Ct. No. 26

77

akb

07.04
2021

W.P.A. 24027 of 2019

Bhanu Prasad Khan
-Versus-
Commissioner of Income Tax & Ors.

Mr. Sandip Bhattacharyya
Mr. Suman Basu
Ms. Debanwita Pramanik ...For the Petitioner

Mr. Smarajit Roy Chowdhury
Mr. Soumen Bhattacharjee ...For the Respondents Income Tax

Mr. Avra Mazumder ...For the State Respondents

A peculiar situation has arisen that resulted in filing of this writ petition. The petitioner herein was an employee of the Block Medical Officer of Health (DD.O.) Bally, West Bengal.

For a particular year (2008-09) a sum of Rs. 49,574/- (rupees forty-nine thousand five hundred and seventy four) had been deducted as tax at source by the employer. However, it appears that this particular amount was not credited to the petitioner's account, as the TAN number used by the employer was incorrect. Subsequently, the petitioner is being harassed by the Income Tax Officers with regard to this TDS amount of Rs. 49,574/-.

Learned Counsel appearing on behalf of the State respondents submits that the amount had been deducted and paid to the Income Tax Authorities but with wrong TAN number. Accordingly, he prays that the Income Tax Department be directed to allow filing of revised return along with the revised Form 16-A explaining the inadvertent mistake of the TAN number.

Mr. Smarajit Roy Chowdhury, learned Counsel appearing on behalf of the Income Tax Authorities submits that they have written to the employer on April 23, 2018 but not yet received any satisfactory reply from them. He however submits that the time period for filing a revised return is now over and the matter relates to the assessment year 2008-09.

It is crystal clear from the facts that the petitioner is not at fault and any mistake that may have occurred is due to the employer that is respondent No. 5. Provisions are there under the Income Tax Act for the department to proceed against the employer for non-filing/incorrect filing of tax deducted at source. However, this does not take away the right of the petitioner to enjoy the sum of money that has been credited to the Income Tax on his behalf.

In the light of the same, I direct the Income Tax Authorities to give credit to the TDS amount of Rs. 49,574/- to the petitioner within a period of six weeks from date. The Income Tax Authorities may also allow the employer to make the revised return, as this mistake has been committed for other employees also. The Income Tax Authorities shall also be at liberty to proceed against the employer in accordance with law, if it so desires.

With the aforesaid observation the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)