IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 4694 OF 2024
WITH
SHOW CAUSE NOTICE NO.6 OF 2024
IN
WRIT PETITION (L) NO. 4694 OF 2024

Law & Kenneth Saatchi & Saatchi Pvt. Ltd. … Petitioner

Versus

Centralized Processing Centre, through Assistant Director of Income-tax & Ors. …Respondents

Ms. Fereshte Sethna a/w Mr. Mrunal Parekh i/b DMD Advocate for Petitioner.
Mr. P. A. Narayanan, for Respondent.
Mr. Anand Nagrale, DCIT, Circle(7)(1)(1), for Respondent No.3, present in the Court.

CORAM: G. S. KULKARNI & SOMASEKHAR SUNDARESAN, JJ.
DATED: 29 July, 2024

P.C.

1. We have heard Ms. Sethna, learned counsel for the petitioner and Mr. Narayanan, learned counsel for respondent No.3.

2. This Writ Petition under Article 226 of the Constitution of India is filed praying for the following relief:-

> “a) that this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus, under Article 226 of the Constitution of India, calling for the proceedings before Respondent Nos.1 to 3 pertaining to rectification order dated 12 April 2022 (Exhibit-L), and to direct issuance of balance refund to the Petitioner of Rs.5,74,01,654/-, within such timeframe

prescribed by this Hon'ble Court, along with statutory interest until the date of receipt of refund by the Petitioner;

b) that this Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of certiorari, under Article 226 of the Constitution of India, calling for the proceedings before Respondent Nos.1 to 3 pertaining to rectification orders dated 22 August 2022 (Exhibit-Q), 20 December 2022 (Exhibit-T), 10 July 2023 (Exhibit-DD) and 12 October 2023 (Exhibit-LL), and to quash and set these aside;

c) Pending the hearing and final disposal of the writ petition, for an order restraining the Respondents, its officers, subordinates, agents from initiating any coercive steps, whether by way of adjustment of the Petitioner's refund entitlement in AY 2020-21, or otherwise;

d) For ad-interim/interim reliefs in terms of prayers clause (c) above;

e) For the costs of this Petition; and

f) For such further and other reliefs, as this Hon'ble Court may deem fit, proper and appropriate, in the nature and circumstances of this case."

3. On hearing the learned counsel for the parties on 15 July 2024, we had passed the following order :

"1. Heard Learned Counsel for the Petitioner.

2. Issue notice to the Respondents to show cause as to why the prayer of the Petitioner in regard to the entitlement to interest as per the provisions of Section 244A(1) of the Income Tax Act, 1961 ought not to be granted. This, in view of the fact that after filing of the petition, the Petitioner has been for granted a refund as the department has credited to the Petitioner an amount of Rs. 5,74,01,654/- on 14 February, 2024. It is the case of the Petitioner that on such amount, interest has become payable as per the provisions of the Income Tax Act which has not been paid to the Petitioner. It is the case of the Petitioner that interest amount payable to the Petitioner is about Rs. 94,00,665.10.

3. As this is the only issue involved, a reply affidavit be placed on record on or before the adjourned date of hearing. A calculation sheet of the outstanding interest

> amount is already handed over to the Learned Counsel for the Revenue.
>
> 4. Stand over to **29 July, 2024, High on Board.**"

4. Now a reply affidavit of Mr. Anand Nagrale, Dy. Commissioner of Income tax, Circle 7(1)(1), Mumbai, is filed, *inter alia* placing on record an order dated 23 July 2024 passed by him under Section 154 of the Income Tax Act. By such order, a mistake which had occurred in the earlier orders passed under the provisions of Section 154 has been rectified and partially as contended on behalf of the petitioners.

5. We may observe that the Dy. Commissioner has passed such order after our order dated 15 July 2024 (supra), in which we had recorded the grievance of the petitioner in regard to the correct amounts entitled to the petitioner on account of refund alongwith the interest. However, it appears that such grievance of the petitioner and the calculation-sheet of the petitioner have not been taken into consideration in passing order dated 23 July 2024.

6. Learned counsel for the petitioner would submit that *ex facie* there is an error also in the order dated 23 July 2024 passed by the Dy. Commissioner. It is her submission that the amount according to the petitioner as payable was noted by this Court in its earlier order, being an amount of Rs.94,00,656/-. A calculation-sheet in that regard was also furnished to the respondents, however, it is submitted that the same has not been taken into consideration.

7. Learned counsel for the revenue would fairly state that if there is an apparent mistake, the same can be rectified. However, he would submit that a fresh application be filed. In our opinion, in the facts and circumstances of the present case, such a request for a fresh application may not be necessary, as the entire material as also the calculation is on record of the Assessing Officer. Further, the Jurisdictional Assessing Officer also has power to rectify the order dated 23 July 2024 passed by him under Section 154 of the Income Tax Act, 1961.

8. In the above circumstance, we are inclined to dispose of this petition keeping open all contentions of the petitioner by directing the Dy. Commissioner to pass a fresh order after taking into consideration the petitioner's application dated 20 September 2023 at **Exhibit-KK** page 243 of the paper book along with the calculation sheet as furnished. Let a fresh order be passed within a period of three weeks from today.

9. In view of such limited directions, we record that we have not examined the merit of the petitioners' contention on the actual calculation and the same are left for consideration of the respondents.

10. Disposed of in the above terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)　　　　(G. S. KULKARNI , J.)