**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-7797-1996 (O&M)
Reserved on : 14.10.2025
Pronounced on : 04.11.2025

GURU AMARJIT SINGH

....Petitioner

V/s

D.C.W.T. AND ANOTHER

....Respondents

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Rohit Sud, Advocate and
Mr. Samessh Bassi, Advocate
for the petitioner.

Mr. Ranvijay Singh, Advocate
for the respondent-Income Tax Department.

*****

HARPREET KAUR JEEWAN, J.

1. This writ is directed against the inaction on the part of the Revenue-Respondent for issuance of refund arising to the Assessee-Petitioner; and also to pay interest as per the provisions of Section 34 of the Wealth Tax Act, 1957 (for short "*the Act*") on account of delay in issuance of the refund.

2. The facts in brief are as under:-

Guru Amarjit Singh is the assessee. He was holder of an impartible estate. The estate was being assessed in the hands of Hindu Undivided Family (for short "HUF"). However, after the filing of the Wealth Tax Return for the Assessment Year (for short "AY"), 1970-71, the Wealth Tax Officer (for short, 'WTO') took the view that value of the estate has to be assessed as individual property and not as HUF property.

Whereas, the stand of the assessee had been that the said Estate would be assessable in the hands of the HUF.

2.1 The W.T.O. passed the assessment order dated 17.10.1984 and value of the estate was included in the wealth of the assessee.

2.2 The Commissioner of Wealth Tax (Appeals) (for short, 'CWTA') as well as the Income Tax Appellate Tribunal (for short, 'ITAT') upheld the stand of the Revenue and held that the property has to be assessed in the hands of individuals.

2.3 Upon filing a petition by the assessee, ITAT made a reference to this Court under Section 27(1) of the Act (in the matters arising out of assessment years 1970-71, 1972-73, 1973-74, 1975-76) and the question of law was decided in favour of the assessee and against the Revenue vide order dated 05.10.2001 (Annexure P-4). As such, the estate was subjected to tax in the hands of Joint Hindu Property (HUF).

3. It is the case of the assessee that the WTO passed an order under Section 24 of the Act on 16.02.1982 and allowed the refund of Wealth Tax, paid in the hands of HUF. It is also the case of the assessee that the petitioner was also entitled to interest and his claim *qua* grant of interest was allowed by the CWTA vide order dated 03.11.1983. The amount of refund on account of interest was determined as Rs.12,67,264/- on 18.12.1983. The refund was withheld by the Revenue and ultimately the assessee received the refund voucher dated 22.07.1992 only for part of the amount i.e. for Rs.5,19,656/- against the total refund calculated at Rs.12,67,264/- vide order dated 18.12.1983 in ITNS.30. After communications with the Revenue, the refund was not paid, as such present petition was filed by the assessee.

4. In the written statement, the Revenue has admitted that a refund of Rs.15,33,614/- was determined for the AY 1970-71 to 1978-79 on 16.02.1982 which was issued in the name of the Assessee. However, it is alleged that the said amount was to be adjusted against the demand raised against the petitioner for payment of wealth tax in his individual capacity. It is also admitted that CWTA allowed the interest under Section 34A (3A) of the Act, but it is alleged that no tax or penalty has ever been paid by the petitioner as such, said interest was not payable.

4.1 Vide order dated 22.01.1997 in this petition, the revenue was directed to produce the record regarding the refund which was calculated and which was actually received by the assessee. The said order is reproduced hereunder:-

> "*After hearing the learned counsel for the parties at length, we feel it essential and direct the respondents to produce the record containing ITNS No. 150 in respect of calculations of the amounts of Rs.12,67,264/- and Rs.5,19,656/- in Court on the next date of hearing.*
>
> *Adjourned to 18-2-1997."*

4.2 The actual calculations and the relevant orders were also sought to be produced from the parties vide order dated 22.04.1997 in the present petition, which is reproduced hereunder:-

