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

\+ W.P.(C) 2471/2025 & CM APPL. 11657/2025

ARCHANA AGARWAL .....Petitioner

Through: Mr. Nikhil Goyal and Mr. Bankim Garg, Advocates.

versus

INCOME TAX OFFICER WARD 67 1 DELHI & ANR. .....Respondents

Through: Mr. Sunil Aggarwal, Senior Advocate with Mr. Shivansh Pandya, Ms. Priya Sarkar, Mr. Viplav Acharya, JSCs and Mr. Utkarsh Tiwari, Advocate.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **27.02.2025**

CM APPL. 11658/2025

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 2471/2025 & CM APPL. 11657/2025

3. The petitioner has filed the present petition, *inter alia*, praying as under:

> *"(i) Issuance a writ in the nature of Certiorari for quashing of letter dated 09.12.2021 (Annexure P-13) and letter dated 14.12.2021 (Annexure P-14) being illegal and contrary to the provisions of the Act;*
>
> *(ii) Issue a writ in the nature of Certiorari for quashing, demand reference 20122011100010943176T in AY 2011-12 and demand reference 20132012370125993334T in AY 2012-13 (Annexure P-12), created by the Respondents being illegal and contrary to the provisions of the Act;*

(iii) Issue a writ in the nature of Certiorari quashing the following adjustments of refunds due to the Petitioner against the demand for Assessment Year 2011-12, being illegal, and bad in law and directing the refund of the adjustments with applicable interest under the Act: a) Adjustment of refund of Rs 24,470/- for Assessment Year 2018-19 on 12.10.2018 as reflected in Form 26AS for AY 2011-12 (Annexure P-6); b) Adjustment of refund of Rs 1,200/- for Assessment Year 2021-22 communicated vide intimation dated 09.12.2021 (Annexure P-9); c) Adjustment of refund of Rs 80,620/- for Assessment Year 2024-25 on 28.10.2024, as reflected in Form 26AS for AY 2011-12 (Annexure P-6);

(iv) Issue a writ in the nature of Mandamus directing the Respondents to extinguish the demand created against the Petitioner for AYs 2011-12 and AY 2012-13 in terms of section 205 of the Act;

(v) Issue a writ in the nature of Mandamus restraining the Respondents adjusting any· refund due to the petitioner against any demand reflected for the AYs 2011-12 and 2012-13;

(vi) Issue of any other appropriate writ or direction which this (vii) Hon'ble Court may deem fit and proper in the circumstances of the case."

4. It is the petitioner's case that demands in respect of AY 2011-12 and AY 2012-13 are reflected as due from the petitioner on account of defaults committed by its employer (Kingfisher Airlines Limited). The petitioner submits that although the tax was deducted by the employer, it had failed and neglected in depositing the same at the material time.

5. The learned counsel appearing for the Revenue fairly submits that the prayers made by the petitioner be allowed as the issue involved in the present petition is covered by the earlier decision of this Court in ***Sanjay Sudan v. The Assistant Commissioner of Income Tax & Another*** reported in ***[2023] 148 taxmann.com 329 (Delhi)***; ***Neutral Citation: 2023: DHC:1342***.

6. Thus, for the foregoing reasons, we also hold that the demands for AY 2011-12 and AY 2012-13 raised as per notice dated 14.12.2021 and

09.12.2021 respectively are quashed. Respondents/Revenue are not entitled in law to adjust the demand raised for AY 2011-12 and AY 2012-13 against any other AY. It is ordered accordingly.

7. In view of the above, the present petition is allowed and the Revenue is restrained from adjusting any refund due to the petitioner against any demand reflected for the AYs 2011-12 and 2012-13.

8. The petitioner has adverted to the fact that an amount of Rs.24,470/- for AY 2018-19, Rs.1,200/- for AY 2021-22 and Rs.80,620/- for AY 2024-25 is liable to be refunded because of adjustment of demands.

9. As the amounts of Rs.24,470/- for AY 2018-19, Rs.1,200/- for AY 2021-22 and Rs.80,620/- for AY 2024-25, irrespectively have been adjusted, the said amounts are directed to be refunded to the petitioner.

10. The petition is disposed of in the aforesaid terms.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

FEBRUARY 27, 2025
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