$~9

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

\+ W.P.(C) 5503/2024

BENGAL AND ASSAM COMPANY LTD. ..... Petitioner

Through: Mr. V.P. Gupta and Mr. Anunav Kumar, Advs.

versus

DY. COMMISSIONER OF INCOME TAX & ANR. ..... Respondents

Through: Mr. Sanjay Kumar, SSC along with Ms. Easha Kadian, JSC.

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

O R D E R

% **27.05.2024**

1. We had in terms of our order of 29 April 2024 taken note of the principal grievance raised by the writ petitioner. While taking note of the same, we had passed the following order: -

> "1. This writ petition has been preferred seeking the following reliefs:-
>
> > "a) issuing directions to the respondents not to adjust any refund due to the petitioner against the balance demand of Rs.3,04,20,730/- and grant refund of Rs.3,16,18,350/- wrongly adjusted against the total demand of Rs.6,20,39,080/- which stands cancelled pursuant to quashing of the assessment order dated 16.05.2023 vide order of this Hon'ble Court dated 04.07.2023;
> >
> > b) delete the demand wrongly outstanding on the portal of the department for A.Y.2014-15;
> >
> > c) issue ex-parte ad-interim direction in terms of prayers (a) and (b) hereinabove; and
> >
> > d) issue such further order or direction as may be deemed fit

so as to afford complete relief to the Petitioner."

> 2. The dispute essentially emanates from the adjustment of refunds against a total demand of INR 6,20,39,080/- pertaining to Assessment Year 2014-15 and stems from an assessment which had been assailed in W.P.(C) 8788/2023.
>
> 3. Undisputedly, the aforesaid writ petition came to be allowed on 04 July 2023 and the assessment order impugned therein was set aside. It is in the aforesaid backdrop that the petitioner contends that no adjustments could have been made against a non-existent demand.
>
> 4. Bearing in mind the undisputed position which emerges from the above, Mr. Kumar submits that the Assessing Officer shall take appropriate action within a period of two weeks from today. The statement so made is recorded and accepted.
>
> 5. Let the matter be called again on 27.05.2024."

2. Pursuant to the liberty granted, the Assessing Officer has passed an order on 01 May 2024 duly accepting the position taken by the writ petitioner.

3. In view of the aforesaid, we are informed that only consequential and follow up action is to be taken.

4. Mr. Kumar, learned counsel, on instructions, states that the order of 01 May 2024 shall be given effect to within a period of four weeks from today. The statement so made is recorded and accepted.

5. The writ petition shall stand disposed of on the above terms.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 27, 2024

RW