$~16

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

\+ W.P.(C) 14964/2022 and CM APPL. 46137/2022

KRBL LIMITED ..... Petitioner

Through : Ms. Ananya Kapoor, Advocate.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13(1), DELHI AND ORS ..... Respondents

Through : Mr. Ajit Sharma, Senior Standing Counsel for Revenue along with Mr.A.Renganath, Advocate.

% Date of Decision: 28th October, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, J (ORAL):

CM APPL. 46137/2022 (for exemption)

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 14964/2022

1. Present writ petition has been filed seeking a direction to the Respondents to pass the appeal effect order pursuant to the Income Tax Appellate Tribunal ('ITAT') order dated 09th May, 2022 as well as to issue refund of Rs.16,45,98,588/- along with up-to-date interest and issue interest of Rs.1,14,76,268/-, after giving effect to the order of Commissioner of

Income Tax (Appeals) ['CIT(A)'] for the Assessment Year 2013-14, as additional amount due to the Petitioner.

2. Learned counsel for the Petitioner states that the ITAT vide order dated 09th May, 2022, decided all issues in favour of the Petitioner and the entire additions were deleted, thus allowing the appeal of the Petitioner and dismissing the appeal of the Respondents. She states that the Petitioner is now entitled to a refund of remaining taxes paid under protest amounting to Rs.16,45,98,588/- along with applicable interest under Sections 244A/244A(1A) of the Income Tax Act, 1961 ('the Act').

3. Learned counsel for the Petitioner states that the Petitioner has filed letters dated 20th May, 2022 and 11th July, 2022 with the Respondents for passing of an appeal effect order pursuant to the ITAT order and also for release of refunds legally due to the Petitioner, but to no avail. She submits that non-issuance of refund is in violation of Article 265 of the Constitution of India and also against Sections 237 and 240 of the Act.

4. Issue notice. Mr. Ajit Sharma, learned senior standing counsel 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 the appeal order.

6. Keeping in view the limited prayer sought in the present writ petition, the same is disposed of with a direction to the Respondents-Revenue to consider:-

(i) Issue of refund of Rs.16,45,98,588/- along with up-to-date interest to the Petitioner;

(ii) Issue of interest of Rs.1,14,76,268/- after giving effect to the order of CIT(A) for AY 2013-14 as additional amount due to the Petitioner.

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

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 28, 2022
j