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

\+ W.P.(C) 4652/2026

M/S RAMADA HOSPITALITY PVT LTD .....Petitioner
Through: Ms. Kirti Mewaran and Ms. Kriti Sharma, Advs.

versus

UNION OF INDIA AND ORS .....Respondents
Through: Mr. Puneet Rai, SSC

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 28.04.2026

1. The petitioner has approached this Court with a grievance that a sum of Rs.8,02,453/- was deducted as Tax at source from the amounts accrued or received by it as a contractor or sub-contractor as per Section 194C of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) and so also on professional or technical services fees (Section 194J) during Financial Year (FY) 2014-15 has not been adjusted against his tax liability and refunded in spite of the fact that said amount was reflected in Form-26AS for Assessment Year (AY) 2015-16.

2. Learned counsel for the petitioner submitted that while filing the Income Tax Return (ITR) for the AY 2015-16, the assessee inadvertently omitted to claim credit/ refund of the TDS amount but after filing the ITR for the AY 2016-17, a revised Return was filed (Annexure P-4) in which the credit/ refund of the amount of Rs.15,94,730/- was sought, out of which

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Rs.8,02,453 relate to AY 2015-16.

3. She argued that the amount of tax deducted from petitioner's payment is required to be either adjusted against the outstanding demand or refunded in accordance with law. She emphasized that the respondents cannot withhold the said amount and highlighted that the request of the petitioner regarding adjustment/refund of the amount has been turned down by the AO for no good reason. Even the petitioner's rectification application filed in this regard remained unheeded, she added.

4. Mr. Puneet Rai, learned Senior Standing Counsel, on the other hand submitted that the amount (Rs.8,02,453/-) in question was deducted from the payments made to the petitioner during AY 2015-16 and the credit of the same could only be given in AY 2015-16, if such credit had been claimed while offering the corresponding income to tax.

5. He further submitted that instead of filing a revised ITR for the AY 2015-16, the petitioner filed a revised return for AY 2016-17 and claimed a refund of the said amount, which is impermissible in law. Therefore, no illegality can be alleged in the action of the respondents, and the refusal to grant refund is justified.

6. At this juncture, learned counsel for the petitioner, submitted that by the time, the petitioner realised that due to inadvertence, credit of the subject amount had not been claimed in the year in which it ought to have been claimed, the limitation for filing a revised return for AY 2015-16 had passed. Consequently, a revised return for the AY 2016-17 was filed by the petitioner.

7. She asserted that the respondents cannot apply a hyper-technical approach to deny the petitioner's legitimate claim.

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8. Heard learned counsel for the parties.

9. On 08.04.2026, this Court had passed the following order:

"1. By way of present writ petition, the petitioner has raised a grievance that the respondents-Income Tax Department had not given refund of the amount of Tax which was deducted at Source (TDS) from the payment made to it during the Assessment Year (AY) 2015-16.

2. During the course of hearing, it has transpired that though the petitioner-asseesee had filed its revised Income Tax Return (ITR) for AY 2015-16 on 31.03.2017, but neither the amount of tax purportedly deducted was shown in the return nor any refund was claimed by the assessee even in its revised ITR, regardless of the fact that a sum of Rs.8,02,453/- was reflected in petitioner's Form 26AS.

3. When the Court posed a question to the learned counsel for petitioner assessee that when the petitioner itself was on fault in not claiming the refund even in its revised ITR, how can the Department be blamed and burdened with the interest liability? learned counsel for the petitioner fairly submitted that, if the petitioner is given refund of the principal amount of Tax i.e. Rs.8,02,453/-, then the petitioner would be satisfied and would waive his right of claiming statutory interest on such amount.

4. We find the proposal of the petitioner to be fair and worth considering, as the amount which is being reflected in the petitioner's Form 26AS will always remain with the

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Government as a trustee. Because such amount belongs to the petitioner neither can it be adjusted against petitioner's tax liability nor can it be appropriated by the Government.

5. Mr. Puneet Rai, learned Senior Standing Counsel for the Department prays for two weeks' time to complete his instructions.

6. List this case on 28.04.2026."

10. Mr. Rai, on oral instructions from the AO submitted that technically speaking, the petitioner is not entitled to claim a refund at such a belated stage. However, considering what has been observed by this Court in the proceedings of 8th April, 2026, the Income Tax Department is agreeable to refund the amount of Rs.8,02,453/- without any interest, as the petitioner itself was at fault in not filing revised ITR in time and then, not taking up the issue for years.

11. He, however, submitted that as per law, the petitioner shall have to satisfy the AO that the amount of tax deducted relates to income which has been offered to tax for the relevant period. The stance of the respondents is reasonable and within the frame of law.

12. We strongly feel that the tax which has been deducted by the payer and deposited in the exchequer is a property of the assessee, which is lying with the Government as a trustee. Neither this amount which is an advance tax can be treated as revenue nor can the same be forfeited. Hence, it can be returned/refunded to the assessee. But since it was essentially the fault or lapse of the petitioner, no interest can be claimed as a matter of right.

13. Accordingly, we dispose of the writ petition while directing the petitioner to furnish particulars of TDS (in regard to the amount of

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Rs.8,02,453/-); and a representation along with a web copy of the order instant and corresponding details of income earned or fee received, within a period of fifteen days from today.

14. The AO will satisfy himself that the corresponding amount on which the tax was deducted had been offered for tax (in FY 2014-15 or 2015-16). After being satisfied, the AO shall refund the due amount to the petitioner without any interest. It shall be required of the AO to complete the requisite exercise within three months of receiving a representation.

15. It shall be open for the petitioner to apply for modification of the order or revival of the writ petition, if the occasion so arises.

16. The Writ Petition is disposed of accordingly.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 28, 2026/*ss*

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