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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ W.P.(C) 1017/2024

SANDEEP KHANNA ..... Petitioner

Through: Mr. Rajesh Mahna, Mr. Ramanand Roy, Mr. Mayank Kouts and Mr. Shiva Narang, Advocates

Versus

PR COMMISSIONER OF INCOME TAX & ORS. ..... Respondents

Through: Mr. Gaurav Gupta, Sr. Standing Counsel alongwith Mr. Shivendra Singh, Junior Standing Counsel

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

<u>O R D E R</u>

% **23.01.2024**

<u>CM APPL 4233/2024 (Exemption)</u>

Allowed, subject to all just exceptions.

The application stands disposed of.

<u>W.P.(C) 1017/2024</u>

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

> "i. Issue a writ of mandamus or any other writ, direction, order in nature thereof directing the Respondents to release the refund payable to the Petitioner for the assessment year 2019-20 and subsequent years if any adjusted against the disputed demand of the assessment year 2012-13 without proper intimation under S.245 of the Income Tax Act 1961.
>
> ii. Issue a writ of mandamus or any other writ, direction, order in nature thereof directing the Respondent No. 2 for expeditious disposal of the appeal filed by the Petitioner on 26.12.2019 for Assessment Year 2012-13for assessment year 2012-13 passed under S.147/144 of the Income Tax Act 1961.

iii. Pass any such order as this Hon'ble Court may deem fit and proper on the facts and circumstances of the case."

2. The grievance itself emanates from the fact that although the appeal pertaining to Assessment Year **['AY']** 2012-13 is still pending disposal before the Commissioner of Income Tax (Appeals) **['CIT(A)']**, the refund claim of the petitioner which emanates from orders of adjustment passed in AY 2019-20 are not being given effect to.

3. We note that insofar as the demand created for AY 2012-13 is concerned, the petitioner had approached the respondents by moving an application referable to Section 220(6) of the Income Tax Act, 1961 which came to be disposed of on 05 February 2020, requiring the petitioner to deposit 20% of the total outstanding demand. There was however an admitted failure on the part of the writ petitioner to comply with the aforesaid directions.

4. Notwithstanding the above and bearing in mind the apprehension of adjustment of refund, we dispose of the petition, leaving it open to the writ petitioner to approach the CIT (A) by moving an appropriate application for consideration of his pending stay application. Any application that may be moved in this regard may be taken up and disposed of by the CIT (A) with due expedition. All rights and contentions of respective parties are left open.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 23, 2024/*p'ma*