



2026:DHC:237-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 12th January, 2026.*

+ W.P.(C) 12318/2021, CM APPL. 38748/2021(stay)

PHILCO EXPORTS PRIVATE LIMITED

.....Petitioner

Through: Mr. Somil Agarwal, Mr. Dushyant
Agarwal, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, & ORS.

.....Respondents

Through: Mr. Sunil Agarwal, SSC, Ms. Priya
Sarkar, JSC, Mr. Anugrah Dwivedi,
Adv.**CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****J U D G M E N T****DINESH MEHTA, J. (Oral)**

1. By way of present writ petition preferred under Article 226 of the Constitution of India, petitioner has raised a grievance that respondent No.1-Assistant Commissioner of Income Tax, Circle 19(1), New Delhi has recovered the sum of Rs.11,14,660/- from refunds of petitioner from subsequent years against the alleged outstanding demand for impugned assessment year, on various dates ranging from 2010 to 2017, as enclosed with the communication dated 20.02.2019 (Annexure-18) sent by the Department to the petitioner pursuant to his application under Right to Information Act, 2005 (Annexure-16) appended with the present writ



petition.

2. Learned counsel for the petitioner submitted that despite various representations and RTI applications, the respondents have not even provided a copy of the assessment order vide which the demand in question has been raised. Learned counsel argued that without service of the assessment order and creation of demand notice under section 156 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act of 1961'), no statutory liability is created against which the amount can be recovered from the petitioner and thereafter the recovery of amount of Rs.11,14,660/- from the petitioner, is clearly illegal and contrary to petitioner's fundamental rights.

3. He highlighted that even during the pendency of writ petition, this Court has been directing the respondents to inform the particulars or place copy of the assessment order vide which the demand for Assessment Year ('AY') 2001-02 has been raised, but the department has not come up with any information or assessment order.

4. Mr. Agarwal, learned Senior Standing Counsel appearing for the respondents, on the other hand, submitted that true it is that the Department has not been able to provide the copy of assessment order for AY 2001-02, but the fault lies not only with the Department, but with the petitioner as well, who has failed to inform the respondents about the change of address, which he is otherwise duty bound to do.

5. Learned Senior Standing Counsel submitted that the demand in question dates back to AY 2001-02 whereafter, the entire assessment proceedings and record have been digitized and such record is not easily traceable, though the Department is trying hard to do the same.



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6. Having heard learned counsel for the parties, we are of the view that maybe the respondent-Department is justified in contending that since the petitioner had failed to change his address in the PAN database, the respondent-Department cannot be accused of the assessment order not being served. But in any case, when the amount was recovered from the petitioner, and the petitioner had asked for copy of the assessment order, it was incumbent upon the respondents to have supplied him a copy of the assessment order, which the Department has failed to do. Recovery of the amount from the petitioner and not supplying copy of the order amounts to recovery without authority of law.

7. As the petitioner has been trying hard to get a copy of the assessment order and even pursuant to orders passed by this Court, the respondents have failed to provide a copy of the same, we hereby direct respondent No.1 to refund the amount of Rs.11,14,660/- along with interest to the petitioner in accordance with law latest by 31.03.2026.

8. Needless to observe that in case, respondent No.1 is able to trace out and serve a copy of the assessment order (whereby the demand to the tune of Rs.11,14,660/- was raised against the petitioner) by 31.03.2026, the amount of Rs.11,14,660/- shall not be required to be refunded.

9. If the assessment order has been served upon the petitioner, it shall be free to challenge the same by way of filing an appeal under Section 246(A) of the Act of 1961, within a period of 30 days of service of the assessment order. The Commissioner of Income Tax (Appeal) shall in such event not raise any objection *qua* the limitation.

10. So far as service of the assessment order (if traced) is concerned, the same shall be served through Regd. A.D. at the petitioner's address i.e. 'M/s



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Philco Exports Private Limited, S-125, Greater Kailash, Part-2, New Delhi-110048', as mentioned in the memo of parties. The shall also be sent to the petitioner at its email-Id i.e. yogeshchandragoyal@gmail.com.

11. Until 31.03.2026, no further recovery shall be made by Centralised Processing Centre ('CPC') from the petitioner in relation to the purported demand of AY 2001-02. It shall be required of learned Senior Standing Counsel appearing for the respondent-Department to apprise respondent No.1 (Assistant Commissioner of Income Tax, Circle 19(1), New Delhi), who in turn shall intimate the CPC about this order and shall also make requisite entry that the demand is not recoverable in terms of the order of this Court.

12. The writ petition along with pending application stands disposed of in aforesaid terms.

**DINESH MEHTA
(JUDGE)**

**VINOD KUMAR
(JUDGE)**

JANUARY 12, 2026/ck