

\$~24 (2021)

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

%

Date of decision: 08.10.2021

+ **W.P.(C) 11045/2021**

ANIL KUMAR JAIN

..... Petitioner

Through; Mr. Rajat Navet, Advocate.

versus

THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE
38(1) & ANR.

..... Respondents

Through: Mr. Sanjay Kumar with Ms. Easha
Kadiyan, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J.: (ORAL)

[Physical Court Hearing]

1. This matter has been received on transfer.
2. With the consent of parties, the writ petition is taken up for hearing and final disposal, at this stage itself.
3. In effect, the petitioner is aggrieved by the failure of the respondents/revenue in not refunding Rs. 3,09,520/-, which, according to him, has been retained illegally, after adjusting the tax and penalty due, out of the money seized by them i.e., Rs. 1,13,50,000/-.
- 3.1 The petitioner also seeks interest on the aforementioned retained amount.
- 3.2 The prayer made in the writ petition is, broadly, on the same lines..

W.P.(C) 11045/2021

Page 1 of 3

4. Mr. Sanjay Kumar, who appears on advance notice on behalf of the respondents/revenue, says that, the petitioner, ordinarily, should have moved an application for rectification under Section 154 of the Income Tax Act, 1961 but having regard to the fact that, several years have passed since the adjustment was made, the best course would be to remit the matter to the Assessing Officer (AO) with a direction to pass a speaking order, qua the grievances articulated by the petitioner in the writ petition.

4.1. In our view, given the circumstances obtaining in the case, that, indeed, would be the best way forward.

5. Accordingly, the writ petition is disposed of with the following directions:-

(i) The writ petition will be treated as the petitioner's representation/application.

(ii) The AO, after hearing the petitioner and/or his authorised representative, will pass a speaking order. This exercise will be completed by the AO at the earliest, though not later than 6 weeks from the date of the receipt of a copy of this order.

(iii) The petitioner will file a copy of the writ petition along with the annexures appended herein, with the AO.

(iv) The AO will issue a prior written notice to the petitioner, indicating the date and time for hearing. The AO will have the discretion to hear the petitioner and/or his authorised representative, *via* video-conferencing mechanism.

5.1. In case, the order passed by the AO is adverse to the interest of the petitioner, he will have the liberty to take recourse to an appropriate remedy, albeit, as per law.

6. Parties will act on the digitally signed copy of this order.
7. The case papers shall stand consigned to record.

RAJIV SHAKDHER, J.

TALWANT SINGH, J.

OCTOBER 8, 2021/nk

[Click here to check corrigendum, if any](#)

