IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15334 OF 2024

Sparsh Infratech … Petitioner

Versus

Dy. Director of Income Tax (I.T)-II Pune and Ors. …Respondents

Mr. Sagar Tilak, a/w. Sachin Hande, & Payal Rathod, i/b. Sachin Hande, for the Petitioner.
Mr. Suresh Kumar, for the Respondents.

CORAM: G. S. KULKARNI & ADVAIT M. SETHNA, JJ.

DATED: 19 NOVEMBER 2024

P.C.

1. This petition under Article 226 of Constitution of India is filed being aggrieved by the inaction of the respondents that is in delaying grant of refund of the tax deposited by the petitioner, the entitlement of the petitioner to which is not in dispute.

2. It is the petitioner's case that the petitioner has become entitled to the refund of Tax Deduction at Source ("**TDS**" for short) paid by the petitioner under Section 195 of Income Tax Act, 1961 under the orders passed by the Commissioner of Income Tax (Appeals) and as confirmed by the Income Tax Appellate Tribunal.

3. Learned counsel for the petitioner has drawn our attention to a communication dated 11th March 2021 issued by the Income Tax Officer Circular 2, Pune *inter-alia* recording that the refund as entitled to the petitioner would be issued manually. However, despite about more than three years have been passed, from the said order, no action has been taken by the respondents to grant refund and as set out by the manual method. The relevant extract of the said communication dated 11th March 2021 of the Income Tax Officer, reads thus:

> *02. In your case, you have deposited challans under wrong section instead of mentioning Section 195 of the Act. A request was made by you on 10/03/2017 to ITO(TDS)-3, Pune to change the section code. However, the application could not be processed as the challans were partially consumed and no correction could be carried by either CPC, Ghaziabad or by the Assessing Officer.*
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> ***In view of the above mentioned facts, it is to inform that refund is to be issued manually. This office vide letter No.PN/DCIT(IT)Cir-2/Manual refund Sparsh Infratech/2021-21/136 dated 29/01/2021 to the CIT(IT/TP), Pune has requested for issue of manual refund. The CIT(IT/TP), Pune has forwarded the same to the CCIT(IT&TP)WZ, Mumbai requesting for approval to issue the manual refund which is under consideration/pending with the office of the CCIT(IT&TP)WZ, Mumbai.***
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> *Once the approval is received by this office from the office of CCIT (IT&TP)WZ, Mumbai, refund will be issued manually in the case of M/s. Sparsh Infratech PAN: ABNFS1713Q, for A. Y 2009-10.*
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> (emphasis supplied)

4. As this is only issue as involved in the proceedings and although the petitioner is praying that some technical glitches in the refund being processed, be directed to be removed, in our opinion, it would be in the interest of justice that considering the aforesaid communication as issued to the petitioner, and more particularly as there is no dispute that the petitioner is entitled to the refund of the income tax as deposited, the refund in whatsoever form, be processed further and the refund amount alongwith interest be credited/paid to the petitioner within a period of four weeks from today. This also considering the fact that the tax which is subject matter of consideration pertains to Assessment Year 2009-10 i.e., a period about 14 years back. It is in these circumstances, there ought not to be any further delay and/or extension over and above four weeks to make payment of the refund as ordered us. Ordered accordingly.

5. The concerned Income Tax Officer is directed to report compliance of this order, by intimating the Registrar Judicial, High Court, Bombay (Appellate Side). In the event, such compliance is not received after the period of four weeks as directed by us, the Registrar Judicial shall place the matter before the Court, so that further appropriate orders can be passed including in regard to the non-compliance of this order.

6. Petition is disposed of accordingly.

7. All parties to act on an authenticated copy of this order.

8. Mr. Suresh Kumar shall also inform the concerned Income Tax Officer of the present order.

(ADVAIT M. SETHNA, J.) **(G. S. KULKARNI , J.)**