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

\+ W.P.(C) 1642/2024

EVALUESERVE.COM PRIVATE LIMITED ..... Petitioner

Through: Ms. Ananya Kapoor, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 7(1) DELHI &ORS ..... Respondents

Through: Mr. Sanjeev Menon, JSC for Mr. Zoheb Hossain, SSC.

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

ORDER

% **01.04.2024**

1. We note that the principal controversy which stands raised in the present writ petition stood encapsulated in our order of 05 February 2024 which is reproduced hereinbelow:-

> "1. The instant writ petition has been preferred for refund of the deposits which were made by the petitioner while pursuing appellate remedies.
>
> 2. It is pointed out by learned counsel that a direction was lastly framed by the Dispute Resolution Panel ["DRP"] on 05 February 2021. Consequent to the order of remit which was framed by the DRP, although the Transfer Pricing Officer ["TPO"] passed an order on 18 March 2021, it is the case of the writ petitioner that no draft order of assessment has been framed thereafter. It is in the aforesaid backdrop that the claim for refund is sought.
>
> 3. We consequently request, Mr. Menon, learned counsel appearing for the respondents to obtain instructions.
>
> 4. Let the petition be called again on 12 February 2024."

2. Although we had granted time to Mr. Menon, learned counsel appearing for the respondents to obtain instructions, we are apprised

today that no assessment order appears to have been framed on or before 31 March 2021 by the Assessing Officer in terms of the order dated 18 March 2021 passed by the Transfer Pricing Officer. In view of the aforesaid undisputed position, it would be the return as submitted by the writ petitioner which would prevail.

3. We accordingly allow and dispose of the instant writ petition and frame a direction to the respondents to duly examine the claim for refund as raised in the writ petition and to pass appropriate consequential orders within a period of six weeks from today. The refund, if granted, shall be along with interest which is statutorily payable.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 01, 2024

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