



2026:DHC:1301-DB



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

% *Date of decision: 13th February, 2026.*

+ W.P.(C) 959/2024 & CM APPL. 3939/2024

+ W.P.(C) 960/2024 & CM APPL. 3941/2024

+ W.P.(C) 961/2024 & CM APPL. 3943/2024

M/S REAL TIME DATA SERVICES PRIVATE LIMITED

.....Petitioner

Through: Mr. Satyalipsu Ray and Mr. Prasana
Kumar Dash, Advs.

versus

**PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI-7 &
ANR.**

.....Respondents

Through: Mr. Puneet Rai, SSC with Mr. Ashvini
Kr & Mr. Rishab Nagia, JSC

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

DINESH MEHTA, J. (ORAL)

1. All the writ petitions involve a common question of law, however with some difference in facts and therefore, they are being decided conjointly. The facts of W.P.(C) 959/2024 pertaining to assessment year 2020-21 are however, taken for consideration.

2. The petitioner failed to file Form No. 67 as required under Rule 128 of



the Income Tax Rules, 1962 (*hereinafter referred to as 'Rules of 1962'*) within the prescribed time limit. It was only on receipt of intimation/order under section 143(1)(a) of the Income Tax Act, 1961 (*hereinafter referred to as 'Act of 1961'*) the assessee realised that the credit of the tax deducted on its foreign receipts has not been given and therefore, it moved an application under Section 154 of the Act of 1961 before the Assessing Officer (*hereinafter referred to as 'AO'*) for rectification. According to the petitioner, the same has not been dealt with/decided by the AO.

3. In the meantime, the petitioner moved an application for revision under Section 264 of the Act of 1961 before the Principal Commissioner of Income Tax (PCIT), Delhi – 7 (*hereinafter referred to as 'Commissioner'*). The Commissioner vide his order dated 13.12.2023, dismissed the same by observing that he did not have the power to condone the delay in uploading of Form No. 67. Though, he did not say so in explicit terms, but the reason which he has given in his order, that as per the Rule 128 of the Rules of 1962, Form No. 67 is required to be furnished by the due date of return under Section 139 of the Act of 1961, suggests said ground.

4. Learned counsel for the petitioner argued that the Commissioner has erred in rejecting the application. He argued that Section 119 of the Act of 1961 confers wide powers on the Commissioner, including the power to condone the delay in filing Form No. 67, while contending that Rule 128 is not mandatory.

5. Mr. Puneet Rai, learned Senior Standing Counsel for the Income Tax Department, on the other hand, submitted that the petitioner has failed to adhere to the mandate of law and since there is no provision granting



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relaxation under Rule 128 of the Rules of 1962, the Commissioner has rightly rejected the application for revision. He further submitted that the power to relax the Rule may be exercised by the Central Board of Direct Taxes or a competent authority under Section 119 of the Act of 1961, that too in a case when such power is invoked.

6. Heard learned counsel for the parties.

7. Admittedly, the petitioner has not furnished Form No. 67 up to the due date of filing return and it realised such fault only when its return was processed and when its Foreign Tax Credit of Rs.1,01,34,300/- being TDS on foreign receipts was not allowed by the AO. On inquiry, it found that the same had been rejected because Form No. 67 was not uploaded within the time prescribed.

8. We are of the view that may be the petitioner omitted or failed to upload Form No. 67 by the due date of return but simply because of this technical or venial breach, its substantial right of getting Foreign Tax Credit of Rs.1,01,34,300/-, deducted from its receipt cannot be denied. If that be so, it would amount to withholding of a substantial amount of an assessee without there being any authority of law which would amount to unjust enrichment in turn.

9. In the case of *Vijay Gupta v. Commissioner of Income Tax and Anr.* reported in **2016 SCC OnLine Del 1961**, wherein it had been held that the Principal Commissioner of Income Tax has enough powers to consider application under Section 264 of the Act of 1961, in the event of default by the assessee. In the instant case also, it is the default of the petitioner and the same could have been, rather should have been condoned by the Commissioner,



while exercising powers under Section 264 of the Act of 1961. If Section 119 of the Act of 1961 confers a power upon the Commissioner, he could have invoked such powers. We could have simply quashed the order and remanded the matter back to the Commissioner for deciding the application under Section 264 of the Act of 1961 afresh, but the same would be an empty formality.

10. Concededly, the petitioner has subsequently furnished Form No. 67 on 14.09.2022. While exercising writ jurisdiction, we hereby direct the AO that in case the same has been furnished, he shall allow Foreign Tax Credit after verifying the facts in accordance with law. However, in case the AO is of the view that the Foreign Tax Credit cannot be allowed to the petitioner, he shall pass a speaking order, against which the petitioner's right to take remedies in accordance with law shall remain reserved.

11. The necessary exercise as directed above shall be done by the AO within a period of 2 (two) months from today.

12. The Writ Petition stands allowed. All the pending application(s) stand disposed of.

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13. The Commissioner has rejected the application for revision under Section 264 of the Act of 1961 vide order dated 13.12.2023 on two counts. The first being that the application for revision was beyond the limitation prescribed under Section 264 of the Act of 1961 and secondly, that it does not have power to condone the delay in uploading of Form No. 67.



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14. The latter question has been decided in the W.P.(C) 959/2024 above.

15. In relation to the delay in moving the application for revision under section 264 of the Act of 1961, learned counsel for the petitioner submitted that on account of the COVID-19 pandemic, limitation period qua all the proceedings got seized and therefore, the Commissioner was not justified in rejecting petitioner's application for revision on the ground of limitation.

16. Be that as it may. Since we have allowed the writ petition for Assessment Year 2020-21 being W.P.(C) 959/2024 on merits, we allow these writ petitions as well, for the self same reasons.

17. The writ petitions stand allowed with identical directions. All pending application(s), if any, stand disposed of.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

FEBRUARY13, 2026

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