IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.Nos.9641 and 9650 of 2019

M/s.DXN Manufacturing (India) Pvt. Limited
(Formerly known as "M/s.DXN Herbal
Manufacturing (India) Pvt. Ltd")
Represented by its Director
Mohd Suffisyazwi Bin Bahar. ..Petitioner in both W.Ps

vs.

Assistant Commissioner of Income-Tax
Pondicherry Circle
2nd and 3rd Floor, Kannaiah Business Centre
378 to 386, M.G.Road
Pondicherry. ..Respondent in both W.Ps.

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent herein to issue orders pursuant to the judgment of this Hon'ble Court in T.C.A.Nos.342 and 341 of 2007 and give effect to all other consequences that may follow and grant the refund due along with interest under Section 244A of the Income Tax Act, 1961 to the petitioner herein and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner: Mr.N.Senthil Kumar
(In both W.Ps)

For Respondent: Mr.A.N.R.Jayaprathap,
(In both W.Ps)
Junior Standing Counsel (Income Tax)



COMMON ORDER

Mr.N.Senthil Kumar, learned counsel on record for writ petitioner and Mr.A.N.R.Jayaprathap, learned Junior Standing Counsel (Income Tax) on behalf of lone respondent are before this Court.

2. With consent of learned counsel on both sides, main writ petitions are taken up and both writ petitions are being disposed of.

3. The entire matter turns on a narrow compass. Subject matter of these writ petitions arise under 'Income Tax Act, 1961' ('IT Act' for brevity).

4. Writ petitioner, which is a juristic person i.e., Private Limited Company, had certain issues with regard to assessment for the Assessment Years 2003-04 and 2004-05. To be noted, Assessment Year 2003-04 is subject matter of W.P.No.9650 of 2019 and Assessment Year 2004-05 is subject matter of W.P.No.9641 of 2019.

5. These issues were carried in successive appeals which ultimately culminated in statutory appeals in this Court inter alia under Section 260-A of IT Act. Those statutory Tax Appeals before Hon'ble Division Bench of this Court are T.C.A.Nos.341 and 342 of 2007 for the two Assessment Years 2003-04 and 2004-05 respectively.

6. There is no disputation that these appeals in this Court ended in favour of writ petitioner. There is also no disputation that the orders in these appeals being a common order dated 21.06.2018 has been given legal quietus. In other words, this order has attained finality. Under such circumstances, respondent is under a statutory obligation under Section 153(5) of IT Act to give effect to the order within a time frame of three months.

7. Be that as it may, in the light of the trajectory, which the hearing has taken today, it may not be necessary to advert to more facts with elaboration and in detail.

8. Learned Revenue Counsel, on instructions, submitted that respondent does have the statutory obligation under Section 153 (5) of IT Act, but the delay was owing to a technical glitch. Technical snag in the software which goes by the name ITBA viz., Income Tax Business Application data collection process at CPC viz., Centralised Processing Centre in Bangalore is the reason for delay, is learned Revenue counsel's say.

9.Learned counsel for Revenue submitted that the technical software snag has since been rectified and that necessary orders for giving effect to order dated 21.06.2018 in TCA Nos.341 and 342 of 2007 will be issued within four weeks from the date of receipt of a copy of this order. As this answers the prayers in these writ petitions, these two writ petitions are disposed of, recording the aforesaid submission of Revenue that orders giving effect to order dated 21.06.2018 in TCA Nos.341 and 342 of 2007 will be passed and communicated to the writ petitioner within four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

Assistant Commissioner of Income-Tax
Pondicherry Circle
2nd and 3rd Floor, Kannaiah Business Centre
378 to 386, M.G.Road
Pondicherry.

+2 ccs to Mr.K.Ravi, Advocate, S.R.No.52453

+1 cc to Mr.A.P.Srinivas, Advocate, S.R.No.52809

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NR(CO)
SSM(24/07/2019)