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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3272/2020 & CM APPL. 11477/2020

AVADH BIHARI KAUSHIK ..... Petitioner
Through: Petitioner in person.

versus

CENTRAL BOARD OF DIRECT TAXES AND ORS...... Respondents
Through: Mr. Zoheb Hossain, Sr. Standing Counsel with Mr. Parth Semwal, Jr. Standing Counsel

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>
% **30.06.2020**

The writ petition has been heard by way of video conferencing.

On 29th May, 2020, this Court had passed the following order:-

"The writ petition filed under Article 226 of the Constitution has been listed before this Bench by the Registry in view of the urgency expressed therein.

The matter has been heard by way of video conferencing.

Present writ petition has been filed by the petitioner contending that he is being harassed by the Income Tax Department.

He points out that the respondents vide order under Section 143(1) of the Income Tax Act dated 20th November, 2017 had initially denied the credit of TDS amount of Rs.37,100/-; however, upon an objection being raised by the petitioner, the respondents issued a rectification order dated 03rd July, 2019 allowing the credit of the TDS amount of Rs.37,100/- but this time created a higher demand on the ground that the petitioner had not paid the

'Self Assessment Tax' of Rs.1,32,860/-. When the petitioner pointed out that the tax had been paid, the respondents passed yet another rectification order dated 16th August, 2019 allowing the credit of 'Self Assessment Tax' of Rs.1,32,860/-, but this time raised a fresh demand by adding back an amount donated by the petitioner. When the petitioner pointed out that the donated amount had already been added back by him in his return, the respondents uploaded the very first order / intimation under Section 143(1) of the Income Tax Act dated 20th November, 2017 whereby the addition in income on account of donation was deleted, but credit of TDS amount of Rs.37,100/- was once again denied.

Prima facie this Court is of the view that there is no legitimate tax demand against the petitioner.

Issue notice.

Mr. Zoheb Hossain, learned senior Standing counsel accepts notice on behalf of the respondents.

Learned senior Standing counsel for respondents is directed to examine the matter.

Let a status report be filed within a period of two weeks.

Rejoinder affidavit, if any, be filed before the next date of hearing.

In the meantime, respondents are restrained from taking any step to recover the impugned demand contained in the Intimation-Cum-Demand Notice issued under Section 143(1) of the Income Tax Act, 1961 dated 20th November, 2017.

List the matter on 30th June, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail."

Respondents in their counter-affidavit have stated that on 8th June, 2020 a rectification order under Section 254 read with Section 143(1) was passed in the case of the petitioner/assessee for Assessment Year 2017-18. The relevant portion of the said order reads as under:-

"In this case, the assessee filed ITR for AY 2017-18 on 29.09.2017 declaring total income of Rs. 19,33,240/-, TDS amount of Rs. 2,95,042/-, self-assessment tax of Rs. 1,32,860/- and claimed

refund of Rs. Nil/-

The Assessee has filed rectification application u/s 154 seeking full TDS credit, self assessment tax and requested for deleting the entire demand.

After verification of these entries from 26AS, the credit of TDS is being allowed at Rs. 2,95,042/-, self assessment tax of Rs. 1,32,850/-. As per computation, therefore, reducing the demand to nil."

Learned counsel for the respondent-Revenue states that in addition to the above, the computation sheet appended to the rectification Order dated 08th June, 2020, reflects that a refund of Rs.5/- lies to the credit of the petitioner/assessee. A true copy of the rectification under Section 154 read with Section 143(1) along with the computation sheet dated 08th June, 2020 has been placed on record.

Consequently, the grievance raised by the petitioner/assessee stands addressed and hence, the petition is disposed of as satisfied.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JUNE 30, 2020

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