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

\+ W.P. (C) 10324/2020 & CM APPL.32675/2020

ALL INDIA FOOTBALL FEDERATION ..... Petitioner

Through: Mrs. Anju Jain and Mr. Hitesh Sachar, Advocates.

versus

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

Through: Mr. Siddharth Khatana, Adovcate for R-1/UOI.
Mr. Deepak Anand, Advocate for R-3.

% Date of Decision: 14th December, 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 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. 3 for issue of refund amounting to Rs 17,29,250/- (including interest of 2,05,050/-) in favour of the petitioner.

3. Learned Counsel for petitioner states that the petitioner-Federation had appointed a non resident as the Head Coach of the Senior National

Team of India on a contractual basis with effect from 1st July 2012 to 30th June 2014. According to the terms of the contract, fixed amount of salary was to be paid and the tax on the same was to be borne by the petitioner. Accordingly, income tax was paid on time for AY 2013-14, 2014-15 and TDS was deducted by the petitioner and submitted to the government. However, the employee left the country on account of non renewal of contract, closing all his operative accounts and hence refund amount could not be encashed.

4. She submits that the case of the petitioner is covered by Circular No. 707/dated 11th July, 1995, issued by Central Board of Direct Taxes, which has clarified that, if any refund becomes due to a non resident employee who has left the country and whose taxes are borne by the employer, the refund can be issued to the employer who has borne the tax liability.

5. Issue notice.

6. Mr. Siddharth Khatana, Advocate enters appearance and accepts notice on behalf of R-1/UOI and Mr. Deepak Anand, Advocate enters appearance and accepts notice on behalf of R-3.

7. Mr. Deepak Anand, learned counsel for respondent no.3 points out that the employee was a resident in the relevant Assessment Year. He further states that a demand draft in the name of the employee had been issued by the Income Tax Department but the same could not be encashed as the employee does not have any bank account in India.

8. Since the petitioner/Head Coach in the relevant Assessment Year was a resident of India, this court is of the view that the Circular No. 707 dated 11th July, 1995, issued by Central Board of Direct Taxes is not attracted to the facts of the present case.

9. At this stage, learned counsel for petitioner states that she would file a fresh representation with the respondents seeking refund.

10. Accordingly, the present writ petition is disposed of with a direction to the respondent no.3 to decide the fresh refund application, if any, filed by the petitioner within six weeks in accordance with law.

11. 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

DECEMBER 14, 2020
AS