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

\+ W.P.(C) 507/2024

PREETI UPADHYAYA ..... Petitioner

Through: Mr. Man Mohan Yadav and Mr. Gurman Chahal, Advs.

versus

CENTRAL BOARD OF DIRECT TAXES & ORS ...... Respondents

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary, Mr. Naveen Rohila and Ms. Simran Jha, Advs. for Revenue

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\+ W.P.(C) 508/2024

HANSA UPADHYAYA ..... Petitioner

Through: Mr. Man Mohan Yadav and Mr. Gurman Chahal, Advs.

versus

CENTRAL BOARD OF DIRECT TAXES & ORS ...... Respondents

Through: Mr. Aseem Chawla, SSC with Ms. Pratishtha Chaudhary, Mr. Naveen Rohila and Ms. Simran Jha, Advs. for Revenue

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% **24.05.2024**

1. These writ petitions have been preferred seeking the following reliefs:-

> "A. Issue directions to the respondent no. 1 & 2 for not properly implementation of Rules, regulations, Sections of the Income 'Tax Act and directions issued in Judgment passed by Hon'ble Supreme Court in various matter.

B. Issue directions to the respondent no. 1 & 2 at the time of adjudicating the applications filed by the claimants before the authority seeking condonation of delay U/s 119 as well as seeking refund of amount as per Section 194A(3)(ix) of Income Tax Act failed to act as per the law without considering the facts and circumstances of the case

C. Issue directions to Respondent no.3 to withdraw the TDS deposited with the Respondent no. 1 & 2 and deposited the same in the account of the Petitioner by securing in the form of Form 15-G of rule 29-C of the Income Tax Rules in terms of section 197A (1-A) of the Income Tax Act for each financial year.

D. Issue directions to Respondent no.3 to not to deduct TDS for the Period of 15.02.2014 to 01.06.2015 as Prior to section 194A(3)(ix) come in effect on 01.06.2015.

E. Issue directions to Respondent no. 1 & 2 to waive off the TDS on the interest credited on the account of compensation received in Motor accident cases as the "Interest" was not fall under the head of Income in Motor accident cases.

F. Issue directions to Insurance company while depositing the Compensation amount and interest amount secure the TDS with the securing the 'Form 15-G' of Rule 29-C of the Income 'fax Act/Rules;

G. Issue directions to respondent no. 1 for proper applicability of Section 194A(3)(ix) of Income Tax and shall condone the delay of claimants in filing the ITR.

H. Pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case."

2. However, we note that the principal grievance is with respect to orders dated 29 December 2023 [W.P.(C) 507/2024] and 22 December 2023 [W.P.(C) 508/2024] passed by the Principal Commissioner of Income Tax ["**PCIT**"] while dealing with applications seeking condonation of delay caused in the submission of the return of income for Assessment Year 2022-2023 and in respect of which the petitioners/applicants had sought invocation of Section 119(2)(b) of the Income Tax Act, 1961 ["**Act**"].

3. As we read the aforesaid orders, it is manifest that the PCIT has thought it fit to rule on the merits of the various claims which were raised by the writ petitioners. It has also made various observations with respect to the applicability of Section 194A(3)(ix) and which was one of the issues which was raised by the petitioners.

4. However, in our considered opinion, when faced with an application under Section 119(2) of the Act, the PCIT has to principally focus on the aspect of whether the delay as caused was liable to be condoned. The power under Section 119(2)(b) is clearly not intended for that authority to render findings touching upon the merits of the claim as raised by the assessee. That would be a subject which must be left for the consideration of the Assessing Officer. In view of the aforesaid and on this short ground alone, we are inclined to allow these writ petitions.

5. The writ petitions are according allowed and the orders dated 29 December 2023 [W.P.(C) 507/2024] and 22 December 2023 [W.P.(C) 508/2024] are hereby quashed. The matter shall in consequence stand remitted to the PCIT who shall consider the applications under Section 119(2)(b) afresh and in accordance with law.

YASHWANT VARMA, J.

AMIT BANSAL, J.

MAY 24, 2024/*neha*