IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.10.2024
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.32238 & 32240 of 2024
and
W.M.P.Nos.35022 & 35025 of 2024

Anand Cine Service Pvt. Ltd.,
(Formerly Anand Cine Services)
Rep. By its Director, Mr.A.Anand Prasad. ...Petitioner in both W.Ps.

Vs.

1. The Income Tax Officer,
Non-Corporate Circle 10 (1)
121, Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034.

2. The Assistant Commissioner of Income Tax,
Non-Corporate Circle 10 (1)
121, Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034.

Respondent 1 and 2 in both W.Ps.

3. The Deputy Commissioner of Income Tax
Non-Corporate Circle 10
121, Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034.

...Respondent-3 in W.P.No.32240 of 2024

Prayer in W.P.No.32238 of 2024

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to dispose of the petitioner's rectification petition dated 07.11.2023 seeking a revision of an earlier rectification order passed under Section 154 of the Income Tax Act,1961 dated 27.10.2023 for assessment year 2017-18 and accordingly, grant refund of Rs.2,86,328/-together with interest in accordance with law.

Prayer in W.P.No.32240 of 2024

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to dispose of the petitioner's representation dated 01.02.2021, 03.07.2024 and 04.07.2024 and accordingly, grant refund of Rs.6,18,239/-to the petitioner together with interest as payable under law for the assessment year 2007-08.

For Petitioner in both W.Ps.	:	Mr.Suhrith Parthasarathy
For Respondent in both W.Ps.	:	Mrs. S.Premalatha Junior Standing Counsel

<u>Common Order</u>

With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

2. Writ Petition No.32238 of 2024 is filed seeking for a Mandamus directing the second respondent to dispose of the petitioner's rectification petition dated 07.11.2023 seeking a revision of an earlier rectification order passed under Section 154 of the Income Tax Act,1961 dated 27.10.2023 for assessment year 2017-18 and accordingly, grant refund of Rs.2,86,328/- together with interest in accordance with law.

2.1 Writ Petition No.32240 of 2024 is filed seeking for a Mandamus directing the respondents to dispose of the petitioner's representation dated 01.02.2021, 03.07.2024 and 04.07.2024 and accordingly, grant refund of Rs.6,18,239/-to the petitioner together with interest as payable under law for the assessment year 2007-08.

3. Mr.Suhrith Parthasarathy, learned counsel for the petitioner would submit that aggrieved against the assessment order dated 29.03.2022 passed by the respondent-Department for the AY 2017-18, the petitioner filed an Application for rectification under Section 154 of the Act on 27.04.2022; that the said Application was disposed of by the first respondent by an order dated 27.10.2023, that as against the said rectification order dated 27.10.2023, the petitioner filed a Petition for Revision on 07.11.2023, however, the same has not yet been disposed of by the respondent-Department, which necessitated the petitioner to file the present Writ Petition No.32238 of 2024.

4. So far as the another Writ Petition is concerned, viz. W.P.No.32240 of 2024, the learned counsel for the petitioner would submit that similarly for the AY 2007-08, the petitioner's case was selected for scrutiny and an assessment order was passed and as against the said assessment order, the petitioner filed an Application for rectification and the third respondent, by order dated 28.01.2021, rectified the errors pointed out by the petitioner and quantified certain amounts towards refund, however, while quantifying the refund amount, failed to grant interest, therefore, the petitioner made representations on various towards interest, which are dated 01.02.2021, 03.07.2024 and 04.07.2024, however, the same are not yet disposed of. Therefore, the learned counsel prayed for appropriate directions in that regard.

5. Mrs.S.Premalatha, learned Junior Standing Counsel for the respondents in W.P.No.32238 of 2024 would submit that the Revision Petition filed by the petitioner dated 07.11.2023 would be considered and appropriate orders would be passed towards release of the refund, however, she stated that only in the event, such Revision Petition merits consideration, in the event, it is found that the petitioner is not entitled for refund, certainly, the Revision has to be dismissed, therefore, she is insisted this Court to issue direction covering both aspects.

6. So far as the other Writ Petition, viz. W.P.No.32240 of 2024 seeking for disposal of the representations made by the petitioner dated 01.02.2021, 03.07.2024 and 04.07.2024 is concerned, the learned Junior Standing Counsel would submit that the same would be considered and appropriate orders would be passed in a time bound manner.

7. I have given due considerations to the submissions made on either side and perused the materials available on record.

8. In the light of the submission made by the learned Junior Standing Counsel for the respondents, to which course, the learned counsel for the petitioner is agreable, this Court is inclined to pass/issue following orders/directions in respective Writ Petitions:-

i) The second respondent in W.P.No.32238 of 2024 is directed to dispose of the petitioner's Rectification Petition dated 07.11.2023, which was filed for revision of an earlier Rectification Order dated 27.10.2023 within a period of twelve weeks from the date of receipt of a copy of this order.

ii) However, it is made clear that it is upto the second respondent to decide the merits of the said Petition dated 07.11.2023 either in favour of the petitioner or against the petitioner, without being influenced by any of the observations made by this Court in the present Writ Petition. In the event, the said Petition is decided in favour of the petitioner, the refund shall be released immediately without any further hassle. In case, the Petition dated 07.11.2023 does not merit consideration and dismissed, then, it is open to the respondent-Department to proceed against the petitioner in accordance with law. It is also left open to the petitioner to challenge the dismissal of the Petition dated 07.11.2023 in the manner known to law.

iii) Insofar as Writ Petition No.32240 of 2024 filed seeking for a mandamus directing the respondents to dispose of the petitioner's representation dated 01.02.2021, 03.07.2024 and 04.07.2024 is concerned, the concerned respondent is directed to dispose of the representation made by the petitioner's in the recent past, i.e. representations dated 03.07.2024 and 04.07.2024 within a period of eight weeks from the date of receipt of a copy of this order.

9. With the aforesaid directions, both the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.10.2024

sd
Index : yes/no
Neutral Citation : yes/no

To

1. The Income Tax Officer,
   Non-Corporate Circle 10 (1)
   121, Mahatma Gandhi Road, Nungambakkam,
   Chennai – 600 034.

2. The Assistant Commissioner of Income Tax,
   Non-Corporate Circle 10 (1)
   121, Mahatma Gandhi Road, Nungambakkam,
   Chennai – 600 034.

3. The Deputy Commissioner of Income Tax
   Non-Corporate Circle 10
   121, Mahatma Gandhi Road, Nungambakkam,
   Chennai – 600 034.

Krishnan Ramasamy,J.,

sd

W.P.Nos.32238 & 32240 of 2024

29.10.2024