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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 13th May, 2026*+ W.P.(C) 2470/2006
PRADEEP MISRA

.....Petitioner

Through: Mr. Aseem Chawla, Sr. Advocate
with Ms. Mukti Chaudhary, Mr. Sai
Dhanush, Ms. Pratishtha Chaudhary,
Ms. Ishika Sharma & Mr. Saksham
Arya, Advocates.

versus

UOI & ORS.

.....Respondents

Through: Mr. Ruchir Bhatia, SSC with Mr.
Anant Mann, JSC.+ W.P.(C) 2469/2006
GYANWATI MISHRA

.....Petitioner

Through: Mr. Aseem Chawla, Sr. Advocate
with Ms. Mukti Chaudhary, Mr. Sai
Dhanush, Ms. Pratishtha Chaudhary,
Ms. Ishika Sharma & Mr. Saksham
Arya, Advocates.

versus

UOI & ORS.

.....Respondents

Through: Mr. Ruchir Bhatia, SSC with Mr.
Anant Mann, JSC.**CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****J U D G M E N T****DINESH MEHTA, J. (ORAL)**

1. The instant writ petitions involve common facts and law, though with some differences in figures and are therefore, being disposed of by this common order. For the sake of convenience, the facts of W.P.(C)



2470/2006 (*Pradeep Misra v. UOI & Ors.*) are however being taken into consideration.

2. By way of instant writ petition, the petitioner sought direction to the respondents to pay the interest which they have lost due to not handing over of Kisan Vikas Patras and Indira Vikas Patras (*hereinafter referred to as 'KVPs and IVPs' respectively*), which remained lying seized with the respondents.

3. The background facts are that on 21.01.1997, a search was conducted at the residential and business premises of the petitioner under Section 132 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), during which some KVPs and IVPs having face value of Rs. 24,66,500/- and fixed deposits were seized apart from cash and jewellery belonging to the petitioner.

4. The petitioner's assessment was completed on 28.07.1999 and a demand of Rs. 2,24,65,638/- was raised. Against the assessment order so framed and consequential demand raised, the petitioner moved an application dated 10.08.2000 under Section 254(1) of the Act of 1961 before the Settlement Commission.

5. During the pendency of the matter before the Settlement Commission, many of the KVP/IVPs were about to mature or had matured, hence the petitioner wrote various letters and representations to the respondents either to release the KVPs & IVPs or to allow him to renew the same. A prayer was also made to convert the KVPs & IVPs into interest bearing FDRs. Gainful reference of such letters dated



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04.09.2001, 10.01.2002, 20.02.2002, 28.06.2002, 02.07.2002, 30.08.2002, 16.01.2003 and 25.03.2003, can be made.

6. But the Assessing Officer neither paid any heed to petitioner's request nor gave any response, including denial.

7. The petitioner approached the Court on two occasions and again by way of the present petition is raising a grievance that because of the stubborn attitude of the Assessing Officer, the petitioner could not get back the KVPs & IVPs on their maturity, due to which he could not receive the maturity amount on due date and resultantly, suffered loss of substantial amount of interest.

8. Mr. Aseem Chawla, learned Senior Counsel for the petitioner, invited the Court's attention towards the above-referred letters/representations sent to the Assessing Officer and submitted that despite persistence, the petitioner could not get back the KVPs & IVPs along with other seized articles/documents till 10.01.2005, which has resulted in loss of interest apart from unabated anxiety, if not harassment.

9. Learned Senior Counsel contended that such stubborn attitude of the respondents has violated the petitioner's right to get interest, which he would have earned on the proceeds of the KVPs & IVPs on their maturity, if the same were handed over to him in time.

10. While claiming interest, he navigated the Court through the chart (Annexure-O), and showed the calculation of interest loss, which the petitioner has suffered and prayed that the respondents be directed to



pay interest as per the chart.

