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

\+ W.P.(C) 12829/2024

ISON XPERIENCES INDIA PVT LTD .....Petitioner
Through: Mrs. Rano Jain and Mr. Venketesh Mohan Chaurasia, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX -IV , C.R. BUILDING NEW DELHI & ANR. .....Respondents
Through: Ms. Nancy Jain, Adv.

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

O R D E R

% **12.09.2024**

CM APPL. 53521/2024 (Ex.)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 12829/2024

1. The instant writ petition has been preferred seeking the following reliefs:-

> "a. A writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction quashing the order under Section 119(2)(b) of the Income Tax Act, 1961 dated 23.07.2024.
>
> b. A writ in the nature of certiorari/mandamus or any other appropriate writ, order or direction directing the Respondent to give credit to the Petitioner Company of the remaining TDS/ TCS.
>
> c. Cost of present proceedings may also be awarded in favour of the Petitioner and against the Respondents.
>
> d. Pass any other or further order(s) as this Hon'ble Court may deem fit and proper on the facts and the circumstances of the case."

2. We deem it apposite to take note of the following essential facts as appearing on our record. The petitioner is a private limited company engaged in the service sector providing **Business Process Outsourcing**[1] services. The Petitioner filed its Return of Income for **Assessment Year**[2] 2021-22 on 08 February 2022 declaring 'Nil' income and claimed a refund of INR 32,55,906/-.

3. It is the case of the petitioner that for the relevant AY, the petitioner had earned gross receipts of INR 80,52,14,858/-. Out of this total receipt of INR 80,52,14,858/-, a sum of INR 74,57,997/- was tax collected at source by various customers. The said amount of INR 74,57,997/- duly reflected in the Form 26AS of the petitioner, however, the same was not claimed in the Return of Income filed.

4. We note that the Return for AY 2021-22 was processed under Section 143(1) of the **Income Tax Act, 1961**[3] on 30 May 2022 and an amount of INR 32,10,318/- was refunded, after adjustment of an earlier demand of INR 2,70,682/-.

5. The petitioner aggrieved by the said refund, filed an application before the **Principal Commissioner for Income Tax**[4] under Section 119(2)(b) of the Act for condonation of delay for filing of revised Return. It is the aforesaid application which has since come to be dismissed by way of the order impugned before us.

6. Having heard learned counsel for parties, we find that the issue with regard to refund would appear to be settled in favour of writ petitioner bearing in mind the judgment rendered by us in **Munchener Ruckversicherungs Gesellshaft Aktiengesellschaft in Munchen vs,**

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[1] BPO
[2] AY
[3] Act
[4] PCIT

The Commissioner of Income Tax International Taxation 2 & Anr.[5] and where we had observed as follows:-

> "14. That only leaves us to examine the correctness of the view expressed by the Commissioner when it held that the petitioner was liable to revise its return before being considered eligible to refund of the tax which had been deducted at source. The view as taken in this respect is equally untenable when tested on the anvil of Section 155(14) of the Act. That provision reads as under:-
>
> > "**155. Other amendments**
> >
> > xxxx xxxx xxxx
> >
> > (14) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (1) of section 143 for any previous year, [credit for tax deducted or collected in accordance with the provisions of section 199 or, as the case may be, section 206C] has not been given on the ground that the certificate furnished under section 203 [or section 206C] was not filed with the return and subsequently such certificate is produced before the Assessing Officer within two years from the end of the assessment year in which such income is assessable, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto:
> >
> > Provided that nothing contained in this sub-section shall apply unless the income from which the tax has been deducted [or income on which the tax has been collected] has been disclosed in the return of income filed by the assessee for the relevant assessment year."
>
> 15. As is manifest from the above, the statute prescribes that where credit for tax has not been given on the ground of either a certificate having not been furnished or filed, but which is subsequently presented before the AO, the same would be sufficient for the assessment order being amended. Section 155(14) thus places the AO under a statutory obligation to amend the order of assessment once it is established that the contingencies alluded to in that provision are duly established. Sub-section (14) neither contemplates nor mandates the original return being amended or revised. That provision essentially takes care of contingencies where TDS is either subsequently credited or comes to be reflected in Form 26AS after a time lag. An assessee may face such a spectre on account of a variety of unforeseeable reasons.

[5] 2024:DHC:7052-DB

> 16. However, that in itself can neither be viewed as fatal nor an irreversible event which would detract from the right of the assessee to claim benefit of tax which has been duly deducted. The statute itself adopts measures to cater to such an eventuality by incorporating remedial measures in Section 155(14) of the Act. The essence of Section 155(14) is that once that amount comes to be reflected in Form 26AS and the updated form comes to be submitted before the AO for its consideration, that authority is obliged to acknowledge the same and amend the assessment accordingly."

7. We, accordingly, dispose of this writ petition with liberty reserved to the writ petitioner to approach the **Assessing Officer**[6] by moving an appropriate application referable to Section 155(14) of the Act. Subject to due verification of all facts, the AO shall proceed further and dispose of the claim as raised by the writ petitioner.

8. The aforesaid exercise shall be undertaken notwithstanding the rejection of the application under Section 119(2)(b) of the Act and which stands impugned in the instant writ petition. All other rights and contentions of respective parties are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 12, 2024/*ns*

[6] AO