The order was unsuccessfully challenged before the High Court and thereafter, before the Hon'ble Supreme Court. The Income Tax Department refunded the amount after the disposal of the Special Leave Petition. The private respondents filed Original Applications before the Tribunal claiming interest. The Tribunal directed the petitioners to pay compound interest at the rate of 9% per annum taking into account the delay. The common order is under challenge in these writ petitions.

2. We have heard the learned counsel for the petitioners and the learned counsel for the second respondent in the respective writ petitions.

3. There is no dispute that the Original Applications filed by the second respondents in these two writ petitions were allowed by the Tribunal by order dated 20 October 2010. The related writ petitions were dismissed by this Court by order dated 27 March 2012 in W.P.Nos.6652 and 6653 of 2012. The petitioners filed Special Leave Petition before the Hon'ble Supreme Court challenging the order passed by the High Court. The Special Leave Petition was dismissed by order dated 18 April 2013. It was only thereafter, the Income Tax Department made payment to the concerned employees. The representation submitted by the employees for payment of interest was negatived by the Department on the ground that there was no direction for such payment.

4. The Central Administrative Tribunal entertained the Original Applications at the instance of the employees and directed the Department to pay interest at the rate of 9%. The Tribunal directed them to pay compound interest instead of simple interest. The petitioners have no case that the amount was refunded immediately after the order passed by the Tribunal. Even after dismissing the writ petitions by the High Court, efforts were not taken to refund the amount. It was only after approaching all the judicial forums, the petitioners took action to refund the amount.

5. The initiation of writ petitions challenging the order passed by the Tribunal or Special Leave Petition against the order in the writ petitions would not give a right to the petitioners to delay the refund as indicated in the order passed by the Tribunal dated 20 October 2010. The employees were denied the benefits of the order in O.A.Nos.790 and 791 of 2009 without any justifiable reason. The Tribunal was therefore correct in awarding interest.

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6. The next question is as to whether the Tribunal was correct in directing payment of compound interest. There is no question of directing payment of compound interest to compensate the delay. We are therefore of the view that the direction to pay compound interest is liable to be set aside.

7. In the result, the order dated 11 September 2015 directing the petitioners to pay interest at the rate of 9% is sustained. The direction to pay compound interest is set aside. The petitioners are directed to pay simple interest at the rate of 9% within a period of four weeks, failing which, the amount shall carry interest at the rate of 12%.

8. The writ petitions are allowed to the limited extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Registrar
The Central Administrative Tribunal
Chennai Bench, City Civil Court Building,
Chennai

+2 ccs Mr.Menon karthik mukundan, Advocate, sr 16133

HIGH COURT OF JUDICATURE MADRAS
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