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

\+ W.P.(C) 3673/2023

PRG CONSULTANTS PVT LTD .....Petitioner

Through: Ms. Rano Jain, Mr. Venketesh Chaurasia & Ms. Sakshi Rustagi, Advs.

versus

ACIT, CEN CIR 13, DELHI AND ANR. .....Respondents

Through: Mr. Vikramaditya Singh, Ms. Zehra Khan, JSCs, Mr. Sajal Singhavi, Ms. Yashika Gupta & Ms. Anauntta Shankar, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **10.03.2025**

1. The instant writ petition has been preferred seeking the following reliefs:

> "a. a writ in the nature of certiorari/ mandamus or any other appropriate writ, order or direction to the Respondent to refund the amount paid by the Petitioner over and above what he was liable to pay as per the return of income filed by him for A.Y. 2009-10, A.Y. 2010-11 and A.Y. 2011-12.
>
> b. a writ in the nature of mandamus, or any other appropriate writ, order or direction, directing to pay appropriate interest for the period between amount paid and amount refunded.
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> c. Cost of present proceedings may also be awarded in favour of the Petitioner and against the Respondents.
>
> d. Pass any other or further order(s) as this Hon'ble Court may deem fit and proper on the facts and the circumstances of the case."

2. From the disclosure of facts which is made, we find that the

petitioner had furnished its Return of Income for **Assessment Years**[1] 2009-10, 2010-11 and 2011-12. The proceedings against it, however, commenced pursuant to a search and seizure operation which was undertaken on 25 May 2012. This led to the respondents issuing notice under Section 153A of the **Income Tax Act, 1961**[2] on 19 September 2013.

3. During the pendency of those assessment proceedings the petitioner appears to have moved the **Income Tax Settlement Commission**[3] seeking settlement of all disputes and had also disclosed additional income of INR 60 lacs for all three years. As a condition precedent to that application being entertained, the petitioner is also stated to have deposited INR 26,37,158/-.

4. However, on 04 August 2016 the ITSC passed an order referable to Section 245C(1) read along with Section 245D(4) holding that the application had failed to meet the test of a full and true disclosure. Consequent to the application for settlement coming to be dismissed, the assessment proceedings are stated to have been commenced afresh by the respondents by issuing a notice on 06 April 2017.

5. The petitioner also appears to have approached this Court on an earlier occasion by filing W.P.(C) No. 6060/2017 challenging not only the order of the ITSC but also assailing the assessment itself on the ground of the same being barred by limitation. That writ petition, however, came to be dismissed on 19 August 2019 and in terms of which the Court not only upheld the order of the ITSC, it also negated the challenge raised based on a perceived prescription of limitation

[1] AYs
[2] Act

which was asserted to apply.

6. It is, however, the case presently that despite all obstacles to completion of assessment having been removed, no order has been framed by the respondents till date. Undisputedly, they do not possess as of today any authority or jurisdiction to frame an order of assessment pertaining to AYs 2009-10, 2010-11 and 2011-12. This position, concededly, remains unimpacted by the pendency of proceedings before the ITSC as well as this Court.

7. In view of the aforesaid, and the indisputable position of no assessment order having been framed, we find no justification for the respondents continuing to retain the amount which had been deposited by the writ petitioner during and at the time of submission of its application for the consideration of the ITSC.

8. We take note of an identical question and the challenge which stood raised by a director of the petitioner company and which formed the subject matter of **Rohit Kumar Gupta vs Asstt. Commissioner of Income Tax Central Circie-13, Delhi & Anr.**[4]. That writ petition too had come to be disposed of in the following terms:

> "1. We take note of the principal challenge and grievance which lead to the writ petitioner approaching this Court and which stands duly encapsulated in our order of 22 March 2023. We had on that occasion taken note of the contention of the petitioner that no assessment orders had been ultimately framed for Assessment Years ["**AYs**"] 2009-10, 2010-11 and 2011-12. We also took note of the submission of the petitioner that those AYs' would now be immune from any further assessment, consequent to the period of limitation having come to an end.
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> 2. Mr. Kumar, learned counsel, on instructions states that undisputedly no final assessment orders could be passed within the period prescribed under the Income Tax Act, 1961.
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> 3. In view of the aforesaid, we dispose of this writ petition by

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[3] ITSC

[4] WP(C) 3621/2023 decided on 14 May 2024

observing that the issue of refunds that may be payable and liable to be released in favour of the writ petitioner shall be duly examined and released with due expedition. The aspect of refund shall be examined alongside any statutory interest that may be payable."

9. Accordingly, and for all the aforesaid reasons, we allow the present writ petition and direct the respondents to refund the amount presently held in deposit and which is pegged at INR 26,37,158/- along with statutory interest wherever applicable.

10. The writ petition shall stand disposed of in the aforesaid terms.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

MARCH 10, 2025/kk