$~28 to 34

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

% ***Date of Decision: 06.09.2023***

\+ **W.P.(C) 5657/2021 and CM APPL. 17634/2021**
\+ **W.P.(C) 5684/2021 and CM APPL. 17773/2021**
\+ **W.P.(C) 5686/2021 and CM APPL. 17776/2021**
\+ **W.P.(C) 5688/2021 and CM APPL. 17779/2021**
\+ **W.P.(C) 5716/2021 and CM APPL. 17897/2021**
\+ **W.P.(C) 5719/2021 and CM APPL. 17901/2021**
\+ **W.P.(C) 5791/2021 and CM APPL. 18152/2021**

ROLLS ROYCE INDUSTRIAL POWER (INDIA) LIMITED
..... Petitioner

Through: Mr Kamal Sawhney, Mr Arun Bhadauria, Mr Nikhil Agarwal and Mr Nishank Vashistha, Advs.

versus

CIT (IT), DELHI-3 ..... Respondent

Through: Mr Sunil Agarwal, Sr Standing Counsel with Mr Shivansh B. Pandya, Jr Standing Counsel along with Mr Utkarsh Tiwari, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (Oral)

1. We have heard learned counsel for the parties briefly.

2. It is noticed that in these writ petitions, challenge has been laid to Form 3 issued under the Direct Tax Vivad Se Vishwas Act, 2020 [in short "2020 Act"].

3. Mr Kamal Sawhney, learned counsel who appears on behalf of the petitioner says, that the impugned forms i.e., Form 3 in the above-captioned matters bear the same date, i.e., 15.04.2021.

4. Mr Sunil Agarwal, learned senior standing counsel who appears on behalf of the respondent/revenue, says that the stand taken by the respondent/revenue is that the said forms issued to the petitioner would have to be reworked, to align them with the assertions made in the counter-affidavit.

5. It is Mr Agarwal's contention that, perhaps, fresh forms will have to be issued.

6. To make this point good, by way of illustration, our attention has been drawn to following assertions made in the counter-affidavit filed in writ petition WP(C) 5686/2021:

> *"To the extent of not granting set-off of Brought Forward Unabsorbed Business Losses and Brought Forward unabsorbed Depreciation of prior AYs computed on net income basis against the income of impugned AYs assessable on net income basis, the error committed by the Respondent is accepted and corresponding tax calculations will be modified. However, the remaining assertions of Petitioner are denied as factually incorrect and contrary to the express provisions of DTVSV Act and DTVSV Rules".*

7. Accordingly, as agreed by counsel, the impugned forms issued to the petitioner are set aside.

8. Liberty is however, given to the respondents/revenue to rework the calculations on the basis of stand taken in the counter-affidavit and thereafter, issue fresh forms, as deemed fit. After fresh forms are issued, if

still aggrieved, the petitioner will have liberty to assail the same in accordance with the law.

9. Writ petitions and pending applications are disposed of in the aforesaid terms.

10. We may also note that during the pendency of writ petitions, we had issued an interim direction requiring the petitioner to deposit a cumulative amount of Rs.7,33,15,591/- with the designated authority.

11. Mr Kamal Sawhney says that this amount was deposited.

12. Given the aforesaid position, the said amount will be released to the petitioner within the next six (6) weeks.

13. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER
JUDGE

GIRISH KATHPALIA
JUDGE

SEPTEMBER 6, 2023/as

Click here to check corrigendum, if any