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

% *Date of decision: 08.05.2023*

\+ **W.P.(C) 5861/2023 & CM APPL. 23007/2023**

AB SCIEX PTE LTD ..... Petitioner

Through: Mr Manuj Sabharwal and Ms Shalini, Advocates

versus

ASSISTANT COMMISSIONER OF INCOME-TAX CIRCLE INT. TAX 1-1-1, DELHI & ORS. ..... Respondents

Through: Mr Sunil Agarwal, Sr. Standing Counsel with Mr Shivansh B.Pandya and Mr Utkarsh Tiwari, Advocates

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 23007/2023

1. Allowed, subject to just exceptions.

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2. This writ petition concerns Assessment Year (AY) 2012-13.

3. Issue notice.

3.1 Mr Sunil Agarwal, senior standing counsel, accepts notice on behalf of the respondents/revenue.

4. Given the order that we propose to pass, Mr Agarwal says he does not wish to file a counter-affidavit in the mater and that he will argue the matter based on the record presently available with the court.

5. Therefore, with the consent of the counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

6. The principal grievance of the petitioner is articulated, in a sense, in the substantive prayer made in the writ petition. Thus, for the sake of convenience, the substantive prayer made in the writ petition is culled out hereafter:

"a. Issue a writ in the nature of mandamus or certiorari or any other

appropriate writ(s), order(s), appropriate writ(s), order(s), directing the Respondent No. 1 and Respondent No. 4 to credit the refund amounting to Rs. 1,04,27,661 for AY 2018-19 and Rs. 95,36,760 for AY 2019-20 along with applicable statutory interest:
(i) under s. 244A(1), and
(ii) under s. 244A(1A)
of the Income-tax Act, 1961 (till the date of such credit) to the bank account of the Petitioner through electronic transfer after obtaining the necessary approvals, within one week; and/ or"

7. As would be evident from the prayer culled out hereinabove, the petitioner seeks issuance of directions to respondent no. 1 and 4 to grant refund of the amount stated therein for the concerned AYs.

8. This prayer is based on the plea that the said respondents have to give effect to the order dated 26.12.2022 passed by the Income Tax Appellate Tribunal [in short, "the Tribunal"]. [See Annexure P1, appended on page 21 of the case file].

8.1 Concededly, the aforementioned order of the Tribunal concerns the AYs 2018-19 and 2019-20.

9. The writ petition is disposed of with the direction to respondent 1 to pass an appeal effect order.

10. Respondent no. 4 will, thereafter, logically, take the next steps in law, bearing in mind the impact of the appeal effect order.

11. List the matter for compliance on 29.08.2023.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

MAY 8, 2023
as