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

+ W.P.(C) 14767/2022

KRBL LIMITED

..... Petitioner

Through: Mr.Salil Kapoor with Mr.Sumit
Lalchandani, Ms.Ananya Kapoor and
Mr.Tarun Chanana, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13(1),
DELHI & ORS

..... Respondents

Through: Mr.A.Renganath, Advocate for
Mr.Ajit Sharma, Sr.Standing Counsel
for the Revenue.

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Date of Decision: 19th October, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J:

C.M.No.45401/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.14767/2022

1. Present writ petition has been filed seeking a direction to the Respondents to issue refund of Rs.24,03,89,270/- along with up-to-date interest to the Petitioner pursuant to appeal effect order dated 05th April, 2021 arising out of order of CIT(A) as well as pass appeal effect order

pursuant to order of the Income Tax Appellate Tribunal ('ITAT') dated 09th May, 2022 and issue additional refund of Rs.9,96,10,730/- along with up-to-date interest.

2. Learned counsel for the Petitioner states that the ITAT deleted all the additions and ruled in favour of the Petitioner and the Petitioner is now entitled to a refund of the entire tax paid under protest aggregating to Rs.34,00,00,000/- (along with applicable interest under Section 244A/244A(1A) of the Income Tax Act, 1961 ('the Act').

3. He states that the Petitioner made several representations to the Respondents but to no avail. He submits that non-issuance of refund is in violation of Article 265 of the Constitution of India and also against Section 237 of the Act.

4. Issue notice. Mr.A.Renganath, Advocate accepts notice on behalf of the Respondents-Revenue. He states that the Revenue is in the process of filing an appeal against the order of the ITAT.

5. Having heard learned counsel for the parties, this Court is of the view that the Respondents-Revenue have had sufficient time to file an appeal against the order of the ITAT. In any event, in accordance with the mandate of law, the appeal effect order has to be passed within three months of passing of the appeal order.

6. Keeping in view the limited relief sought in the present writ petition, the same is disposed of along with pending application with a direction to the Respondents-revenue to consider:-

- (i) Issue of refund of Rs.24,03,89,270/- along with up-to-date interest to the Petitioner pursuant to appeal effect order dated 05th April, 2021 arising out of order of CIT(A); and

- (ii) Appeal effect order pursuant to order of the ITAT dated 09th May, 2022 and issue additional refund of Rs. 9,96,10,730/- along with up-to-date interest, in accordance with law.

7. The necessary appeal effect orders and payments of refunds shall be made within the said period of six weeks. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 19, 2022

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