225 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8951 of 2019 (O&M)
Date of decision :27.11.2019

Baldai

...... Petitioner

versus

The Chief Commissioner, Income Tax Department and others

...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MRS.JUSTICE ALKA SARIN

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Present :- Mr. Vishva Nath Sharma, Advocate for the petitioner.

Mr. Yogesh Putney, Sr. Standing Counsel for respondents No.1 to 3.

None for respondent No.4.

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AJAY TEWARI, J. (Oral)

1. This petition has been filed under Articles 226/227 directing the respondents to re-pay/refund of TDS amount of Rs.1,27,633/- which has been illegally deducted vide Form No.16A dated 18.02.2016 (Annexure P-3) from the compensation amount awarded by the Motor Accident Claims Tribunal, Yamuna Nagar vide Award dated 05.12.2000 (Annexure P-1) to the tune of Rs.2,57,000/- which was later on enhanced by this Court to the tune of Rs.12,54,000/- vide judgment dated 29.09.2014 (Annexure P-2).

2. The brief facts are that the husband of the petitioner had died in a road accident on 05.11.1999. Ultimately the claim of the petitioner and her 5 children under the Motor Vehicles Act, 1988 for compensation was allowed. From the interest component of the compensation amount, respondent No.4-Insurance Company deducted 20% as TDS and it is the refund of this amount which is being sought.

3. Counsel for the petitioner has raised multiple arguments. One of them being that actually the amount was to be divided between six dependents and therefore deducting the entire amount as if it belonged only to the present petitioner was illegal. He has also pointed out that the petitioner and her family members are from the lower strata of society and they had no other source of income and on this score also this deduction should not have been made.

4. On the other hand as per the reply filed and as per the stand of the counsel for respondents No.1 to 3 deduction of TDS on interest (apart from securities) is exigible to an initial deduction at source of 20% and if the income of the petitioner and her children does not exceed the taxable income she could have well sought the refund by filing a return but that is also now delayed.

5. Keeping in view the entire factual matrix, we deem it appropriate to dispose of this petition with a direction to the petitioner to file a return within two months from the date of receipt of certified copy of this order with the competent Assessing Officer along with an application for condonation of delay under Section 119 of the Income Tax Act, 1961 and the competent authority is directed to take a sympathetic view in dealing with the application for condonation of delay and

thereafter the Assessing Officer may consider if the petitioner and her five children are entitled for refund as per law.

6. Petition stands disposed of.

7. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(ALKA SARIN)
JUDGE

27.11.2019
Pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No