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

\+ W.P.(C) 401/2024, CM APPL. 1816/2024

AM MINING INDIA PRIVATE LIMITED ..... Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Avishkar Singhvi, Mr. Dushyant Manocha, Ms. Ananya Ghosh, Ms. D. Bose, Mr. Deokinandan Sharma, Ms. Devika Sikka, Advs.

versus

OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1), DELHI & ORS. ..... Respondent

Through: Mr. Sanjay Kumar, Ms. Easha, Ms. Hemlata Rawat, Advs.
Mr. Sumit Goel, Ms. Sreeparna, Mr. Adrish Dutta, Advs. for R-4.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **15.01.2024**

1. This writ petition has been preferred seeking the following reliefs:-

> "a) Issue a Writ of Mandamus directing Respondent No. 2 to give effect to the findings in the "*Particulars of mistake(s)*" in the Order dated 28.11.2023 under Section 154 of the Income Tax Act, 1961 and rectify the clerical errors thereunder;
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> b) Issue a Writ of Certiorari quashing all actions initiated for recovery of demand in terms of the intimation under Section 143(1)(a) of the Act dated 19.08.2023, including Impugned Notices dated [Nil] issued by Respondent No. 1;
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> c) Issue a Writ of Mandamus directing Respondent No. 1 to lift the lien / attachment on the Petitioner's bank accounts with

Respondent No. 3 and Respondent No. 4;

d) Declare that no action of recovery can be initiated by Respondent No. 1 basis the demand raised in the intimation under Section 143(1)(a) of the Act dated 19.08.2023;

e) Issue any other appropriate writ, order or directions as the nature and circumstances of the case may require that this Hon'ble Court may deem fit."

2. Mr. Vohra, learned senior counsel appearing in support of the writ petition has drawn our attention to the rectification order dated 28 November 2023 and which had accepted the contention of the petitioners that the demand of ₹25,65,87,020/- was liable to be deleted. It however appears from the record, that the order ultimately failed to give effect to the deletion. It is in the aforesaid backdrop that we had called upon Mr. Kumar, learned counsel appearing for the respondent, to obtain instructions.

3. Pursuant to our directions, the stand of the Department as reflected in the instructions reads as follows:-

> "While filing the return of income for A.Y.2022-23, notional interest on zero coupon debentures amounting to Rs.91,49,91,913/- was disclosed as interest received and said amount was shown as decrease in profit/increase in loss under ICDS under the accounting policies. However, as per Intimation u/s.143(1) dated 19.08.2023 in this case, sum of Rs. 91,49,91,913/- representing decrease in profit made under ICDS was disallowed resulting in computing total income of Rs. 83,72,92,330/- and raising demand of Rs. 25,65,87,020/-. However, CPC itself passed order u/s. 154 on 28.11.2023 stating that the aforesaid mistake is being rectified but even in order u/s.154 aforesaid addition made under ICDS continued and demand of Rs.25,65,87,020/- was retained.
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> xxx xxx xxx
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> 2. After completion of processing of the return of income, the rectification right in this case has been transferred from CPC, as the case is selected under scrutiny. In these circumstances, it is not possible to carry out any corrective action at CPC as the rectification rights in this case is with FAO. Now, the jurisdictional Assessing Officer has to verify the facts of the case and pass **Manual rectification Order** for A.Y.2022-23 through ITBA.

> However, as the scrutiny assessment proceedings is under progress and the rectification rights are with FAO, the ITBA portal will not allow the AO to pass rectification order. Since it is W.P. matter, a separate mail has been sent to the ITBA team to transfer the rectification rights in this case from FAO to JAO and also enable the JAO to pass manual rectification order through ITBA. The A.O. may follow up with the ITBA team for enabling the A.O. to pass manual order in this case."

4. In view of the aforesaid, it is manifest that the demand of ₹25,65,87,020/- would not sustain. All that is left is for the respondents to now pass a manual rectification order or in the alternative to attend to the subsequent and second application for rectification which has been made by the writ petitioner itself.

5. We, accordingly dispose of the writ petition and grant liberty to the respondents to pass appropriate formal orders accepting the effect of the rectification order dated 28 November 2023. The lien and attachment on the bank accounts of the writ petitioner shall stand lifted forthwith. We direct the respondent nos. 3 and 4 to proceed in terms of the directions aforenoted.

6. The writ petition along with pending application shall stand disposed of on the aforesaid terms.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 15, 2024/*neha*