IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22521 of 2016
Decided on : 11.07.2017

M/s Inder International

. . . Petitioner

Versus

Deputy Director, Income Tax (Inv.)-2,
Ludhiana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL

PRESENT: Mr. Saurabh Kapoor, Advocate
for the petitioner.

Mr. Rajesh Sethi, Sr. Standing Counsel with
Mr. Arun Biriwal, Advocate,
Mr. Tshar Gera, Advocate &
Ms. Varinder Kaur Warraich, Advocate
for the respondents.

Mr. Satish Aggarwala, Advocate for DRI.

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AJAY KUMAR MITTAL, J. (Oral)

The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *Certiorari*, for quashing of letter dated 14th September, 2016 (Annexure P-16), issued by the DRI. A further prayer for direction to the respondents to release the cash lying in their custody has also been made.

2. In view of the orders dated 23.05.2017, passed by this Court in CM No. 6516 of 2017, whereby, the assessing officer was to complete the assessment proceedings by 30.06.2017, it is considered that it would not be essential to delve into detail factual matrix involved herein. It may be suffice to notice that the amount in dispute i.e. ₹ 63.30 lacs, which was ceased by the DRI was requisitioned under Section 132A of the Income Tax Act, 1961 (in short 'the Act') and was remitted to the Income Tax Department. The

petitioner has claimed refund of the same in the present petition.

3. As noticed earlier, on 23.05.2017, this Court in CM No. 6516-CWP of 2017, had directed the Income Tax Department to finalise the assessment proceedings on or before 30.06.2017. Now, it has been brought to our notice that the Assessment Order has since been passed and on that basis, the petitioner is entitled for certain refund, as the liability assessed in the assessment proceedings is less than the amount, which was requisitioned by the Income Tax Department under Section 132A of the Act.

4. Learned counsel for the respondents submitted that the excess amount i.e. beyond the liability created by the assessment order shall be cleared within a period of 21 days from the date of receipt of certified copy of this order, in accordance with the provisions of the Act. However, learned counsel for the petitioner prayed for liberty to challenge the assessment order by filing an appeal before the appellate authority, in accordance with law.

5. The writ petition is disposed of by directing the respondents to release the excess amount beyond the liability created by the assessment order, in accordance with law. It shall, however, be open to the petitioner to challenge the assessment order, wherein, it can raise all the pleas available to it or involved in the present writ petition before the appellate authority, in accordance with the provisions of the Act.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 11, 2017
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*