> "*Counsel for the parties are directed to place on record a copy of the <u>order passed by the Commissioner of Wealth Tax dated 3.11.1983 granting interest on the refund</u> to the assessee and the order passed by the Tribunal dated 17.10.1984 dismissing the appeal against the order of the Commissioner of Wealth Tax dated 3.11.1983. Counsel for the parties are further directed to place on record a <u>chart showing the date of deposit of the tax, its refund/adjustment and the rate of interest payable at the relevant time under the statute for the delayed refund of the amount Assessee and the of tax deposited by the assessee. Assessee and the revenue shall also be at liberty to calculate the total amount, after calculation of interest on the amount of tax</u>.*
>
> *Adjourned to 28.7.1997.*
>
> *A copy of this order be given dasti to the cousel for the parties after due attestation under the signatures of Reader to this Court."*

4.3 Thereafter, the Revenue has filed additional reply *(sic. rejoinder)* dated July, 1997 through Deputy Commissioner of Income Tax, Special Range, Jalandhar. The petitioners also filed the calculation sheet on 09.07.1997. Thereafter, comments were filed on behalf of the Revenue on the calculation sheet submitted by the petitioner.

4.4 Additional reply by way of affidavit dated 02.12.2024 of Purshottam Jolly, Assistant Commissioner of Income Tax, Circle-4, Jalandhar, was filed, whereby this fact has been admitted that on 16.10.1982 the assessing officer gave effect to the orders of the CWTA as well as the ITAT in the case of HUF and determined a refund as the taxes were initially paid in the hands of the HUF. However, it is alleged that no refund is due to the assessee. Alternatively, the quantification of the refund has been submitted in para No.11 of the reply. It is admitted that the Reference by this Court was decided in favour of the assessee holding that the liability to pay the tax is in the hands of the HUF. It is also admitted that the issue of grant of interest was held against the Revenue by the Hon'ble Apex Court vide order dated 05.11.1990 in SLP (C) 12867-12875 of 1985. It is further alleged that through various communications, the assessee was requested to file certain documents as regards the refund in question, which is not in the knowledge of the department, but no satisfactory reply has been filed. It is the stand of the Revenue that the refund of Rs.15,33,614/- determined for the year 1970-71 to 1978-79 on 16.02.1982 issued in the name of the assessee is to be adjusted against the demand raised against the petitioner in his individual capacity wherein the assessments were made on substantive basis.

It is also the stand of the Revenue that no such tax or penalty has ever been paid by the petitioner in pursuance to any order of assessment or penalty.

5. We have heard learned counsel for the parties and perused the paper-book.

6. The following question is material for decision in the present matter:-

As to whether the assessee has made the double payment of taxes i.e. both on the basis of assessment as HUF as well as in the capacity as an individual qua the said estate?

7. The assessee is required to furnish the records to show such payments. On the other hand the Revenue is supposed to be having the records to determine the calculations required to be produced as per the aforesaid order dated 22.04.1997 reproduced above.

7.1 In compliance of the interim order dated 22.04.1997 aforesaid, both the parties have though furnished the charts, however, till today no order has been passed on the various representations given by the assessee. The exercise to determine the tax liability, excess tax paid, if any, the issue of refund, if any, and quantification of the interest, if any, is to be determined on the basis of the said calculations furnished by both the parties.

8. In view of the aforesaid facts and circumstances, the present petition is disposed of with a direction to the Commissioner of Wealth Tax, Jalandhar to pass an appropriate order by treating this petition as representation of the assessee and determine the question of refund to the assessee, if any due. The representatives of the assessee and the Revenue shall be given an opportunity of hearing. Such exercise be concluded within a period of 03 months from the date of receipt of copy of this order.

9. It is made clear that there are no observations on merits of the claim of the assessee.

(JAGMOHAN BANSAL)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

04.11.2025
Shruti/atul

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No