IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR no.2724 of 2016
Date of Decision: 26.02.2019

Indian Oil Corporation Limited, Panipat ...Petitioner

Vs.

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. P.K. Mutneja, Advocate, for the petitioner.
Mr. RKS Brar, Addl. Advocate General, Haryana.
Mr. Balkar Singh, Advocate, for respondent no.3.

Amol Rattan Singh, J (Oral)

By this petition, the petitioner challenges the order of the learned executing court (Additional District Judge, Panipat), dated 08.02.2016, by which the petitioner herein (respondent no.3 before that court) has been directed to refund Rs.1,01,558/- to respondent no.3 (decree-holder), along with interest @ 15% per annum thereupon, the said amount of Rs.1,01,558/- having been deducted by the petitioner corporation as tax deducted at source (TDS), at the time when the compensation was paid to respondent no.3 for acquisition of his land for the benefit of the petitioner-corporation.

Mr. Mutneja submits that the said amount was deducted only on the component of interest awarded to respondent no.3 in terms of the provisions of the Land Acquisition Act, 1894, which the corporation was statutorily bound to do.

Mr. Mutneja relies upon two judgments of a Division Bench of this Court in **Sunder Lal and another v. Union of India and others** (CWP no.20014 of 2015, decided on 21.09.2015) and **Attar Singh and others v. State of Haryana and others** (CWP no.10125 of 2015, decided on 03.09.2015), to substantiate his contention.

The Division Bench, after relying upon various judgments of the Supreme Court, including the one in **Commissioner of Income Tax, Faridabad v. Ghanshyam (HUF)**, (2009) 315 ITR 1(SC), held that such tax at source had rightly been deducted for the said purpose and the beneficiary of the compensation, to claim refund if any was admissible to them, should do so by filing income tax returns in accordance with law.

Learned counsel for the respondents very fairly does not dispute the ratio of the aforesaid judgment.

Consequently, this petition is allowed and the impugned order is set aside to the extent that it directs the petitioner to pay a sum of Rs.1,01,558/-, along with interest thereupon, to respondent no.3.

However, respondent no.3 would naturally be at liberty to claim refund, if it otherwise legally falls due to him, by filing an appropriate income tax return.

26.02.2019 **(Amol Rattan Singh)**
vcgarg **Judge**

Whether speaking/reasoned : Yes
Whether reportable : Yes