IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19247 of 2018
Date of decision: 3.08.2018

Marathon Electric India Private Limited

……Petitioner

Vs.

Income Tax Appellate Tribunal, Delhi and another

…..Respondent

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Kamal Sawhney, Advocate and Mr. Parshant Meharchandani, Advocate and Mr. Abhivadya Sood, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Prayer in this petition under Articles 226/227 of the Constitution of India is for a direction to respondent No.1- Income Tax Appellate Tribunal (in short, "the Tribunal") to expeditiously dispose of the Income Tax Appeal filed by respondent No.2-Deputy Commissioner of Income Tax, Circle 1, Faridabad in relation to assessment year 2003-04 pending before the Tribunal for the last ten years.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner-Marathon Electric India Private Limited is engaged in the business of manufacturing of Fractional Horse Power Motors and laminations used in the Motors and trading of pumps and Integral Horse Power Motors. Against the assessment

order dated 23.03.2006 passed by respondent No.2 for assessment year 2003-04, disallowing the petitioner the deduction under Section 10B and several other deductions, the petitioner company got a completely favourable order dated 23.05.2008 from the Commissioner of Income Tax (Appeals), [CIT(A)]. Against the said order, respondent No.2 filed an appeal before respondent No.1 in August, 2008. According to the petitioner, the said appeal is pending before the Tribunal for the last so many years on one pretext or the other. The petitioner asserts that, since 2008, several income tax appeals had been filed in its case before respondent No.1 in relation to the assessment years 2004-05 to 2011-12 on account of the common issue of Section 10B of the Act. The said appeals are not being heard because the issue relating to Section 10B of the Act is pending adjudication in earlier assessment year 2003-04. Further, an amount of ₹ 21 crores paid by the petitioner is lying with respondent No.2. Moreover, there is an amount of ₹ 10.4 crores which is not covered by any stay order and the petitioner prays for a direction to respondent No.2 for recovery of the said amount. In CWP No. 1064 of 2017 filed by the petitioner against the order of respondent No.1 allowing the application for filing additional grounds, this Court, vide order dated 20.01.2017 had given directions to respondent No.1 to make sincere efforts for deciding the pending appeal expeditiously. Thus, the petitioner prays for a direction for expeditious disposal of the appeal relating to the assessment year 2003-04 pending before respondent No.1. Hence, the instant petition by the petitioner.

3. We have heard learned counsel for the petitioner.

4. It was urged by learned counsel for the petitioner that the appeal is already pending for 09.08.2018 before the Tribunal. Moreover, the petitioner in the writ petition has not furnished any data containing the

particulars with regard to the number of appeals which are pending before the Tribunal. Further, no material particulars have been furnished by the petitioner on the basis of which it can be said that the Tribunal is taking unduly long time in deciding the appeal filed by respondent No.2.

5. In view of the above, we do not find any ground to issue any direction as prayed for in this writ petition. Accordingly, the same is hereby dismissed

(Ajay Kumar Mittal)
Judge

August 3, 2018 **(Avneesh Jhingan)**
‘gs’ **Judge**

Whether speaking/reasoned **Yes**
Whether reportable **Yes**