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

+ W.P.(C) 13994/2022

ARICENT TECHNOLOGIES (HOLDINGS) LTD

..... Petitioner

Through: Mr.Saksham Singhal, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR.

..... Respondents

Through: Mr.Sanjay Kumar, Sr.Standing
Counsel for the Revenue with
Ms.Easha Kadian, Advocate.

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Date of Decision: 28th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.42831/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) 13994/2022

1. By way of the present writ petition, petitioner seeks directions to the Respondents to pass the appeal effect order of the order passed by the Income Tax Appellate Tribunal (the 'Tribunal') for the Assessment Year 2013-14 and grant consequential refund of tax paid/deposited by the



Petitioner along with applicable interest as per law.

2. Learned counsel for the Petitioner states that the Tribunal vide order dated 29th November, 2019 for Assessment Year 2013-14 deleted the additions/disallowances made by Respondent No.1 with respect to (i) transfer pricing addition on corporate charges of Rs.13,54,90,701/- and (ii) depreciation on goodwill of Rs.158,73,13,884/-, which includes additional depreciation of Rs.36,00,82,239/- which was not claimed in the tax return. He states that the Petitioner became entitled to total income tax refund(including interest) of Rs.23,18,71,243/-.

3. Learned counsel for the Petitioner states that as per the information available with the Petitioner, the order passed by the Tribunal has not been further assailed in appeal under Section 260A of the Income Tax Act, 1961 ('the Act') before this Court by the Revenue. He states that despite this, no refund has been issued to the Petitioner in contravention of Section 240 and Section 244A of the Act.

4. Issue notice. Mr.Sanjay Kumar, learned senior standing counsel accepts notice on behalf of the Respondents-Revenue. He states that he has no instructions in the present case.

5. This Court is of the view that as the order of the Tribunal has not been assailed in appeal under Section 260A of the Act, it has attained finality and the inaction of the Respondents in granting the refund is in contravention of Sections 240 and 244A of the Act.

6. Consequently, the present writ petition is disposed of with a direction to the Assessing Officer to pass the appeal effect order of the order passed by the Tribunal for the Assessment Years 2013-14 within twelve weeks of receipt of this order as well as grant, if any, the consequential refund of tax



paid/deposited by the Petitioner along with applicable interest in accordance with law.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 28, 2022
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HIGH COURT OF DELHI



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