11. Mr. Ruchir Bhatia, learned Senior Standing Counsel for the department, began his argument with a contention that the facts are not as simple as have been portrayed by Mr. Aseem Chawla. He firstly argued that upon service of the assessment order dated 28.07.1999 and the demand notice, it was incumbent upon the petitioner to deposit the amount within the given time which he did not. He submitted that instead of depositing the demand, the petitioner approached the Settlement Commission and started writing letter after letters to the Assessing Officer to hand over the KVPs & IVPs, which the Assessing Officer could not have released as a huge demand was admittedly outstanding against the petitioner.

12. He further submitted that the request to release the KVPs & IVPs was also made before the Settlement Commission, which vide its order dated 08.12.2003, in unequivocal terms provided that the KVPs, IVPs etc. be released on the amount of settlement being deposited.

13. He invited the Court's attention towards the letter dated 23.12.2003 written by petitioner- Gyanwati Misra informing therein that she had deposited the tax dues in compliance of the order dated 08.12.2003 and submitted that the petitioner cannot claim interest for the period prior to the date when the amount as per the settlement was paid.

14. He further submitted that if the date of deposition of the demand (as per the letter written by the petitioner) is taken to be 23.12.2003,



there is no substantial delay, as the KVPs & IVPs were handed over to the petitioner on 10.01.2005. He argued that since there is no inordinate delay, the petitioner's claim for interest as given in Annexure-O is untenable in law.

15. Mr. Aseeem Chawla, learned Senior Counsel, in rejoinder submitted that it was incumbent upon the Department to have encashed the KVPs & IVPs and keep the amount as an advance tax, but since the same was not done, a direction be issued to the respondents to pay the interest as prayed.

16. He relied upon the judgement of Allahabad High Court, rendered in the case of *Chandraprakash Jain v. C.I.T*, 2017 293 ITR 302.

17. Heard learned counsel for the parties.

18. On going through the letters and reminders which were written by the petitioner-assessee, we feel that ideally, the Assessing Officer ought to have considered petitioner's request either by directing him to deposit the amount equal to the face value of the KVPs & IVPs or by ensuring renewal of the subject KVPs & IVPs, so that the assessee would not lose interest on their maturity. Because of the indecisive approach of the Assessing Officer, the petitioner has been put to loss of opportunity cost of the interest, which he would have otherwise earned.

19. But the stumbling block in petitioner's path to get the direction of restitution of loss suffered is, the order dated 08.12.2003 passed by the Settlement Commission, whereby the petitioner's request for release of KVPs and IVPs was dealt with in a manner that the same shall be



released once the due amount of settlement is deposited.

20. Needless to state that the said order of Settlement Commission deciding petitioner's rights has attained finality sans any challenge thereto.

21. Pursuant to the order of the Settlement Commission, though the due amount had been deposited on 23.12.2003 but the seized KVPs and IVPs were returned to the petitioner on 10.01.2005. We are of the clear opinion that once the amount was deposited, the Assessing Officer ought to have forthwith released the KVPs to the petitioner, as directed by the Settlement Commission. Having not done so, the Assessing Officer had defied the order of the Settlement Commission for no rhyme or reason.

22. On sifting through the record of the case, we find that in a writ petition filed by the petitioner (W.P.(C) Nos. 4581-83/2004 by an order dated 27.07.2004, the respondents were directed to carry out the direction given by the Settlement Commission within four weeks. Said order was however stayed on 20.08.2004 and ultimately on 26.10.2004 the Court ordered that the articles/assets other than jewellery be released within a week.

23. The Commissioner of Income Tax, Delhi-II in the order releasing assets dated 27.12.2004 made a reference of the High Court order dated 20.08.2004 which reveals that the order dated 27.07.2004 was stayed in light of the submission made by the revenue that audit fee was to be claimed/recovered from the assessee. Thereafter the High Court vide



order dated 26.10.2004 directed all the seized articles/assets except jewellery to be released. The jewellery was allowed to be retained until the payment of audit fee.

