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

% Date of decision: 14.12.2023

+ **W.P.(C) 12506/2021**

TRANSCEND INDIA PRIVATE LIMITED Petitioner

Through: Mr S.S. Tomar with Mr Ankit Sahni,
Advocates.

versus

THE DEPUTY COMMISSIONER OF INCOME TAX DELHI &
ANR. Respondents

Through: Mr Sunil Agarwal, Sr. Standing
Counsel with Mr Shivansh B. Pandya
and Mr Utkarsh Tiwari, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

1. On 20.11.2023 after hearing learned counsel for the parties, we had taken note of the grievance articulated on behalf of the petitioner. For the sake of convenience, the relevant part of the order dated 20.11.2023 is extracted hereafter:

“1. Mr Vishal Kalra, learned counsel, who appears on behalf of the petitioner, informs us that he has received an e-mail dated 20.11.2023 from the respondents/revenue, whereby it has been indicated that challan for Assessment Year (AY) 2003-04 has been corrected and accordingly credit for Rs.25 lakhs can be given, as sought in prayer clause (a) of the writ petition.

2. In the alternative, Mr Kalra says that the respondent no.1 could be directed to correct Form-3 dated 21.08.2021 issued under Direct Tax Vivad Se Vishwas Act, 2020 for the aforementioned AY i.e. AY 2003-04.

2.1 In other words, if the correction made by the respondents/revenue is to be given effect to, the said form would reflect the refund amount as Rs.62,54,425/- instead of Rs.37,54,425/-.

3. Mr Sunil Agarwal, learned senior standing counsel, who appears on



behalf of the respondents/revenue, says that he will return with instructions as to which is the more viable option available to the respondents/revenue.”

2. Today, Mr Sunil Agarwal, learned senior standing counsel, who appears on behalf of the respondents/revenue, has returned with instructions. He has placed before us a hard copy of the e-mail dated 14.12.2023. The relevant part of this e-mail, addressed to Mr Agarwal, is extracted hereafter:

“Sir,

The claim of the assessee in Form 2 of VsV 2020 is found to be correct in respect of challan of Rs. 25 lacs for AY 2003-04.

The credit of the said challan was not given in Form 3 & Form 5 under VsV as the challan was not visible on the PAN of assessee due to the fact that assessee deposited the challan on incorrect PAN.

Recently, the assessee provided the detail of incorrect challan which has been corrected on the request of assessee.

The Form 3 & Form 5 under VsV are final as per the scheme of VsV and cannot be revised.

The refund after giving credit of aforesaid challan of Rs. 25 Lacs can be given to assessee on the directions of Hon'ble Court.

It is also pertinent to mention that interest u/s 244A will not be allowed to assessee on the amount of the refund as the delay in issue of refund is attributable to assessee and also the matters is settled under VsV 2020.

Submitted for necessary action.”

3. As would be evident on perusal of the instructions received by Mr Agarwal, the respondents/revenue are agreeable to refund the money after giving credit *qua* the same in the challan which concededly requires correction.

3.1 The amount to be credited and thereafter remitted to the petitioner/assessee would be Rs. 25 lakhs, even according to the respondents/revenue. However, the respondents/revenue have indicated that interest under Section 244A of the Income Tax Act, 1961 [in short, “the Act”] would not be paid to the petitioner/assessee.



4. Mr S.S. Tomar, learned counsel who appears on behalf of the petitioner/assessee, says that insofar as the proceedings under Direct Tax Vivad Se Vishwas Act, 2020 [in short, “2020 Act”] are concerned, they are positioned at the stage of acceptance of Form-3.

4.1 Mr Tomar, *albeit* on instructions also states that the petitioner/assessee will be agreeable to correction of the challan and receipt of Rs.25 lakhs, sans the interest.

5. Therefore, the writ petition is disposed of with a direction that the concerned authority will progress the matter under the 2020 Act, as per law, from the stage at which it is presently positioned.

6. In so far as correction of the challan is concerned, steps in that behalf will be taken by the respondents/revenue and consequential refund of Rs.25 lakhs would be made.

6.1 This exercise will be completed within three (3) weeks of the receipt of a copy of the order passed today.

7. Mr Tomar’s statement, made on instructions received by him that interest will not be claimed on Rs.25 lakhs, is taken on record.

8. For the purpose of good order and record, Registry will scan and upload the copy of the e-mail dated 14.12.2023, so that it remains embedded in the case file.

9. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 14, 2023 / tr