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

\+ **CONT.CAS(C) 258/2022 & CM APPL. 11501/2022**

PAVAN GAUR ..... Petitioner

Through: Ms.Anjali Sharma, Advocate with Ms.Simmi Bhamrah, Advocate.

versus

N SAIRAJ & ORS. ..... Respondents

Through: Mr.Sanjay Kumar, Advocate.

% Date of Decision: 08th March, 2022.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T

MANMOHAN, J (ORAL):

1. Present contempt petition has been filed alleging contempt of the order dated 27th August, 2019 passed by this Court in W.P.(C) 9283/2019.

2. Learned counsel for the Petitioner states that vide intimation order dated 22nd October, 2021, a tax refund amount of Rs.1,19,33,291/- for the assessment year 2020-21 was wrongfully adjusted against the alleged outstanding demand of Rs.1,16,86,650/- relating to the assessment year 2018-19, in violation of this Court's order dated 27th August, 2019 passed in W.P.(C)9283/2019.

3. Learned counsel for the Petitioner states that the Petitioner filed a grievance with the Centralized Processing Centre ('CPC') of the Income Tax Department which was summarily closed on 12th November, 2021, by way of a non-speaking order. She states that the Petitioner thereafter applied to Respondent No.3 for rectification of the intimation under Section 143(l) for the Assessment Year 2020-2l, and for issuing the balance income tax refund amount. However, the same was denied to the petitioner vide intimation dated 4th February, 2022.

4. Issue notice. Mr.Sanjay Kumar, learned counsel for the respondents, accepts notice. He states that respondent No.1 has been wrongly arrayed as a party to the present proceeding, inasmuch as, he is not a party to the initial writ petition. He states that he has not received any instruction from the jurisdictional Assessing Officer.

5. A perusal of the paperbook reveals that the learned predecessor Division Bench vide order dated 27th August, 2019 has directed that no coercive steps be taken against the petitioner for recovery of tax which has already been deducted from the petitioner's salary by the respondent No.4-employer.

6. Even in the communication dated 4th February, 2022, the jurisdictional Assessing Officer has admitted that in view of the High Court's order dated 27th August, 2019, the outstanding demand of Rs.1,16,86,650/- has been marked as 'non-collectable' in ITBA system.

7. This Court is of the view that once the said demand had been marked as 'non-collectable', there is no question of any refund being adjusted against the said demand. Though this Court is further of the view that no contempt is made out, yet this Court in accordance with the earlier order

dated 27th August, 2019, directs the respondents to refund the adjusted amount of Rs.1,16,86,650/- to the petitioner within four weeks. Accordingly, the petition and application stand disposed of.

MANMOHAN, J

SUDHIR KUMAR JAIN, J

MARCH 8, 2022
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