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

\+ W.P.(C) 6941/2025 & CM APPL. 31427/2025

HATENDER KUMAR .....Petitioner

Through: Mr. Dev Raj Sharma, Mr. Sathak Asthana, Mr. Ashoke Chakrabartty, Advocates.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX & ANR. .....Respondents

Through: Mr. Siddhartha Sinha, SSC.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **21.05.2025**

1. Issue notice. The learned counsel for the Revenue accepts notice.

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

> "(A) Issue a writ of mandamus or any other appropriate writ, order, or direction directing the Respondents to give effect to the order dated 24.05.2012 of the CIT(A) (Copy of the appellate order dated 24.05.2012 is not traceable in the records of the Income Tax Department and Income Tax Appellate Tribunal, Copy of the RTI application dated 31.10.2023 and the order u/s 7(1) of RTI Act dated 25.04.2024 is annexed), which was confirmed by the ITAT vide order dated 13.08.2013, and to refund the amount illegally recovered pursuant to the impugned assessment order dated 29.12.2011;
> (b) Direct the Respondents to refund the amount of approximately Rs. 8,70,123/- (being the amount recovered by adjustment of refunds for A.Ys. 2012–13 to 2024–25 and otherwise), along with statutory interest under Section 244A of the Income Tax Act;
> (C) Restrain the Respondents from adjusting any future refund of the Petitioner against the demand for assessment year 2009–10 which stands modified/deleted;"

3. The petitioner claims that his assessment for Assessment Year [**AY**] 2009-10 was completed in terms of the assessment order passed under Section 143(3) of the Act whereby certain additions were made. Consequent to the said additions, a demand of ₹8,02,950/- was raised as against a refund claimed by the petitioner. The petitioner appealed the said assessment order dated 29.12.2011 before the Commissioner of Income Tax (Appeals)-XXIV [**CIT(A)**]. The said appeal was allowed in terms of the order dated 24.05.2012 and the addition of ₹19,96,985/-, as made by the assessee, was deleted. Consequently, the refund claimed by the petitioner became due and payable.

4. The Revenue filed an appeal against the order dated 24.05.2012 passed by CIT(A) before the Income Tax Appellate Tribunal [**ITAT**] being ITA No. 4124/Del/2012. However, the said appeal was dismissed by the order dated 23.08.2013. The petitioner claims that notwithstanding that the Revenue did not prevail before the ITAT, it has not refunded the amount due to the petitioner. The petitioner claims that he has been raising his grievances on the Income Tax Portal but his issues have not been satisfactorily resolved. It is also contended by the petitioner that perhaps the copy of the order passed by the CIT(A) is not traceable with the department.

5. The learned counsel for the Revenue does not dispute that if the petitioner has succeeded before the CIT(A) and any refund is due as a consequence thereof, the same is required to be processed. He, however, states that he does not have any instructions as yet whether the appeal effect order has been passed.

6. In view of the above, we consider it apposite to allow the present petition and direct the respondent to pass an appeal effect order, if not

already filed, and process the refund due to the petitioner, if any, alongwith interest, in accordance with law. However, if the appeal effect order has already been passed, the concerned authority shall ensure that the same is duly implemented and the refund, if any, due to the petitioner is processed alongwith interest till the date of disbursal in accordance with law.

7. The petition is disposed of in the aforesaid terms. The pending application also stands disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 21, 2025/sms

Click here to check corrigendum, if any