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

\+ W.P.(C) 1444/2025 CM APPL. 7025/2025

SHANO EXPORTS PVT. LTD. .....Petitioner

Through: Mr. Naresh Kumar, Advocate.

versus

INCOME TAX OFFICER WARD 23 (1) DELHI .....Respondent

Through: Mr. Sunil Agarwal, SSC, Mr. Viplav Acharya, Ms. Priya Sarkar, JSCs and Mr. Anugrah Dwivedi and Mr. Utkarsh Tiwari, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **11.12.2025**

1. This petition has been filed with the following prayers:-

> *"i To Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and direction quashing the impugned initial notice U/s 143 (1) for AY 2020-2021 dt.25.06.2021 which is illegal unlawful, mechanical and defective under the act.*
> *ii To Issue of a writ of certiorari, mandamus ,prohibition or any other writ and/or order and direction quashing the impugned U/s 154 for AY 2018-2019 dt. 28.03.2022 which is illegal unlawful, mechanical and defective under the act.*
> *iii To Issue of a writ of certiorari, mandamus, prohibition or any other writ and/or order and direction quashing the impugned initial notice U/s 245 for AY 2024-2025 dt. 14.10.2024 which is illegal unlawful, mechanical and defective under the act."*

2. The case of the petitioner is that the petitioner filed its return for the Assessment Year 2018-2019 along with computation of total income claiming the credit of TDS of Rs.33,03,530/-

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3. The petitioner received notice of defective return under Section 139(9) of the Income Tax Act, 1961 (the Act). The return was processed on 23.10.2019 by the Central Processing Center(CPC) of the Income Tax Department but TDS credit of Rs.33,00,000/- was not given by the CPC of the Income Tax Department.

4. Aggrieved with the final assessment order passed under Section 143(1), as refund of Rs.33,03,530/- was not given, the petitioner has on 28.11.2019 filed rectification application. Yet again neither the refund was given nor rectification carried out. The return was again processed on 17.12.2019.

5. According to the counsel, the petitioner had on 16.03.2020 filed the return for the Assessment Year 2020-2021. Since the construction of the property was completed in the Assessment Year 2020-2021, short term capital gain of Rs.3,21,65,850/- was declared by the petitioner and the tax of Rs.80,93,687/- was computed by the petitioner after taking the credit of Rs.33,00,000/-, which was deducted during the Assessment Year 2018-2019 but no refund was given by the respondent/department in that AY also.

6. He states that instead of giving credit of TDS of the year 2018-2019, a demand of Rs 39,77,490/- was created by the respondent as on 25.06.2021. The said amount increased to 42,16,134/- on 29.11.2021. According to him, a revised demand of Rs.39,83,800/- was generated by the respondent.

7. The submission of learned counsel for the petitioner is that the petitioner had also made a rectification request before the Assessing Officer to allow Rs.33,00,000/- TDS credit for the assessment year 2020-21 and to reverse the interest charged. On identical grounds, further communications dated 27.11.2024, 06.12.2024, 07.12.2024 and 15.01.2024 were made by the

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petitioners, but of no consequence. It is under these circumstances that the present petition has been filed.

8. The respondents represented through Mr. Sunil Agarwal, learned Senior Standing Counsel has not filed counter affidavit. Mr. Agarwal on the basis of the written instructions received by him would submit that the assessee company has raised the grievance of non-credit of TDS amount of Rs.33,00,000/- as claimed in the assessment years 2018-2019 and 2020-2021.

9. Suffice to state that the assessee filed ITR for AY 2018-19 declaring nil income and paid tax on book profit of Rs.20,025/-. The petitioner claimed credit on TDS amounting to Rs.33,07,500/-. He also states that the benefit of TDS was not given in the year 2020-2021. He states as per the instructions of the Assessing Officer, certain documents are required from the petitioner to enable the Assessing Officer examine the issue. At the same time, it is his submission that in terms of Section 199 of the Act read with Rule 37BA, the petitioner is entitled to get the benefit of TDS of Rs.33,00,000/- in the year in which the income has been offered to tax.

10. Having noted the submission made by Mr. Aggarwal, the demand as raised by the respondents stand quashed. We direct that the Assessing Officer shall take the consequential action as per law, within eight weeks.

11. The petition is disposed of.

V. KAMESWAR RAO, J

VINOD KUMAR, J

DECEMBER 11, 2025/*cd*

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