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

\+ W.P. (C) 4692/2020

HYOSUNG CORPORATION ..... Petitioner

Through: Mr.Kamal Sawhney with Mr.Vipin Upadhyay, Mr.Arun Bhadauria and Mr.Prashant Meharchandani, Advocates.

versus

UNION OF INDIA & ORS. ...... Respondents

Through: Mr.Deepak Anand, Sr.Standing Counsel for Income Tax Deptt. With Mr.Vipul Agarwal.

% Date of Decision: 29th July, 2020

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

JUDGMENT

MANMOHAN, J: (Oral)

C.M.No.16897/2020

Exemption allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) No.4692/2020

1. The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

2. Present writ petition has been filed seeking a direction to respondent No.2 to dispose of the petitioner's rectification application for assessment year 2016-17 dated 27th May, 2019 and to allow the adjustment of resulting demand amounting to Rs.3,14,51,422/- against the refunds arising to the petitioner pursuant to disposal of rectification applications filed for assessment years 2009-10, 2012-13, 2013-14 and Appeal Effect application filed for the assessment year 2010-11.

3. Learned counsel for petitioner states that petitioner has filed a rectification application dated 27th May, 2019 to acknowledge on its own tax liability of Rs.3,14,51,422/-, inadvertently not levied vide the assessment order dated 29th December, 2018.

4. Learned counsel for petitioner submits that respondent No.2 has failed in its statutory duty by not adjudicating the petitioner's rectification application dated 27th May, 2019 within the time stipulated in Section 154(8) of the Income Tax Act, 1961. He states that the statutory limitation period of six months for deciding the rectification application had expired on 30th November, 2019.

5. He submits that the inaction of the respondent No.2 is contrary to and in violation of CBDT Circular No.14/2001 and CBDT Instruction No.1/2016.

6. Learned counsel for petitioner states that pursuant to its spin off and transfer of contracts, no operations are left with the petitioner and pending refund is the only reason because of which petitioner's office has not been closed.

7. Issue notice.

8. Mr.Deepak Anand, Advocate accepts notice on behalf of the respondents.

9. Keeping in view the limited prayer sought in the present writ petition, this Court disposes of the same by directing respondent No.2 to dispose of the petitioner's aforesaid rectification application within six weeks by way of a reasoned order and to allow adjustment of resulting demand against refunds arising in previous and subsequent assessment years, if any, in accordance with law. All the rights and contentions of the parties are left open.

10. 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 29, 2020
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