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

% *Date of Decision: 11.01.2023*

+ **W.P.(C) 7022/2021 & CM No.22160/2021**

INTERGLOBE ENTERPRISES PVT LTD & ORS. ..... Petitioners

Through: Mr. Nagesh Kumar & Mr. Ambrish Dhawan Behl, Advs.

versus

DCIT CIRCLE 10(1) & ANR. ..... Respondents

Through: Mr. Ajit Sharma, Adv.

**CORAM:**
**HON'BLE MR. JUSTICE VIBHU BAKHRU**
**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**VIBHU BAKHRU, J.** ***(ORAL)***

**CM No.22161/2021 (for exemption)**

1. Exemption is allowed, subject to all just exceptions.

2. The application is disposed of.

**W.P.(C) 7022/2021**

3. The petitioners have filed the present petition, *inter alia,* praying as under:

> "A. Issue a writ in the nature of Certiorari/Mandamus or any other like writ, order or direction, directing the Respondent No.1 to dispose of rectification application filed by the Petitioners U/s 154 of the Income Tax Act, 1961

B. Issue a writ in the nature of Certiorari/Mandamus or any other like writ, order or direction, directing the Respondent No. 1 to allow credit of TDS/TCS in the hands of Petitioner 1 to 3 in terms of Section 199 of the Act r/w rule 37BA(2)(i) of the Income Tax Rules, 1962 which is appearing in the Form 26AS of the Erstwhile Transferor Company; and/or

C. Issue a writ in the nature of Certiorari/Mandamus or any other like writ, order of direction, directing the Respondent No. 2 to modify software of Income Tax Department so as to allow Respondent No.1 to give credit to the Petitioners of TDS/TCS appearing in the Form 26AS of the Erstwhile Transferor Company in terms of Section 199 of the Act r/w Rule 37BA(2)(i) of the Income Tax Rules, 1962; and/or"

4. The National Company Law Tribunal, New Delhi passed an order dated 24.11.2017 in Company Petition No. 26/2016, thereby, approving a scheme of arrangement between four companies including the three petitioners. The specified undertakings of the companies were demerged in the three petitioners and the residual Transferor Company was amalgamated with petitioner no.1. It is stated that the order sanctioning the scheme of arrangement was filed with the Registrar of Companies on 20.11.2017.

5. The grievance of the petitioners stems from the fact that the Income Tax Authorities have not devised any procedure for immediately providing credit for Tax Deducted at Source (TDS), which was deducted in respect of the Transferor Company. The petitioners claim that they are entitled to appropriate credit of the TDS of the Transferor Company.

6. The petitioners had filed their returns for the Assessment Years 2017-2018 and 2018-19. In respect of the Assessment Year 2017-18, intimations under Section 143(1) of the Income Tax Act, 1961 (hereafter '**the Act**') were issued to the respective petitioners. Since the same did not reflect the credit of the TDS deducted to the credit of the erstwhile entities, the petitioners filed their respective applications for rectification under Section 154 of the Act. The returns filed by the petitioners for the next Assessment Year, that is, Assessment Year 2018-19, were taken up for scrutiny and assessment orders were passed under Section 143(3) of the Act. However, the said assessment orders also did not reflect the credit of the TDS.

7. In the aforesaid facts, the petitioners have approached this Court praying that directions be issued to respondent no.1 to dispose of its rectification applications filed under Section 154 of the Act. The petitioners also pray that the software of the Income Tax Department be modified so as to reflect the grant of credit of TDS and Tax Collection at Source (TCS) in respect of erstwhile companies in a case of scheme of amalgamation, arrangement or demerger.

8. Insofar as the petitioners' prayer for rectification of the order is concerned, this Court is informed that rectification orders under Section 154 of the Act have already been passed and the said prayer does not survive.

9. The learned counsel for the petitioners states that petitioner no.1 continues to be aggrieved as the income tax portal reflects an

outstanding demand of ₹1,24,97,631/-. He states that petitioner no.1 is unaware as to how the said amount has been computed.

10. In view of the above, this Court considers it apposite to dispose of the present petition by issuing the following directions:-

(a) respondent no.1 shall communicate the computation of the amount of the tax demand which is reflected as outstanding against petitioner no.1 within a period of two weeks from date; and

(b) respondent no.1 shall consider whether it is feasible to modify its software to show the credit of TDS in similar cases where schemes of amalgamation, demerger or arrangement are sanctioned by the concerned authority.

11. The petition is disposed of in the aforesaid terms.

**VIBHU BAKHRU, J**

**AMIT MAHAJAN, J**

**JANUARY 11, 2023**
**'gsr'**