IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2020

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THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.NOS.28159 OF 2004
AND
W.M.P.NO.34197 OF 2004

K.Krishnaraj ... Petitioner

-vs-

1. The Income Tax Officer - I (2)
Pondicherry.

2. The Chief Commissioner of Income Tax-VI
State of Tamil Nadu & Pondicherry,
Ayakar Bhavan, Nungambakkam High Road,
Chennai - 600 034.

3. Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance & Company Affairs,
New Delhi. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Second Respondent dated 02.04.2004 in his proceedings F.No.HQ.21 (2)/01-02/17 and quash the same so far it relates to the Assessment Year 1992-93 and consequentially direct the Respondents to refund the sum of Rs.75,067/- paid in excess by the Petitioner by completing the Income Tax assessment of the Petitioner for the Assessment Year 1992-93.

For Petitioner : Mr.N.Murali Kumaran
For Respondents : Mr.A.P.Srinivas
Standing Counsel

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O R D E R
(through video conference)

Heard Mr.N.Murali Kumaran, Learned Counsel for the Petitioner and Mr.A.P.Srinivas, Learned Standing Counsel appearing for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

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2. The Writ Petition challenges the proceedings in F.No. HQ.21(2)/01-0217 dated 02.04.2004 passed by the Second Respondent under Section 119(2)(b) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act' for short) rejecting the claim for refund of excess amount of income tax paid by the Petitioner for the assessment year 1992-1993 as bared by limitation. In arriving that at the conclusion, the Second Respondent has referred to Section 239(2)(c) of the Act, which stipulates that no claim for refund shall be allowed unless it is made within the period of one year from the last date of assessment year after 01.04.1968. The decision of the Division Bench of the Punjab and Haryana High Court in Niranjan Dass -vs- Central Board of Direct Taxes [(2004) 226 ITR 489] has been cited in support of that proposition of law.

3. It is borne out from the records that it was the Petitioner who had delayed in filing the returns for the assessment year for which the claim for refund had been made. The explanation sought to be given by the Petitioner in that regard has been found to be totally unsatisfactory, which could not be accepted. In any event, it is not been shown that any power has been conferred on the concerned authorities to condone the delay in entertaining such claim for excess payment of income tax.

4. Having regard to the aforesaid legal position, that there does not appear to be any infirmity in the decision making process of the Second Respondent warranting any interference by this Court in the exercise of the discretionary powers of the judicial review under Article 226 of the Constitution.

5. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kv/dm

To

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Pondicherry.

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SRA(CO)
CS/05/11/2020

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