24. On appraisal of the facts noted in preceding two paras, we find that the respondents had left no stone unturned to harass the petitioner. For a meagre amount of audit fee they retained the KVP's/IVPs though they had jewellery and other assets in their possession. They took more than two months to release the KVPs/IVPs – which the High Court had directed to be released on 26.10.2004, and released the same on 10.01.2005.

25. Though we feel that the petitioner is entitled for interest but the question is, for which period. So far as petitioner's reliance on the judgment rendered by Allahabad High Court in the case of ***Chandraprakash Jain (supra)*** is concerned, the facts therein are not akin to the facts involved in the present case as there was no order of Settlement Commission to release the KVPs/IVPs once the settlement amount was deposited in the said case.

26. We are, therefore, of the view that the respondents are liable to pay interest on the maturity value of the subject IVPs & KVPs at the prevailing rate of interest as on 01.01.2004, however for the period from 23.12.2003 up to 10.01.2005 (i.e. from the date of deposition of the demand/settlement amount up to the date of release of the KVPs & IVPs) and not from the date of maturity as prayed.

27. In case the interest rates of KVPs & IVPs as on 01.01.2004 is not



available, the Assessing Officer shall take the corresponding rates of National Savings Certificate (NSC). The interest shall obviously, be calculated on the maturity value of KVP (not on the face value).

28. At this juncture, Mr. Aseem Chawla, learned Senior Counsel for the petitioner contended that the petitioner is entitled for interest not only up to the date, when the KVPs & IVPs were released, but even for interest on such interest.

29. In response to the petitioner's request for interest after 10.01.2005, Mr. Ruchir Bhatia, learned Senior Standing Counsel for the Department, argued that interest on interest cannot be awarded in light of the judgment of Hon'ble the Supreme Court in the case of *Commissioner Income Tax v. Gujarat Floral Chemicals* reported in (2013) 358 ITR 291.

30. We find that the facts of above case of **Gujarat Floral Chemicals** (*supra*) are clearly distinguishable. The facts of said case show that the claim of the assessee therein was for interest under Section 244A of the Act of 1961, which is the statutory interest and in that context, Hon'ble the Supreme Court said that interest cannot be awarded, if the statute does not permit.

31. On the contrary, in the instant case, the interest if to be awarded, is not a statutory interest. It is a loss of opportunity cost of earning the interest suffered by the petitioner, because KVPs & IVPs had been unjustifiably retained by them that too without authority of law.

32. We are cognizant of the position that normally the Court should



not award interest on interest. But in light of the finding we have already recorded, the Assessing Officer ought to have released the KVPs & IVPs or should have got FDRs prepared, when the petitioner had made such request. There is no Power or Statute, which justifies the continuous seizure or retention of FDRs and KVPs etc. until the demand is satisfied.

33. Aforesaid view is fortified by the judgment of Hon'ble the Supreme Court in the case of *Sandvik Asia Ltd. v. CIT* reported in [2006] 280 ITR 643, wherein Hon'ble the Supreme Court held thus:-

“30. In our view, the Act recognises the principle that a person should only be taxed in accordance with law and hence where excess amounts of tax are collected from an assessee or any amounts are wrongfully withheld from an assessee without authority of law, the Revenue must compensate the assessee.”

34. In the peculiar facts of the case, we hold that the petitioner is entitled for Simple Interest at a moderate rate of 4% on the amount of interest determined by the Assessing Officer.

35. For the purpose of clarity, we encapsulate our direction as follows:

- (i) The petitioner shall be entitled for interest at the prevailing rate of KVP/IVP from 23.12.2003 to 10.01.2005 on maturity value of KVPs/IVPs.
- (ii) The interest as calculated in (i) above shall carry further simple interest at the rate of 4% per annum (simple) from 10.01.2005



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until the date when interest as directed in clause (i) is paid. Both the amounts (i) & (ii) shall be paid within a period of three months from today.

36. The writ petitions are partly allowed in aforesaid terms.

(DINESH MEHTA)
JUDGE

(OM PRAKASH SHUKLA)
JUDGE

MAY 13, 2026/nk