IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 18934 OF 2024

M/s. Trigent Software Pvt Ltd
(formerly known as Trigent Software Ltd),
Bangalore .. Petitioner

Versus

The Dy. Commissioner of Income Tax
Circle 5(3)(1) & Anr .. Respondents

Mr. Chythanya K. K., Senior Advocate (through VC) *with Mr. P. K. Shetty, Paresh Revar, Advocates for the Petitioner.*

Mr. Vikas Khanchandani*, with Mr. Eshaan Swaroop, Advocates for the Respondents/Revenue.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JANUARY 5, 2026

P. C.

1. The above Writ Petition has been filed seeking a direction to the Respondents to refund Rs.84,91,070/- representing the Income Tax refund for Assessment Year 2015-16 wrongly adjusted against Nil demand of Assessment Year 2008-09, and thereafter wrongly adjusted against the demand for the impugned Assessment Year 2010-11, along with interest.

2. It appears that the Assistant Commissioner of Income Tax, CPC, Bangalore issued a Notice under Section 245 dated 7th March 2016 proposing to adjust the refund of Assessment Year 2015-16 of Rs.1,11,31,413/- against the outstanding demands of various years. The Deputy Director of Income Tax, CPC, Bangaluru processed the return of income for A. Y.2015-16 by issuing intimation under Section 143 (1) of the I. T. Act (dated 25th March 2016) seeking to adjust the entire refund of Rs. 1,11,31,413/- (for Assessment Year 2015-16) against a demand of Rs.32,56,79,234/- (for Assessment Year 2008-09). Accordingly, the Income Tax Department issued the income tax refund adjustment advise dated 30th March 2016 intimating the Petitioner that the refund for Assessment Year 2015-16 is adjusted against the outstanding demand for Assessment Year 2008-09.

3. It appears that after the aforesaid adjustment, a Rectification Order under Section 154 was passed on 19th April 2017 for Assessment Year 2008-09 granting a refund of Rs.1,11,31,413/-. This refund was further adjusted against the demand for Assessment Year 2010-11 amounting to Rs.84,91,070/- which had arisen and subsisted pursuant to Assessment Order dated 20th March 2014, and a Demand Notice under Section 156. This order of the Assessing Officer raising a demand for Assessment Year 2010-11 was initially upheld by the CIT(A) vide his order dated 18th March 2016.

Being aggrieved by this order, the Petitioner challenged the same before the ITAT. The ITAT, set aside the order of the CIT(A) and remanded the matter back for a *denovo* consideration. Hence, as on today, the Appeal before the CIT(A) for Assessment Year 2010-11 is still pending.

4. In light of these facts, we are of the view that the entire refund for Assessment Year 2015-16 could not have been adjusted against the demand for the Assessment Year 2010-11. At the highest, 20% of the demand could have been adjusted and the balance would have to be refunded to the Petitioner. We say this because the Appeal from the demand for Assessment Year 2010-11 is still pending before the CIT(A). We, accordingly, direct that 20% of the outstanding demand for Assessment Year 2010-11 shall be retained by the Department from the refund due for Assessment Year 2015-16. The balance amount shall be refunded to the Petitioner together with interest, if any, in accordance with law. The refund shall be processed and paid as per this order within a period of 30 days from the date of uploading of this order on the High Court website. The 20% retained by the Department as per this order will be subject to the outcome of the Appeal pending before the CIT(A).

5. We request the CIT(A) to decide the Appeal pending before him as expeditiously as possible and preferably within a period of three months from the date of the communication of this order to the concerned CIT(A).

6. It is needless to clarify that the balance amount of the demand for Assessment Year 2010-11 shall remain stayed till the disposal of the Appeal pending before the CIT(A).

7. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Aswale