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

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Decision delivered on: 20.12.2022

+ **W.P.(C) 17135/2022 & CM APPL. 54468/2022**

M/S RELX INDIA PRIVATE LIMITED

..... Petitioner

Through: Ms Ananya Kapoor and Mr Sumit
Lalchandani, Advs.

versus

DEPUTY COMMISSIONER OF INCOME

TAX CIRCLE 78(1) DELHI & ORS.

..... Respondents

Through: Mr Kunal Sharma, Sr. Standing
Counsel with Ms Zehra Khan, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.54468/2022

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing

W.P.(C) 17135/2022

2. The substantive prayer made in the writ petition reads as follows:

“a. Issue a writ in the nature of mandamus directing the Respondents to issue the refund of Rs.6,95,43,498/- along with up-to-date interest after adjusting 20% of the disputed demand (i.e., Rs. 1,39,08,699/-) as the action of the Respondents is unjust, arbitrary and against the provision of the Income Tax Act, 1961.

3. The record reveals, that the petitioner had filed an application for staying the demand, which was rejected by the Assistant Commissioner of

Income Tax on 17.12.2021.

3.1 Thereafter, a notice under Section 226(3) of the Income Tax Act, 1961 [in short “the Act”] dated 30.09.2022 was served on the bank, i.e., CITI Bank, in which the petitioner maintained its account. Consequently, the entire amount, i.e., Rs.6,95,43,498/- concerning Financial Year (FY) 2013-2014, was recovered.

4. Ms Ananya Kapoor, who appears on behalf of the petitioner, says that both the rejection of the application and recovery of the entire amount were contrary to the respondent/revenue’s own circular dated 29.02.2016, as amended by circular dated 31.07.2017.

4.1 In sum, Ms Kapoor says that the petitioner had offered to pay 20% of the demand and, therefore, the rejection of the application for stay and thereafter the recovery of the entire amount was unwarranted.

5. Ms Kapoor has also brought to our notice the fact, that an appeal against the order dated 31.03.2021, from which the demand emanates, is pending before the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”].

5.1 For this purpose, our attention has been drawn to Annexure P-3 appended on page 58 of the case file.

6. Ms Kapoor may be right in saying that the concerned officer could not have recovered the entire demanded amount since an appeal was pending.

6.1 However, the petitioner, in our view, is responsible for its own woes as it did not take further action when in the first instance cause of action arose in December 2021 and thereafter when the notice under Section 226(3) of the Act was issued on 30.09.2022.

6.2 Ms Kapoor says that the petitioner was following-up with the

department. According to us, that is not a good enough answer. Even after notice under Section 226(3) of the Act was issued, which was in September 2022, the petitioner did not take immediate steps to approach the court.

7. Given this position, no relief, at this juncture, can be granted. All that we can direct is an expeditious disposal of the appeal pending before the CIT(A).

8. The CIT(A) is requested to take up the appeal for hearing and dispose of the same within the next four weeks. The period of four weeks will commence from the date of receipt of a copy of the order passed today.

9. The writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 20, 2022

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