IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.02.2023**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5369 of 2023

Rattankumar Khemka ... Petitioner

Vs.

1.The Chief Commissioner of Income Tax-1,
Nungambakkam,
Chennai – 600 034.

2.The Principal Commissioner of Income Tax-4,
Nungambakkam,
Chennai – 600 034.

3.The Deputy/Assistant Commissioner of
Income Tax,
Corporate Circle – 4(1),
Nungambakkam,
Chennai – 600 034. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the first respondent to consider and dispose the representation dated 07.07.2022 and consequently direct the third respondent to grant the refund of Rs.41,43,277/- along with consequential interest for inordinate delay of more than 90 days in payment of the refund due as per the Income Tax Act, 1961.

For Petitioner : Ms.Vandana Vyas

For Respondents : Mr.V.Mahalingam,
Senior Standing Counsel

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the first respondent to consider and dispose of the representation dated 07.07.2022, given by the petitioner and to direct the third respondent to grant the refund of Rs.41,43,277/- along with consequential interest for inordinate delay of more than 90 days in payment of the refund due as per the Income Tax Act, 1961.

2.The grievance of the petitioner in this writ petition is that despite a Giving Effect Order dated 18.04.2022, issued by the third respondent under Section 5(2) of the Direct Tax – Vivad Se Vishwas Act, 2020 by which the petitioner has been granted a refund of Rs.41.43,277/-, till date, the said refund amount has not been given to the petitioner. The petitioner has given several representations including the last representation dated 07.07.2022 seeking for refund of the aforesaid sum. The petitioner had earlier applied under the aforementioned Scheme and he was entitled for the aforesaid refund amount as seen from the Giving Effect Order dated 18.04.2022.

Since the representations given by the petitioner have not been considered till date by the respondents, the petitioner has filed this writ petition.

3.Heard Ms.Vandana Vyas, learned counsel for the petitioner and Mr.V.Mahalingam, learned Senior Standing Counsel, who accepts notice on behalf of the respondents.

4.No prejudice would be caused to the respondents if the petitioner's representation dated 07.07.2022 seeking for refund of the sum of Rs.41,43,277/- pursuant to the Giving Effect Order dated 18.04.2022, issued by the third respondent under Section 5(2) of the of the Direct Tax – Vivad Se Vishwas Act, 2020 is considered, on merits and in accordance with law within a time frame to be fixed by this Court.

5.For the foregoing reasons, this writ petition stands disposed of by directing the first respondent to pass final orders, on merits and in accordance with law on the petitioner's representation dated 07.07.2022 seeking for refund of the sum of Rs.41,43,277/- along with the consequential interest for the alleged inordinate delay of more than 90 days,

ABDUL QUDDHOSE, J.

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after giving due consideration to the Giving Effect Order dated 18.04.2022, issued by the third respondent under Section 5(2) of the of the Direct Tax – Vivad Se Vishwas Act, 2020 in favour of the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

23.02.2023

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To

1.The Chief Commissioner of Income Tax-1,
Nungambakkam,
Chennai – 600 034.

2.The Principal Commissioner of Income Tax-4,
Nungambakkam,
Chennai – 600 034.

3.The Deputy/Assistant Commissioner of
Income Tax,
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W.P.No.5369 of 2023