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

+ W.P.(C) 8051/2020 & C.M.No.26207/2020

AGILENT TECHNOLOGIES INDIA PVT. LTD. Petitioner
Through: Mr.Rohit Tiwari and Mr. Saurabh D.
Karan Singh, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,
CIRCLE 1(2), NEW DELHI & ANR. Respondents
Through: Mr.Raghvendra Singh, Advocate.

% Date of Decision: 05th November, 2020

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking directions to the Assessing Officer to pass Appeal Effect Order in pursuance to Transfer Pricing Officer's order dated 11th September, 2019 and to grant a refund of Rs.2 Crores (Rupees Two Crores) (approx.) for the Assessment Year 2006-07 along with interest under Section 244A of the Income Tax Act, 1961 (hereinafter referred to as 'Act') as well as to pass rectification orders on the applications of the petitioner dated 25th July, 2019 and 12th September, 2019 within fifteen days.



3. On the last date of hearing, the respondents had requested time to obtain instructions. Today, also the counsel for the respondents prays for further time to obtain instructions on ground that there is a new incumbent in office as well as there has been re-arrangement of jurisdiction.
4. A perusal of the file reveals that an addition of Rupees Eleven Crores Thirty Three Lakhs Fifty Five Thousand Eight Hundred Six was made by the Assessing Officer while passing the final assessment order under Section 143(3) of the Act.
5. Upon the matter being carried forward in appeal, the Income Tax Appellate Tribunal (for short 'ITAT') stayed the demand subject to deposit of Rupees two Crores by the petitioner.
6. In pursuance to the remand order passed by the ITAT, the Transfer Pricing Officer reduced the addition to Rupees Thirty Six Lakhs Three Thousand Four Hundred Ninety One.
7. Thereafter, upon the petitioner filing an application under Section 154 of the Act, the Transfer Pricing Officer reduced the demand to Nil vide order dated 11th September, 2019.
8. However, as the order dated 11th September, 2019 was not given effect to, the petitioner filed the present writ petition.
9. Having perused the paper book, this Court is of the view that it is strange that the Appeal Effect Order was not passed for more than a year.
10. The fact that an assessee after succeeding in a protracted litigation has to file another legal proceeding i.e. a writ petition to implement and execute the said order, does not reflect well on the functioning of the Tax Department.



11. Consequently, this Court is of the view that the respondents should have given effect to the Appeal Effect Order as well as issued the refund immediately and there should have been no occasion for the petitioner to file the present writ petition.

12. Keeping in view of the aforesaid facts, the request for adjournment, once again, is declined and the respondents are directed to pass the Appeal Effect Order in pursuance to Transfer Pricing Officer's order dated 11th September, 2019 and to grant refund along with interest under Section 244A of the Act as well as to pass rectification orders on the petitioner's applications dated 25th July, 2019 and 12th September, 2019 within four weeks in accordance with law.

13. With the aforesaid directions, the present writ petition stands disposed of.

14. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

NOVEMBER 05, 2020
AS