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

\+ W.P.(C) 2487/2025 & CM APPL. 11767/2025

NIKHIL MAHAJAN .....Petitioner

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

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh and Mr. Yojit Pareek, JSCs for Income Tax Department.

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

O R D E R

% 27.02.2025

CM APPL. 11768/2025

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

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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 a letter dated 08.02.2022 (Annexure P-23) being illegal and contrary to the provisions of the Act;*
>
> *(ii) Issue a writ in the nature of Certiorari for quashing demand reference 2010200910001648274T in AY 2009-10, demand reference 2012201010009308090T in AY 2010-11, and demand reference 2011201110070104466T in AY 2011-12 (Annexure P-20), 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 2009-10, 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 42,980/- for Assessment Year 2018-19 on 20.10.2018 as reflected in Form 26AS for AY 2009-10 (Annexure P-6); b) Adjustment of refund of Rs 43,160/- for Assessment Year 2019-20 communicated vide intimation dated 19.09.2019 (Annexure P-9); c) Adjustment of refund of Rs 54,480/- for Assessment Year 2020-21 communicated vide intimation dated 29.01.2021 (Annexure P-12); d) Adjustment of refund of Rs 34,250/- for Assessment Year 2021-22 on 09.11.2021 as reflected in Form 26AS for AY 2009-10 (Annexure P-6); e) Adjustment of refund of Rs 16,180/- for Assessment Year 2022-23 on 29.09.2022 as reflected in Form 26AS for AY 2009-10 (Annexure P-6); f) Adjustment of refund of Rs 8,320/- for Assessment Year 2023-24 communicated vide intimation dated 03.11.2023 (Annexure P-19);

(iv) Issue a writ in the nature of Mandamus directing the Respondents to extinguish the demand created against the Petitioner for AY 2009-10, AY 2010-11 and AY 2011-12 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 2009-10, 2010- 11, and 2011-12;

(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 AYs 2009-10, 2010-11, and 2011-12 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 AYs 2009-10, 2010-11, and 2011-12 raised as per notice dated 08.02.2022 are quashed. Respondents/Revenue are not entitled in law to adjust the demand raised for AYs 2009-10, 2010-11, and 2011-12 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 2009-10, 2010-11, and 2011-12.

8. The petitioner has adverted to the fact that an amount of Rs.42,980/- for AY 2018-19, Rs.43,160/- for AY 2019-20, Rs.54,480/- for AY 2020-21, Rs.34,250/- for AY 2021-22, Rs.16,180/- for AY 2022-23, Rs.8,320/- for AY 2023-24 is liable to be refunded because of adjustment of demands.

9. As the amounts of Rs.42,980/- for AY 2018-19, Rs.43,160/- for AY 2019-20, Rs.54,480/- for AY 2020-21, Rs.34,250/- for AY 2021-22, Rs.16,180/- for AY 2022-23, Rs.8,320/- 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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