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

+ W.P.(C) 3902/2020 & CM APPL. 13961/2020

CLEAN WIND POWER
KURNOOL PRIVATE LIMITED

..... Petitioner

Through: Mr. Rajat Mittal, Advocate with
Mr. B.L. Goyal, Advocate

versus

THE DEPUTY COMMISSIONER
OF INCOME TAX TDS CIRCLE 73 1 & ORS. Respondents

Through: Mr. Ruchir Bhatia, Advocate with
Ms. Mansie Jain and Mr. Chandratany
Chaubey, Advocates.

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Date of Decision: 08th July, 2020**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE SANJEEV NARULA****J U D G M E N T****MANMOHAN, J: (Oral)**

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking a direction to the respondents to remove technical glitches and enable the TRACES portal so that petitioner can file its refund application for the excess Tax Deduction at Source (TDS) deposited by it. In the alternative, petitioner prays that the letter dated 04th June, 2020 addressed by the petitioner to the respondent No.1 be treated as a manual refund application and the respondents be

directed to process the same in a time bound manner.

3. Learned counsel for petitioner states that petitioner vide Challan No.34758 deposited Rs.69,59,265/- towards TDS. Against the said deposit, the petitioner was able to appropriate/adjust only Rs.19,87,733/- leaving the outstanding excess unclaimed deposited amount of Rs.49,71,532/-. He states that the petitioner was unable to claim refund of the unclaimed excess TDS amount as the online TRACES portal showed 'Maximum Refund Allowed' as 'Nil' against the Challan No.34758. He further states that instead excess TDS of Rs.49,71,532/- is shown in the column of 'Remaining Available Balance' in respect of Challan No.34758 whereas it should have appeared under the head 'Maximum Refund Allowed'.

4. He also states that the ticket raised by the petitioner was closed vide reply dated 22nd July, 2019 without resolving the issue faced by the petitioner. He submits that non-refund of the excess TDS amount deposited is violative of Section 200A of the Income Tax Act, 1961 read with Rule 31A(3A) of the Income Tax Rules as well as CBDT Circular No. 2/2011 dated 27th April, 2011.

5. On the last date of hearing, learned counsel for respondents had stated that in cases like the present, scrutiny and verification of the TDS amount utilised has to be manually done according to the established procedure. Along with the status report, learned counsel for respondents has now placed on record the established procedure. The relevant procedure as mentioned in the status report is reproduced hereinbelow:-

“That for this CPC-TDS has to be introduce systemic changes in the online functionality of refund. Development of this functionality is in progress and will be implemented in due course. However, CPC-TDS has provided temporary

arrangements which include the following steps:

- i. Deductor has to approach jurisdictional TDS Assessing Officer with the grievance.*
- ii. Jurisdictional TDS Assessing Officer will forward this grievance to CPC-TDS via e-mail on aohelpesk@tdscpc.gov.in or through post.*
- iii. CPC-TDS will accordingly guide the Assessing officer to inform the deductor to tick the option "Refund due to Appeal effect" to place the refund request. By doing so deductor will be able to place the refund request with zero amount as well and the refund request will not get rejected by the system. A request number will be generated.*
- iv. Deductor will inform this request number to the Jurisdictional Assessing Officer and Jurisdictional TDS Assessing Officer will confirm the same to CPC-TDS by sharing the refund request number. This refund request number is required by CPC-TDS for record purpose for future referencing.*
- v. This online refund request generated as per the abovementioned point no. iii is further forwarded to TDS Assessing Officer. Assessing Officer will have the right to enhance the refund amount from Zero (0) to the amount available in the challan and also upload the relevant documents supporting the genuineness of the facts and reasons for refund.*
- vi. After approval from the competent Authority refund request will be processed in online manner."*

6. Consequently, petitioner is directed to follow the aforesaid procedure forthwith. At this stage, learned counsel for the petitioner states that the petitioner would follow the aforesaid procedure within two days. In the event, the petitioner follows the aforesaid procedure within two days, the respondents are directed to decide the petitioner's request within four weeks thereafter. With the aforesaid directions and observations, present writ petition and application stand disposed of.

7. 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

JULY 08, 2020

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