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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 21.09.2020

W.P.(C) 3273/2020 & CM APPL.23360/2020

**M/S FIS PAYMENT SOLUTIONS &
SERVICES INDIA PRIVATE LIMITED**

..... Petitioner

versus

**DEPUTY COMMISSIONER OF INCOME
TAX-9(1) AND ANR.**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Deepak Chopra, Mr. Abhimanyu Chopra and
Mr. Ankul Goyal, Advocates

For the Respondents : Mr. Ruchir Bhatia, Senior Standing Counsel with
Mr. Shlok Chandra and Ms. Mansie Jain, Advocates

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

J U D G M E N T

SIDDHARTH MRIDUL, J. (Open Court - via Video Conferencing)

1. The present writ petition under Articles 226/227 of the Constitution of India, has been instituted on behalf of M/s FIS Payment Solutions & Services India Private Limited, the petitioner herein, praying as follows:

- (a) Issue a writ of mandamus or any other appropriate writ quashing proceedings undertaken by the First respondent vide letter dated 03.03.2020 seeking to withhold the refunds for Assessment Year 2018-19 and the approval granted by the Second respondent on 09.03.2020 to

invoke section 241A of the Act on the request made by the First Respondent on 03.03.2020.

- (b) Issue a writ of mandamus or any other appropriate writ directing the respondent/s to release the refund of INR 74,88,99,152/- along with applicable interest under section 244A of the Act, till the date of issuance of the refund, for Assessment Year 2018-19.
- (c) Pass such other orders which this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the case.

2. It is observed that this is the second round of litigation between the parties *qua* the refund of tax, which the petitioner claims to be entitled to, in relation to the Assessment Year 2018-19.

3. In the earlier round where similar relief was prayed for, a Coordinate Bench of this Court in writ petition being W.P. (C) 2243/2020 titled as '*M/s. FIS Payment Solutions & Services India Private Limited vs. Deputy Commissioner of Income Tax-9(1) & Anr.*', on 03.03.2020, was pleased to pass the following order:-

“Issue notice. Mr. Bhatia accepts notice.

The petitioner seeks refund of the tax from the respondents. In relation to the Assessment Year 2017-18, the petitioner's assessment has been completed under Section 143(3) of the Income Tax Act. So far as the Assessment Year 2018-19 is concerned, the petitioner's return, as filed, has been processed under Section 143(1) of the Income Tax Act. The amount due towards refund for both the assessment years is substantial. Prima-facie, it appears that there is no justification for the respondents not granting the refund when the same is due.

We, therefore, direct the respondents to refund the amounts for both the assessment years along with

interest as applicable, to the petitioners within four weeks from today. In case the respondents have any valid justification for withholding the refund, or any part thereof, they shall file their counter-affidavit positively within the same period clearly stating as to why the refund/ partial refund is not due. No further time shall be granted for the said purpose.

List on 06.05.2020.

Order Dasti under the signatures of the Court Master.”

4. On the very same day, vide order dated 03.03.2020, a proposal was made by the Assessing Officer to withhold the subject refund, pending completion of scrutiny assessment proceedings for the Assessment Year 2018-19 under the provisions of Section 143 (3) of the Income Tax Act, 1961 (hereinafter referred to as ‘the said Act’).
5. The Principal Commissioner of Income Tax-3 vide order dated 09.03.2020 granted approval for withholding of the refund for the Assessment Year 2018-19 under section 241A of the said Act.
6. The limited relief prayed for on behalf of the petitioner in these proceedings is that the orders impugned in these proceedings are in the teeth of the guidelines enunciated by this Court in **Mapel Logistics Pvt. Ltd. vs. Principal Commissioner of Income Tax**, reported as **(2019) 112 Taxman 199 (Delhi)**, and may, therefore, be remitted back to the Respondents for *de novo* consideration, in accordance with law.

7. Having heard learned counsel appearing on behalf of the parties and in view of the guidelines in *Mapel Logistics (supra)*, as well as, the directions contained in the said order dated 03.03.2020 rendered by the Coordinate Bench, we allow the present petition and remit the matter back to the Assessing Officer to pass a fresh speaking order, after affording an opportunity of being heard to the petitioner and further permitting them to place on record the additional affidavit dated 01.06.2020, filed before this Court, in accordance with law, within a period of six weeks from today.

8. No further directions are called for.

9. With the above direction, the present petition is disposed of. The pending application also stands disposed of.

10. A copy of this judgment be provided electronically to the learned counsel for the parties and be also uploaded on the website of this Court forthwith.

**SIDDHARTH MRIDUL
(JUDGE)**

**TALWANT SINGH
(JUDGE)**

SEPTEMBER 21, 2020/dn/mr

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