IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.20995 of 2021

Mukanchand Bothra & Sons HUF,
Rep by its Karta M.Gagan Bothra,
No.43/44, Veerappan Street,
Sowcarpet, Chennai - 79. ... Petitioner

Vs

The Assessing Officer,
Income Tax,
Non-Corporate Ward 5(3),
Chennai – 6. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to refund the amount of Rs.2,33,316/- (Two Lakhs thirty-three thousand three hundred and sixteen only) to the petitioner along with interest as fixed by this Hon'ble Court from 26.04.2014 till realization as expeditiously and consequentially direct the respondent to take necessary steps to revoke the attachment of the petitioner's account bearing Number SB 006310002408 in Dena Bank, Mint Street branch.

For Petitioner : Mr.M.Gagan Bothra
(Party-in-Person)

For Respondent : Mr.Prabhu Mukunth Arun Kumar
Junior Standing Counsel

ORDER

The petitioner has filed this writ petition for a Mandamus, to direct the respondent to refund the amount of Rs.2,33,316/- pursuant to the order of the Tribunal dated 23.10.2018.

2. The petitioner (party-in-person) represents that the petitioner is entitled for interest under Section 244(1) of the Income Tax Act, 1961 at 15% interest per annum. On the other hand, the respondent has calculated interest at 0.5% in terms of Section 244 (1)(aa) of the Income Tax Act, 1961.

3. Opposing the prayer in this writ petition, the learned Junior Standing Counsel for the respondent submits that the respondent has initiated refund of the amounts under Section 244A of the Income Tax Act, 1961. In this connection a reference was made to Paragraphs 7 and 8 of the counter affidavit which reads as under:-

> "7. It is submitted that consequential order has been passed on 07.10.2021 u/s. 154 r.w.s.254 of the Act by giving credit to the payment of Rs.2,33,316/- which results in a refund of Rs.3,28,969/- (inclusive of 244A interest of Rs.95,653/- for the 82 months @ 0.5% from 01.01.2005 to till date) and the same has been uploaded in the ITBA portal. Therefore, refund order for the sum of Rs.2,33,316/- along with statutory interest u/s.244A of the Act has been passed in the case of the petitioner.
>
> 8. As regards the petitioner's prayer for consequential direction to the respondent to take necessary steps to revoke the attachment of the petitioner's bank account, it is humbly submitted that enquiries with the Bank Manager revealed that the Savings Bank Account No.SB 006310002408 late Shri.S.Mukanchand Bothra, HUF is DORMANT and NOT FROZEN. Therefore it is for the petitioner to take it up with the bank and the respondent has nothing to do with the same."

4. The learned Junior Standing Counsel for the respondent further submits that the bank account of the petitioner has not been attached, it is open for the petitioner to approach the bank. The averments made in Paragraphs 7 and 8 of the counter affidavit which has been extracted above stands recorded. Consequently, the respondent is directed to release the payments of the amounts as expeditiously as possible.

5. Liberty is however given to the petitioner to workout the remedy before the Appellate Commissioner insofar as the rate of interest whether the interest was to be paid in terms of Section 244(1) of the Income Tax Act, 1961 read with Section 240 of the Income Tax Act, 1961 or under Section 244(A) (1)(aa) of the Income Tax Act, 1961 has been calculated by the respondent.

6. Since the time for filing an appeal would have already expired, liberty is given to the petitioner to file an appeal before the Appellate Commissioner within a period of thirty days from the date of receipt of a copy of this order.

7. This Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

arb/nst

To

The Assessing Officer,
Income Tax,
Non-Corporate Ward 5(3),
Chennai – 6.

+1cc to M/s.Hema Muralikrishnan, Advocate, S.R.No.65585

W.P.No.20995 of 2021

SJ[co]
NSK 27/12/2021