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

% *Date of Decision: 08.09.2025*

\+ **<u>W.P.(C) 12387/2025 & CM APPL. 50483/2025</u>**

ASHISH CHOPRA .....Petitioner

Through: Mr. Nikhil Goyal, Adv.

versus

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

Through: Mr. Sunil Agarwal, SSC, Mr. Viplav Acharya, JSC, Ms. Priya Sarkar, JSC, Mr. Utkarsh Tiwari and Mr. A. Dwivedi, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO, J. (*ORAL*)

1. This petition has been filed with the following prayers:

> *"(i) Issuance of a writ in the nature of Certiorari for quashing of a Notice under Section 221(1) dated 31.01.2020 (Annexure P-21), being illegal and contrary to the provisions of the Act;*
> *(ii) Issue a writ in the nature of Certiorari for quashing demand reference 2010200910051729220T in AY 2009-10, demand reference 2011201010044742040T in AY 2010-11, and demand reference 2012201110016226570T*

in AY 2011-12 (Annexure P-17), 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 32,120/- for Assessment Year 2013-14 on 02.04.2016 as reflected in Form 26AS for AY 2009-10 (Annexure P-8); b) Adjustment of refund of Rs 49,630/- for Assessment Year 2017-18 on 04.05.2019 as communicated vide intimation dated 19.01.2019 (Annexure P-11); c) Adjustment of refund of Rs 12,850/- for Assessment Year 2019-20 on 11.10.2019 as communicated vide intimation dated 29.10.2019 (Annexure P-14); d) Adjustment of refund of Rs 1,17,860/- for Assessment Year 2024-25 on 30.10.2024 as reflected in Form 26AS for AY 2009-10 (Annexure P-8);

(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 A Y s 2009-10, 2010- 11, and 2011-12…"

2. Today, Mr. Sunil Agarwal, learned SSC for the respondent has placed before us an E-mail dated 03.09.2025 received by him from the ACIT, Circle-70(1), Delhi which reads as under:

> *"... In this regard, it is stated that demands for AYs 2009-10, 2020-11 and 2011-12 stayed in ITBA-Recovery. Now no refund will be adjusted against demands for AYs 2009-10, 2020-11 and 2011-12. Further, refund adjusted against the demands for AYs 2009-10, 2010-11 & 2011-12, will be issued to the assessee."*

3. A copy thereof has been given to the counsel for the petitioner who stated that though the same satisfies the petitioner, his prayer is also that the demand shown on the portal be removed. He refers to the judgment in the case of ***Raj Kumar v. Assistant Commissioner of Income Tax Circle 70 1 Delhi & Anr.*** **W.P.(C) 2490/2025**, wherein this Court has in paragraphs no. 4 to 6 has stated as under:

> *"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."*

4. Mr. Aggarwal states that the follow-up action in terms of aforesaid communication shall be taken within six weeks as an outer limit.

5. It is made clear that as the amount is not recoverable from the Assessee, the same shall be not depicted on the portal and shall be be removed forthwith.

6. The petition is disposed of.

7. The pending application has become infructuous. It is dismissed as such.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 8, 2025
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