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

\+ W.P.(C) 3989/2023

ABHIJIT BHAVE .....Petitioner

Through: Ms. Manini Bharati and Ms. Smiti Verma, Advs.

versus

INCOME TAX OFFICER, CIRCLE 67(1), DELHI AND ORS. .....Respondents

Through: Mr. Aseem Chawla,, SSC, Ms. Pratishtha Chaudhary and Ms. Simran Jha, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **24.07.2024**

1. Having heard learned counsels for parties, we note that the challenge which stands raised here would stand concluded in light of the judgment rendered by the Court in **Shantanu Awasthi vs. Income Tax Officer, Ward 67(1)** [W.P.(C) 3518/2023]. In *Shantanu Awasthi* while dealing with an identical controversy, we had allowed the writ petition on the following terms:-

> "1. The writ petitioners are constrained to approach this Court pursuant to demands being imposed against them despite tax having been duly deducted from the salary which was earned in the concerned Assessment Years. The default in deposit of TDS is attributed to the inaction of the employer. 2. Pursuant to the earlier orders passed the respondents have, bearing in mind the Office Memorandum ["OM"] of the Central Board of Direct Taxes ["CBDT"] dated 11 March 2016, passed the following orders insofar as the writ petitioners in WP(C) 3545/2023 and 3547/2023 are concerned. Those orders are reproduced hereinbelow:

W.P.(C) 3545/2023 (Siddharth Arora)

"Sir/Madam/M/s.

Subject: Online service of Orders – Letter

Stay of demand in the case of Siddharth Arora PANAHEPA8010H for the A.Y. 2021-22-reg.

Kindly refer to your writ petition filed before the Hon'ble Delhi High Court against the intimation u/s 143(1) of the Act consequent demand created for the A.Y. 2021-22 vide demand notice dated 18.09.2022 of Rs.12,76,564/- respectively issued by CPC, Bengaluru on the captioned subject.

In this connection, your petition before the Hon'ble Delhi High Court has been perused and it was found that you have drawn the salary for the concerned years i.e. A.Y. 2021-22 and tax has been duly deducted but the same has not been deposited by the employer. In view of the above facts and circumstances and after taking into account of the CBDT office memorandum and further examining the legality and validity of the non-deposit of demand by the employer, your petition for stay of demand has been perused and after examination stay is hereby granted and demand is restrained by holding no coercive action is being taken against the demands for the A.Y. 2021-22."

W.P.(C) 3547/2023 (Ankit Vij)

"Sir/Madam/M/s.

Subject: Online service of Orders – Letter

Stay of demand in the case of Ankit Vij, PAN: AHMPV9163C for the A.Y. 2020-21 & 2021-22-reg.

Kindly refer to your writ petition filed before the Hon'ble Delhi High Court against the intimation u/s 143(1) of the Act consequent demand created for the A.Y. 2020-21 & 2021-22 vide demand notice dated 03.02.2022 and 28.03.2022 of Rs.6,21,430/- & Rs. 1,95,600/- respectively issued by CPC, Bengaluru on the captioned subject.

In this connection, your petition before the Hon'ble Delhi High Court has been perused and it was found that you have drawn the salary for the concerned years i.e. A.Y. 2020-21 & 2021-22 and tax has been duly deducted but the same has not been deposited by the employer.

In view of the above facts and circumstances and after taking into account of the CBDT office memorandum and further examining the legality and validity of the non-deposit of demand by the employer, your petition for stay of demand has been perused and after examination stay is hereby granted and demand is restrained by holding no coercive action is being taken against the demands for the A.Y. 2020-21 & 2021-22."

3. We note that the CBDT's OM of 11 March 2016 seeks to address this very issue. Since the deduction of TDS from the salaries of the petitioners is not disputed, we find no justification for the demands being shown as outstanding against the writ petitioners.

4. We, accordingly, dispose of these three writ petitions on lines identical to those which have been adopted by the Assessing Officer in WP(C) 3545/2023 and 3547/2023.

5. We additionally call upon the respondents to ensure that all demands with respect to TDS as currently reflected against the petitioners on the Income Tax Business Application portal are consequently deleted."

2. Following the aforesaid judgment, we allow the present writ petition and quash the impugned demands dated 14 September 2022 and 20 October 2022. We additionally call upon the respondents to ensure that all demands with respect to TDS as currently reflected against the petitioner on the Income Tax Business Application portal are consequently deleted.

3. The writ petition stands disposed of on the above terms.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 24, 2024/RW