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

\+ W.P.(C) 15200/2022

ALKA JAIN ..... Petitioner

Through: M.Nagesh Kumar Behl with Mr.Mayank Pachauri and Mr.Ambrish Dhawan, Advocates.

versus

ACIT CIRCLE 51(1),DELHI ..... Respondent

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

% Date of Decision: 03rd November, 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.46994/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.15200/2022 & C.M.No.46993/2022

1. Present writ petition has been filed seeking refund of balance amount of Rs.3,79,690/- along with applicable interest of 9% per annum under Section 244A of the Income Tax Act, 1961 ('the Act') for the Assessment Year 2009-10. Petitioner also seeks a direction to the Respondent to issue the refund of Rs.20,01,230/- along with applicable interest of 9% per annum for Assessment Year 2010-11.

2. Learned counsel for the Petitioner states that full credit of tax of Rs.27,24,647/- recovered from the Petitioner against the demand of Assessment Year 2009-10 has not been given to the Petitioner. He states that against the recovered amount of Rs.27,24,647/-, a credit of sum of Rs.23,44,957/- was given to the Petitioner only.

3. Learned counsel for the Petitioner states that after giving the appeal effect for the Assessment Year 2010-11, the returned income was accepted but amount of Rs.20,01,230/- recovered against the demand is not refunded to the Petitioner and applicable interest is also not given. He states that this amount of refund has not been issued till date despite repeated follow-ups and reminders. He states that even CPGRAM filed on 04th May, 2022 for the Assessment Year 2010-11 is still pending.

4. Learned counsel for the Petitioner states that the application of the Petitioner for the Assessment Year 2010-11 cannot be dismissed due to the reason that full TDS credit for another year i.e Assessment Year 2009-10 is not reflected in Form 26AS. He states that even if it is assumed that credit of TDS is short by Rs.81,276/- in the Form 26AS for the Assessment Year 2009-10, the same cannot be the ground for disallowance of credit of Rs.20,01,230 in the Assessment Year 2010-11.

5. Learned counsel for the Petitioner states that Section 153(5) of the Act provides that effect of order of appeal should be given within three months from the end of the month in which an appeal order is received. He states that Section 244A(1A) of the Act provides that if refund is not granted within the time period specified under Section 153(5) of the Act, then additional interest of 3% shall be given to the assessee. He states that order of the CIT (A) for the Assessment Year 2009-10 was passed on 25th

March, 2013 and order of the ITAT for the Assessment Year 2010- 11 was passed on 01st May, 2020, and thus the Petitioner is entitled to an additional interest of 3% per annum.

6. Issue notice. Mr.Ajit Sharma, learned senior standing counsel accepts notice on behalf of the Respondent-Revenue. He states that the Respondent shall dispose of the representations filed by the Petitioner dated 09th June, 2022 and 27th June, 2022 within a reasonable time.

7. Keeping in view the fact that the appeal effect orders have already been passed, this Court is of the opinion that the Petitioner's refunds should be paid forthwith. Consequently, this Court directs the Respondents to decide the Petitioner's reminders/representations dated 09th June, 2022 and 27th June, 2022 within two weeks. The outstanding refunds as well as applicable interest shall be credited in the account of the Petitioner not later than four weeks.

8. With the aforesaid directions, present writ petition along with pending application stands disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 3, 2022
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