IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-7536-2019

Date of Decision: 19.3.2019

Jiwan Kumar

...Petitioner

Versus

Principal Commissioner of Income Tax, Bathinda and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Sandeep Goyal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing the respondents to pay the interest due on the seized cash amount of ₹ 15,02,530/- for the period from 6.1.2012 to 4.7.2017 when the amount was refunded.

2. The petitioner is an employee of M/s Khoobsurat Ornaments, Mansa. On 6.1.2012, he was carrying cash of ₹ 15,02,530/- of the said concern to Patiala for purchase of a property. Since the deal could not be finalized, the cash was being brought back by the petitioner. During the course of checking at Mansa Kanchian in connection with State Legislative Assembly Elections, 2012, the petitioner being found with cash in excess of ₹ 2.5 lakhs, the matter was referred to the Investigation Wing of the Income Tax Department, Bathinda as per the instruction of the Election Commission of India prevalent at that time. After making inquiries, the said

cash was requisitioned and seized as per the provisions of Section 132/132A of the Income Tax Act, 1961 (in short "the Act"). Vide intimation of seizure dated 12.1.2012 (Annexure P-1), the petitioner was informed regarding impounding cash of ₹ 15,02,530/-. The seized cash was deposited into the PD account of the Commissioner of Income Tax (Central), Ludhiana. The petitioner filed his return on 20.12.2012 declaring total income at ₹ 2,04,330/-. The Assessing Officer framed the assessment vide order dated 21.1.2014 (Annexure P-2) by making an addition of ₹ 50,000/-. A demand of ₹ 5,440/- was raised which was paid by the petitioner on 19.2.2014. The petitioner filed an appeal against the order, Annexure P-2, before the Commissioner of Income Tax (Appeals), who vide order dated 27.8.2014 (Annexure P-3) reduced the addition of ₹ 50,000/- to ₹ 35,000/-. Against the said order, no appeal was filed by either of the parties. Respondent No.1 vide order dated 11.2.2016 (Annexure P-4) passed under Section 263 of the Act set aside the assessment order and remanded the matter back to the Assessing Officer for deciding the same afresh. Against the order, Annexure P-4, the petitioner filed an appeal before the Income Tax Appellate Tribunal (hereinafter referred to as "the Tribunal"). The Tribunal vide order dated 26.8.2016 (Annexure P-5) allowed the appeal against which no further appeal was filed by any of the parties. The petitioner vide application, Annexure P-5/A, requested the respondents to return the seized amount. Vide letter dated 4.7.2017 (Annexure P-6), the petitioner received a cheque of ₹ 15,02,530/-. Thereafter, the petitioner sent a letter, Annexure P-7, to respondent No.3 for interest on the seized cash amount of ₹ 15,02,530/- for the period from 6.1.2012 to 4.7.2017, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a letter, Annexure P-7, to respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the letter, Annexure P-7, in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of the certified copy of the order. It is further directed that in case, the petitioner is found entitled to the payment of interest, the same be released to him within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

March 19, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**