IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 5266 OF 2025

The Hongkong & Sanghai Banking Corporation Limited .. Petitioner

Versus

The Income Tax Officer, TDS OSD Circle – 2(3), Mumbai and Ors. .. Respondents

Adv. Dharan V. Gandhi*, a/w Adv. Aanchal Vyas, for the Petitioner.*

Adv. Y.S. Bhate*, for Respondent Nos. 1 to 4 & 6.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: FEBRUARY 9, 2026

P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable forthwith and heard finally.

2. The present Writ Petition has been filed seeking directions against the Respondents to delete an incorrect outstanding demand of Rs. 1,34,08,390/- in relation to tax deducted at source (for short '**TDS**') for the Financial Year 2007-08 (Assessment Year 2008-09) and to grant a refund of

Rs. 1,48,11,740/- paid by the Petitioner under protest, along with applicable interest.

3. The brief facts are that the Petitioner, a banking company, duly deducted tax at source (TDS) for the Financial Year 2007-08 and deposited the same by tendering cheques to its authorised banker, the State Bank of India (Respondent No. 5), within the statutory due dates. However, the Online Tax Accounting System (for short '**OLTAS**') maintained by the Respondents recorded the date of payment as the date of cheque realisation, which was subsequent to the due date. This mismatch resulted in an incorrect levy of interest for late payment of TDS, leading to the impugned outstanding demand of Rs. 1,34,08,390/-.

4. The record indicates that the Petitioner has made numerous attempts over several years to have this incorrect demand rectified. On 01.10.2015, the Petitioner requested Respondent No. 5 (SBI) to correct the challan deposit dates. In response, on 17.05.2016, SBI confirmed that the cheques were deposited within the due dates but expressed its inability to make corrections in the OLTAS system, while providing a certificate confirming the tender dates.

5. To avoid coercive action, the Petitioner paid a sum of Rs. 1,48,11,740/- under protest on 26.12.2017. Despite this, a recovery notice was issued by Respondent No. 1 on 13.07.2018.

6. The Petitioner thereafter approached various authorities, including raising a ticket on the TRACES portal, filing grievances on the CPGRAMS portal, and sending detailed representations to the Commissioner of Income Tax (CPC-TDS) (Respondent No. 2), the Directorate of Income Tax (Systems) (Respondent No. 4), and the Jurisdictional Assessing Officer (Respondent No. 1).

7. The consistent response from all authorities has been one of administrative helplessness. The CPGRAMS grievance was closed with the remark that the Assessing Officer has no provision to change the date of the challan. The Directorate of Income Tax (Systems), vide its letter dated 18.01.2024, acknowledged that the challan deposit date cannot be corrected but suggested that the Assessing Officer "*explore the possibility of granting credit to the taxpayer through manual TDS credit*". However, Respondent No. 1, in an email dated 26.12.2024, stated that "*no such functionality is available on TRACES portal at the level of AO*". This deadlock has persisted for years, causing immense prejudice to the Petitioner.

8. The learned counsel appearing for the Petitioner argued that despite multiple representations and providing all necessary evidence, including a certificate from the bank, the Respondents have failed to correct the error. He submitted that the Jurisdictional Assessing Officer, CPC-TDS, and the DG (Systems) have all highlighted that the system does not permit such a correction, effectively creating a situation where a legitimate grievance cannot be redressed. He further pointed out that even after the Petitioner paid the disputed amount of Rs. 1,48,11,740/- under protest as far back as December 2017, the demand continues to be reflected as outstanding, and the amount has been illegally withheld by the Department.

9. On the other hand, the learned counsel for the Department reiterated the stand taken by the authorities below. The primary argument is that there is no system in place to amend the challan date once entered in OLTAS, and therefore, the Department is unable to grant the relief sought by the Petitioner.

10. We have heard the learned counsel for the parties and have perused the papers and proceedings in the Writ Petition. The facts of the case are not in dispute and rather display an unfortunate picture. The Petitioner had tendered the cheques for TDS payment within the statutory due date, a fact that is certified by the authorised bank itself. The demand has arisen solely because the Respondents' system has taken the date of realisation of the cheque as the date of payment, contrary to the settled legal position. The Board itself has issued a clarification way back in Circular No. 261 dated 08.08.1979, to the effect that the date of tendering of a cheque is to be considered the date of payment, provided the cheque is subsequently honored. In this case, it is an admitted position that all cheques were duly honored. Thus, when the date of tendering the cheque is considered as the date of payment of TDS, then there is no delay in payment of TDS, and consequently, no liability on account of interest for delayed payment can arise.

11. Thus, the Petitioner's grievances are entirely justified. This, in fact, is not even disputed by the Respondents. Naturally, the demand of Rs. 1,34,08,390/- is patently incorrect and consequently, the Petitioner's entitlement to the refund of Rs. 1,48,11,740/-, which was paid under protest against this incorrect demand, is also justified.

12. We are dismayed to note that this is yet another case where a taxpayer is being denied legitimate relief due to the rigidities of the Department's online system. This Court is regularly encountering petitions where reliefs are withheld merely on the ground of "systemic issues" or "portal limitations". The system is a creation of the Department to facilitate efficient tax administration, not to act as a barrier to the grant of substantive justice. A system's inability to process a valid claim cannot be a justification for perpetuating an illegality and wrongfully withholding a taxpayer's money. It may not be out of place to mention that this case relates to F.Y. 2007-08, and more than 15 years have lapsed without any redressal of the grievance.

13. The Department cannot remain dormant and must find a way to grant relief where it is lawfully due. If the system does not provide for a solution, the Department is duty-bound to devise a manual or alternative method to redress the grievance. The administration cannot be held hostage by its own technology. We direct the Respondents to look into their systems and processes to ensure that such grievances are resolved without forcing taxpayers to approach this Court.

14. In view of the foregoing discussion, we are of the view that the Petition must succeed. We, accordingly, pass the following order:-

a. Respondent No. 1 shall consider the date of tender of cheques to the authorised bank as the date of payment of TDS for the Financial Year 2007-08 (A.Y. 2008-09) and carry out necessary rectification in their records.

b. Respondent No. 1 shall delete the entire outstanding demand of Rs. 1,34,08,390/- for the Financial Year 2007-08 A.Y. 2008-09, which has arisen on account of incorrectly levied interest for late payment of TDS.

c. Respondent No. 1 shall grant a refund of Rs. 1,48,11,740/-, paid by the Petitioner under protest, along with applicable interest under Section 244A of the Act from the date of payment till the date of refund. We clarify that the Petitioner shall be entitled to interest under Section 244A of the Act from the date of payment of such amount, i.e., 26.12.2017, till the date of refund of such amount.

15. The aforesaid exercise shall be completed as expeditiously as possible and in any event within a period of 12 weeks from the date of uploading of this order.

16. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

17. Though we have disposed of the matter, we place it on board **for reporting compliance on 04.05.2026**.

18. 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.]**

Darshan Patil