THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE N. TUKARAMJI

WRIT PETITION No.6638 of 2023

ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Ms. Ananya Kapoor, learned counsel for the petitioner and Mr. J.V.Prasad, learned Standing Counsel, Income Tax Department for the respondents.

2. By filing this petition under Article 226 of the Constitution of India petitioner has prayed for the following reliefs:

> i. Declaring the in-action of the respondents in not disposing of the rectification application dated 28.01.2022 and not granting the refunds, as illegal, unjust, and against the provision of the Income Tax Act, 1961; and
>
> ii. Directing the respondents to grant credit of all pre-paid taxes of merged entities in the hands of the petitioner; and
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> iii. Directing the respondents to expeditiously dispose of the rectification application dated 28.01.2022 and grant/issue refund of Rs. 55,48,66,713/-

(Rs.47,22,26,990/- principal amount with Rs.8,26,39,723/- interest amount) along with up to date interest within a reasonable/specified time frame by electronic/manual/paper mode and ensure that refund is not withheld due to any technical difficulties/reasons.

iv. For such further and other reliefs, including costs of this petition, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case;

v. Award the costs of this writ petition in favour of the petitioner and against respondents.

3. Matter relates to migration of credit for advance tax and tax deducted at source (TDS) from Polaris Consulting & Services Limited (hereinafter referred to as, 'Polaris') to Virtusa Consulting Services Private Limited (hereinafter referred to as, 'Virtusa').

4. The related prayer has been made following merger of Polaris with Virtusa on the basis of order of the National Company Law Tribunal dated 03.04.2018 with effect from 01.04.2017. Consequent to such merger, Virtusa requested the revenue to allow credit of taxes paid by Polaris in the merged entity of Virtusa.

5. On 13.03.2023, learned Standing Counsel was granted time to obtain instruction regarding migration of advance tax and TDS challans paid in the PAN of Polaris to Virtusa following merger of Polaris and Virtusa.

6. On the next date i.e., on 17.04.2023, time was sought for by Mr. J.V.Prasad, learned Standing Counsel.

7. Today when the matter is called upon, Mr. J.V.Prasad, learned Standing Counsel submits on the basis of written instruction that challan from Polaris to Virtusa has been successfully migrated. Earlier such migration could not be uploaded as manual order could not be uploaded. However, the migration order finally got uploaded manually on 07.06.2023 and credit for advance tax and TDS was allowed resulting in a refund of Rs.51.66 crores.

8. Learned counsel for the petitioner submits that direction may be issued to the respondents to release the refund to the petitioner in a time-bound manner.

9. Since the basic grievance of the petitioner has been redressed, we are of the view that the consequential refund is required to be remitted to the petitioner at an early date with applicable interest in accordance with law.

10. Let the refund along with applicable interest be remitted to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

11. This disposes of the writ petition.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

UJJAL BHUYAN, CJ

N. TUKARAMJI, J

09.06.2023
vs