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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2640 OF 2019

Aegis Customer Support Services Pvt. Ltd. … Petitioner

V/s.

Income Tax Officer, Ward 6(1)(1) and Ors. ... Respondents.

Mr. Nishant Thakkar a/w. Hiten Chande i/b. PDS Legal for the Petitioner.

Mr. N.C. Mohanty for the Respondents.

CORAM : M.S. SANKLECHA &
NITIN JAMDAR, JJ.

DATE : 18 OCTOBER 2019.

P.C. **:-**

This Petition under Article 226 of the Constitution of India seeks a direction to the Respondents viz. Respondent No.1 – Assessing Officer and the Respondent No.2 – the Director of Income Tax, Centralize Processing Cell to process the return of income filed by the Petitioner for the Assessment Year 2018-19 under Section 143(1) of the Income Tax Act, 1961 (the Act.). Consequent to the processing of the return under Section 143(1) of the Act, the Respondents be directed to refund the amount due to the Petitioner alongwith interest thereon under Section 244(A) of the Act.

2. On 17 October 2018 the Petitioner filed a loss return of income. Consequently sought refund of Rs.20.24 crores (approx.) being the excess amount paid as tax in view of tax deduction at source done by the Petitioner's customers.

3. On 10 May 2019 the office of Respondent No.2 issued a notice under Section 143(1)(a) of the Act seeking explanation as to a proposed adjustment of Rs.1.33 lakhs claimed under Section 36(1)(va) of the Act. The Petitioner responded to the same by a letter dated 27 May 2019 claiming that they were entitled to the deduction as claimed. Thereafter, no further action on the same was taken by the Respondents.

4. In view of the return of income not being processed, the Petitioners by various letters date 13 June 2019, 14 June 2019, 10 July 2019, 11 July 2019, 15 July 2019, 17 July 2019 an 8 August 2019 sought an early processing of the return of income under Section 143(1) of the Act. This particularly in view of the fact that the Petitioner was suffering losses and were facing cash flow difficulty. This problem according to the Petitioner essentially arose on account of the fact that their application under Section 197 of the

Act seeking nil deduction of tax in the previous year relevant to the assessment year was not accepted and only partial deduction of tax at source was granted.

5. It is in the aforesaid circumstances that the Petitioner has approached this Court and seeks a directions to the Respondents to expeditiously dispose of their return of income by intimation under Section 143(1) of the Act. Consequent to the above, grant the refund which will be due on the processing of the return alongwith interest thereon.

6. In the above view, we note that undue hardship being suffered by the Petitioner only because the Respondents are not discharging their duties under the Act. This as there is no reason forthcoming from the Revenue as to why the delay in processing the refund claim.

7. We direct the Respondent Nos.1 and 2 to process the return of income for the Assessment Year 2018-19 under Section 143(1) of the Act as expeditiously as possible, but definitely within a period of three weeks from today. Further, consequent to the above, pay to the Petitioner the refund, if any due, within a further period of two weeks from the date the return of income is processed.

8. The Petition is disposed of in the above terms.

NITIN JAMDAR, J. **M.S. SANKLECHA, J.**