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

\+ W.P.(C) 2472/2025 & CM APPL. 11659/2025

AKSHAY HASIJA .....Petitioner

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

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 70 1 DELHI & ANR. .....Respondents

Through: Mr. Anurag Ojha, SSC with Ms. Hemlata Rawat and Mr. V.K. Saksena, JSCs.

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

<u>O R D E R</u>

% **27.02.2025**

<u>CM APPL. 11660/2025</u>

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

<u>W.P.(C) 2472/2025 & CM APPL. 11659/2025</u>

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

> *"(i) Issuance a writ in the nature of Certiorari for quashing and setting aside the impugned notice dated 16.08.2023 (Annexure P-22) being illegal and contrary to the provisions of the Act;*
>
> *(ii) Issue a writ in the nature of Certiorari for quashing demand reference 2010200910055640400T in AY 2009-10 and 2013201010002417233T in AY 2010-11 (Annexure P-17) created by the Respondents being illegal and contrary to the provisions of the Act and consequentially give effect to the Income Tax Returns of the respective Assessment Years filed by the*

Petitioner in accordance with the law;

(iii) Issue a writ in the nature of Certiorari for quashing following adjustment of refunds due to the Petitioner against the demand of AY 2009-10, being illegal, and bad in law: a) adjustment of refund of AY 2013-14 on 20.04.2014 (Annexure P-5); b) adjustment of refund of AY 2016-17 21.04.2017 (Annexure P-8); c) adjustment of refund of AY 2017-18 on 28.03.2019 (Annexure P-10); d) adjustment of refund of AY 2020-21 communicated to Petitioner vide communication dated 28.01.2021 (Annexure P-12), e) adjustment of refund of AY 2022-23 communicated to Petitioner vide intimation dated 21.08.2021 (Annexure P-14), f) adjustment of refund of AY 2023-24 communicated to Petitioner vide intimation dated 24.09.2023 (Annexure P-16) against the demand of AY 2009-10;

(iv) Issue a writ in the nature of Mandamus to direct Respondents to issue refund of Rs. 2,320/- arising out of AY 2013-14, refund of Rs. 30/- arising out of AY 2016-17, refund of Rs. 65,860/- arising out of AY 2017-18, refund of Rs. 39,370/- arising out of AY 2020-21, refund of Rs. 18,100/- arising out of AY 2022-23 and refund of Rs. 430/- arising out of AY 2023-24 along with applicable interest;

(v) Issue a writ in the nature of Mandamus to restrain the Respondents from adjusting any refund due to the Petitioner against any demand reflected for the AY's 2009-10 and AY 2010-11;

(vi) Issue of any other appropriate writ or direction which this 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 2009-10 and AY 2010-11 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 2009-10 raised as per notice dated 16.08.2023 are quashed. Respondents/Revenue are not entitled in law to adjust the demand raised for AY 2009-10 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 AY 2009-10 and AY 2010-11.

8. The petitioner has adverted to the fact that an amount of Rs.2,320/- for AY 2013-14, Rs.30/- for AY 2016-17, Rs.65,860/- for AY 2017-18, Rs.39,370/- for AY 2020-21, Rs.18,100/- for AY 2022-23 and Rs.430/- for AY 2023-24 is liable to be refunded because of adjustment of demands.

9. As the amounts for Rs.2,320/- for AY 2013-14, Rs.30/- for AY 2016-17, Rs.65,860/- for AY 2017-18, Rs.39,370/- for AY 2020-21, Rs.18,100/- for AY 2022-23 and Rs.430/- for AY 2023-24, 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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