IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2009 of 2019
Date of Decision: 23.7.2019

M/s Competent Authority-cum-Chief Administrator, Patiala
Urban Planning and Development Authority, Patiala
.......Petitioner

Vs.

Deputy Commissioner of Income Tax, Circle-1 (Exemptions),
Chandigarh and others
.......Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: - Ms. Reeta Kohli, Senior Advocate with
Ms. Chahat Aggarwal, Advocate
for the petitioner.

Mr. Denesh Goyal, Senior Standing Counsel
for the respondent-revenue.

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AJAY TEWARI, J (ORAL)

1. This petition has been filed against the action of the respondents in rejecting the representation wherein the petitioner had prayed for interest for wrongful retention of its amount.

2. The admitted facts are that there was a tax recovery against Patiala Development Authority. However, the attachment was made of the amount belonging to the petitioner.

3. The petitioner had challenged that attachment in this Court by way of CWP No. 16162 of 2014. The said petition was allowed vide order dated 17.3.2015 and this Court held that the amount was wrongly

attached and directed the Revenue to refund the same. The Revenue has refunded the amount but rejected the plea of the petitioner for interest forcing the petitioner to file this petition.

4. The precise claim of the petitioner is that once the money which belonged to it was wrongly attached and retained by the Revenue and was duly refunded, then it was entitled to interest for the period during which the money was wrongly retained.

5. In the written statement, it has been accepted by the respondents that the money was wrongly attached and retained but the plea taken to justify non-payment of interest is that there is no provision for grant of interest on any excess income tax which may be recovered.

6. Learned senior counsel appearing for the petitioner has argued that she would have no objection with this proposition of law which has been sought to be advanced by the Revenue but the present is not a case of recovery of excess tax but a case where attachment and retention of money was made which did not belong to the defaulter but belonged to a different person. As per her, this wrongful attachment and retention could never be envisaged under the Income Tax Act and, consequently, this attachment and retention cannot be related to any provision of the Income Tax Act and the interest which has now been sought is on the general grounds of equity and fairness. As per her, the claim which has now been made at the rate of less than 10% for wrongful retention of money for a period of about 15 months, cannot be said to be excessive by any standards.

7. In our opinion, the arguments of the petitioner must prevail. The provision of interest in Section 244-A of the Income Tax Act would have no applicability in the present case because it is a case of illegal

attachment and retention. In the written statement, the Revenue has accepted that the money was wrongly attached and retained. There can be no escape from the payment of interest. The rate of interest claimed also cannot be said to be excessive by any standards.

8. The petition is allowed. The interest of Rs. 3.68 crores be now paid to the petitioner within two months from the date of receipt of certified copy of this order, failing which there would be further interest applicable thereafter @ 9% per annum on this amount.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

July 23, 2019
Gurpreet

Whether speaking /reasoned : Yes
Whether Reportable : No