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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 2883/2017**

MIDREX TECHNOLOGIES INCORPORATED ..... Petitioner

Through: Mr. Balbir Singh, Senior Advocate with Mr. Prakash Kumar, Mrs. Rashmi Singh, Ms. Rubal Maini and Ms. Mehvish Khan, Advocates.

Versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 2(2)(1), INTERNATIONAL TAXATION, NEW DELHI ..... Respondent

Through: Mr. Ruchir Bhatia, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 29.03.2017

CM No. 12596/2017 (for exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed off.

W.P.(C) 2883/2017

3. Issue notice. Mr. Zoheb Hossain, learned counsel accepts notice on behalf of the respondents.

4. With the consent of the parties, the matter is taken up for hearing.

5. The petitioner is aggrieved that its refund claims for Assessment Years (AYs) 2013-14, 2014-15 and 2015-16 have not been so far processed.

He submits that the refunds are on account of TDS deductions made by the remitters and that these are legitimate dues. The respondent, represented by its counsel on advance notice, submits that the petitioner's application is pending before the Authority for Advance Rulings ('AAR') since 2013. In terms of Section 245RR of the Income Tax Act, 1961 (for short 'the Act'), the AO would not possess the jurisdiction to process any application with respect to pending matters. It is, however, submitted on instructions that the refund with respect to AY 2015-16 would be processed and appropriately made in accordance with law and, therefore, a direction is issued to the AO to process the refund claim for that year and make appropriate orders in accordance with law, especially considering the directions of this Court in ***Tata Teleservices Ltd. Vs. CBDT & Anr. (2016) 69 Taxman 226 (Del)*** and ***Indus Towers Limited Vs. Union of India & Ors. (W.P.(C) No.3665/2015,*** decided on 06.10.2016). Such orders shall be made within four weeks.

6. The Court was informed during the hearing that there is a vacuum in the position of the Chairmanship in the AAR, which had hitherto impeded its functions and that the Patna High Court in Civil Writ Jurisdiction Case No.17261/2016 (***Rajeev Kumar Vs. Union of India***) by its judgment dated 18.10.2016 had, by way of an interim arrangement, directed the Member (Judicial) to discharge the functions of the Chairman of the AAR. It is submitted that the AAR should be directed to decide the petitioner's application, which has remained pending for four years. The Court is of the view that the AAR should consider and make appropriate orders as to whether the petitioner's application can be disposed off expeditiously,

having regard to its pendency for four years. The AAR may appropriately consider this request and make an order in this regard (i.e. expeditious disposal) within four weeks from today.

7. The writ petition is disposed off in the above terms.

8. A copy of this order be given *dasti* to the parties under the signatures of the Court Master.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

MARCH 29, 2017
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