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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 13.10.2020

+ **W.P.(C) 3285/2020 & CM APPL. 11527/2020**

DENAVE INDIA PVT. LTD.

..... Petitioner

versus

**DY./ASSTT. COMMISSIONER OF INCOME
TAX, CIRCLE-7910 NEW DELHI AND ORS**

..... Respondents

Advocates who appeared in this case:

| | | |
|---------------------|---|--|
| For the Petitioner | : | Mr. S. Vasudevan & Mr. Shashank Sharma, Advs. |
| For the Respondents | : | Mr. Zoheb Hossain, Sr. Standing Counsel for Revenue with Kalrav Mehrotra, Adocate for R-1 & R-2 Mrs Bharathi Raju, CGSC for R-3 |

CORAM:

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH**

J U D G M E N T

SIDDHARTH MRIDUL, J. (Open Court – via Video Conferencing)

1. The present writ petition under Articles 226 and 227 of the Constitution of India has been instituted on behalf of the petitioner praying as follows:

- (a) Allow the present writ petition by issuing a writ of Mandamus or any other appropriate writ/order/direction to the respondent No.1 to process and issue the refund amount of Rs.10,75,56,607/- to the petitioner;



- (b) Allow the present writ petition by issuing a writ of Mandamus or any other appropriate writ/order/direction quashing the notices dated 03.01.2020 issued for the A.Y. 2017-18 and 09.05.2020 issued for the A.Y. 2018-19 and 2019-20 u/s 245 of the Act seeking to adjust the refund due to the petitioner with the tax demand of A.Y. 2016-17.
- (c) Issue interim directions restraining the respondent No.1 from taking any action for the recovery of the impugned tax demand of Rs.1,09,63,920/- for A.Y. 2016-17 by adjusting the same against the refund due for the A.Y. 2017-18, 2018-19 and 2019-20.
- (d) Pass any other orders/directions as this Hon'ble Court may deem fit and proper in the given facts and circumstances of the case, in favour of the petitioner and against the respondent No.1.

2. We have heard learned counsel appearing on behalf of the parties at length and have perused the material placed on record.

3. Our attention has been invited to the affidavit dated 12.10.2020, authored by Mr. Ram Niwas Yadav, Deputy Commissioner of Income Tax, Circle-7(1), Delhi.

4. The Income Tax Department is directed to comply with the averments made on their behalf in the said affidavit dated 12.10.2020, referred to hereinabove, for the assessment year 2017-18.

5. It is an admitted position that the only issue that survives in the present writ petition is the interest payable by the Income Tax Department, in relation to payment of the income tax refund, the petitioner is entitled to for the assessment year 2018-19.



6. Whilst the petitioner states that it is entitled to interest from the date of the order dated 13.11.2019, till the date of actual payment, it is the department's assertion that the petitioner would be entitled to the same, only upto the date of the order allowing income tax refund.
7. In view of the foregoing, whilst keeping the question of law stated hereinabove open for determination in an appropriate proceeding, the present writ petition is disposed of since the principal relief seeking income tax refund has been satisfied, whilst reserving the liberty to the petitioner to take appropriate steps, if any, in accordance with law.
8. No further directions are called for.
9. With the above directions, the writ petition is disposed of. The pending application also stands disposed of.

**SIDDHARTH MRIDUL
(JUDGE)**

**TALWANT SINGH
(JUDGE)**

OCTOBER 13, 2020/dn

[Click here to check corrigendum, if any](#)