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

+ W.P. (C) 5154/2020

L S CABLE AND SYSTEM LTD.

..... Petitioner

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

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Anil Dabas, Advocate for R-
1/UOI.
Mr. Raghvendra Singh, Advocate for
R-2 & 3.

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Date of Decision: 13th August, 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 respondent no.2 to issue refund determined vide assessment order dated 29th November, 2019 under Section 143(3) of the Act, amounting to Rs.2,62,38,433 (inclusive of interest under Section 244A till 29th November, 2019) for assessment year 2017-2018 along with remaining interest from 30th

November, 2019 till the date of issuance of refund and to decide petitioner's rectification application dated 19th December, 2019 and grant consequential refund amounting to Rs.3,30,826/- along with interest under Section 244A from 01st April, 2017 till the date of issuance of refund.

3. Learned counsel for the petitioner contends that respondent no.2 has withheld the refund due to the petitioner without any reason and/or explanation. He submits that under Section 241A of the Act, the Assessing Officer can pass an order withholding the grant of refund (after satisfying all the parameters laid down under Section 241A of the Act) only up to the date on which assessment is made i.e. during the pendency of the scrutiny assessment and not once an order under Section 143 (3) has been passed and the scrutiny assessment has concluded – like in the present case. In support of his submission, he relies upon the orders of this Court in ***M/S. Fis Payment Solutions & Services India Pvt. Ltd. vs. DCIT, W.P.(C) 2162/2020*** and ***Hyosung Corporation v. UOI & Ors., W.P.(C) 4681/2020***.

4. He further submits that under Section 154(8) of the Act, the statutory period to dispose of a rectification application is “*6 months from the end of month in which the application was received*”, which already stands expired on 30th June, 2020 in the present case. He also relies upon the Circular No.14/2001 dated 09th November, 2001 and Instruction No. 01/2016 dated 15th February, 2016 issued by the Central Board of Direct Taxes wherein it is stated that “*time-limit of six months is to be strictly followed by Assessing Officer while disposing applications filed by the assessee/deductor/collector under section 154*”.

5. Issue notice.

6. Mr.Anil Dabas, Advocate accepts notice on behalf of respondent no.1/UOI and Mr.Raghvendra Singh, Advocate accepts notice on behalf of respondent nos.2 & 3.

7. On instructions, learned counsel for respondent nos.2 & 3 states that the petitioner's rectification application dated 19th December, 2019 shall be disposed of within a period of six weeks and the refund shall be processed within three weeks thereafter.

8. Consequently, this Court directs the respondent no.2 to dispose of the petitioner's aforesaid rectification application, in accordance with law, within six weeks by way of a reasoned order. The respondent no.2 shall also process and pay the petitioner's refund within three weeks thereafter, in accordance with law. All the rights and contentions of the parties are left open.

9. With the aforesaid directions, the present writ petition stands disposed of.

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

मान्यमेव जयते

MANMOHAN, J

SANJEEV NARULA, J

AUGUST 13, 2020
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