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

+ **W.P.(C) 2490/2025 & CM APPL. 11773/2025**

RAJ KUMAR

.....Petitioner

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

versus

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

.....Respondents

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

27.02.2025

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CM APPL. 11774/2025

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 2490/2025 & CM APPL. 11773/2025

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

“(i) Issuance a writ in the nature of Certiorari for quashing and setting aside the impugned notice dated 21.01.2022 (Annexure P-21) and the impugned demand of Rs. 35,77,640/- being illegal and contrary to the provisions of the Act;

(ii) Issue a writ in the nature of Certiorari for quashing demand reference 2015201237053943551T in AY 2009-10 and 2010200910040149184T in AY 2012-13 (Annexure P-11) 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, being illegal, and bad in law: a) adjustment of refund of AY 2021-22 against the demand of AY 2009-10 informed to the Petitioner vide intimation dated 29.10.2021 (Annexure P-15), b) adjustment of refund of AY 2022-23 against the demand of AY 2012-13 informed to the Petitioner vide intimation dated 22.07.2022 (Annexure P-23);

(iv) Issue a writ in the nature of Mandamus to direct Respondents to issue refund of Rs. 60,660/- arising out of AY 2021-22 and Rs. 1,28,190/- arising out of AY 2022-23 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 2012-13;

(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;

(vii) Award the costs of the present writ petition to the Petitioner."

4. It is the petitioner's case that demands in respect of AY's 2009-10 and 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's 2009-10 and 2012-13 raised as per notice dated 21.01.2022 are quashed. Respondents/Revenue are not entitled in law to adjust the demand



raised for AY's 2009-10 and 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 AY's 2009-10 and 2012-13.

8. The petitioner has adverted to the fact that an amount of Rs. 60,660/- for AY 2021-22 and Rs. 1,28,190/- for AY 2022-23 is liable to be refunded because of adjustment of demands.

9. As the amounts of Rs.60,660/- for AY 2021-22 and Rs.1,28,190/- for AY 2022-23 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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