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

+ **W.P.(C) 13171/2024**

CASIO INDIA COMPANY PRIVATE LTDPetitioner

Through: Mr. Kamal Sawhney with Mr. Nikhil
Agarwal, Mr. Puru Medhira and Mr.
Nishank Vashistha, Advocates.

versus

THE ASSISTANT COMMISSIONER OF INCOME-TAX

4 2 & ANR.

...Respondents

Through: Mr. Sanjay Kumar, SSC with Ms. Monica
Benjamin, Advocate.

Date of decision: 21st February, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGEMENT

TUSHAR RAO GEDELA, J : (ORAL)

1. Present writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents to delete the outstanding demand for Assessment Year (AY) 2006-07 being reflected on the Income Tax portal of the petitioner; and to accept the returned position on the corporate tax issues for which no appeal effect order has been placed pursuant to the order of the Income Tax Appellate Tribunal (ITAT), and release consequential refunds alongwith statutory interest.

2. It is stated that the petitioner's case was selected for scrutiny and an assessment order dated 28.09.2010 was passed by the Assessing Officer



(hereafter the 'AO') under Section 143(3) of the Income Tax Act, 1961 (hereafter the 'Act') determining the total taxable income at Rs.2,00,30,820/- after proposing addition of Rs.1,81,58,947/-. Further, a demand of Rs.93,60,719/- was raised on the petitioner. Pursuant to the same, the petitioner *vide* challan dated 30.03.2011 deposited an amount of Rs.15,00,000/- under protest for the additional income as assessed by Income Tax Department for AY 2006-07. It is stated that thereafter, a demand of Rs.78,60,719/- was raised on the portal, and the said demand along with accrued interest of Rs.3,74,428/- is reflecting on the portal of the petitioner till date.

3. It is further stated that the petitioner had challenged the assessment order dated 28.09.2010 before the ITAT wherein *vide* order dated 26.06.2015, the ITAT had set aside the said assessment order with respect to the transfer pricing issue in relation to Advertising, Marketing and Promotion (AMP) and remanded the matter to Transfer Pricing Officer (TPO)/AO for determining the ALP of the international transaction of AMP spend afresh in accordance with the manner laid down in ***Sony Ericsson Mobile Communications India Pvt. Ltd. vs. Deputy Commissioner of Income Tax, (2015) 374 ITR 118 (Del.)*** It is also stated that with respect to the corporate tax issue of deduction under Section 10A of the Act, the ITAT remanded the matter back to AO to determine the expenses attributable to units in Software Technology Parks (STP) and non-STP units, and accordingly, determine the net profit eligible for deduction under Section 10A of the Act. Further, the issue of depreciation on computer peripherals was allowed in favour of the assessee, and the addition was deleted.

4. Mr. Kamal Sawhney, learned counsel for the petitioner states that with respect to the two corporate tax issues, the respondent has failed to pass any appeal effect order till date, and therefore, the proceedings have become time



barred with respect to these two issues. As such, findings of the ITAT should be accepted with respect to the two corporate tax issues. It is submitted that once the ITAT set aside the assessment order, the demand arising from the said order stood extinguished and it was the duty of the AO to delete the outstanding demand from the portal of the petitioner. However, despite a lapse of more than 6 years from the date of the ITAT order setting aside the assessment order, the AO has failed to delete the demand from the portal.

5. Learned counsel for the Revenue fairly states that only the issue with regard to Section 10A of the Act remains pending before the AO and an appeal effect order with regard to other issues settled by the ITAT in its order dated 26.06.2015, may be passed.

6. In view of the submissions of the learned counsel for the parties as also the statement of learned counsel for Revenue, we direct that the order dated 26.06.2015 passed by the ITAT be given appeal effect to and the consequential benefits with statutory interest, if applicable, be released forthwith, in accordance with law.

7. In view of the above directions, the present petition stands disposed of.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 21, 2025/rl