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

+ **W.P.(C) 2476/2022**

QUALCOMM TECHNOLOGIES,INC Petitioner

Through **Ms. Ananya Kapoor, Advocate.**

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE

INTERNATIONAL TAX 3-1-1 & ORS. Respondents

Through **Mr. Puneet Rai, Advocate.**

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Date of Decision: 09th February, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

The hearing has been done by way of video conferencing.

CM APPL.7108/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

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1. Present writ petition has been filed seeking TDS credit and refund along with up-to-date interest for the Assessment Year 2013-14. Petitioner also seeks directions to the respondents to process the returns of income, pass appeal effect order, issue correct computation as well as issue refund along with up to date interest.



2. Learned counsel for the petitioner states that even after completion of the entire proceedings and despite specific, binding and favourable order passed by Income Tax Appellate Tribunal (hereinafter referred to as 'ITAT') on 1st July, 2019 for the year under consideration, no appeal effect order has been issued by the respondents and the petitioner is being denied legitimate TDS credit and refunds without any legal basis. In support of her contention, learned counsel for the petitioner relies upon Article 265 of the Constitution, the decision of the Supreme Court in *Mafatlal Industries Ltd. vs. Union of India*, [1997] 5 SCC 536 and the decision of this Court in *Ericsson India Pvt. Ltd. vs. ACIT, W.P.(C) 10373/2019*.

3. Learned counsel for the petitioner also states that the petitioner addressed multiple letters requesting the respondents to issue the appeal effect order and grant TDS credit and refunds to the petitioner. She, however, states that said requests have not been considered by the respondents till date.

4. Issue notice.

5. Mr. Puneet Rai, learned counsel for the Revenue accepts notice. He states that certain TDS claims made by the petitioner are not reflected in the Form 26AS statement.

6. Learned counsel for the petitioner states that in the relevant Assessment Year, the assessee had been incorporated as a subsidiary of Qualcomm Incorporated and some of its vendors had erroneously deposited the TDS of the assessee in the account of Qualcomm Incorporated. She further states that this issue has been dealt with by the CIT(A) in its order dated 21st September, 2017 wherein it has directed the Assessing Officer to verify the facts and allow the credit of the TDS claimed if it is paid to the



credit of the Central Government and not claimed by Qualcomm Incorporated.

7. In view of the aforesaid direction of the CIT(A), this Court disposes of the present writ petition with the directions to the Assessing Officer to implement the aforesaid direction of the CIT(A) as well as to pass appeal effect order and pay refund, if any, along with up to date applicable interest, if any, to the petitioner/assessee for the Assessment Year 2013-14 within twelve weeks.

8. The assessee is also directed to cooperate with the Assessing Officer so that directions passed by this Court as well as CIT(A) can be implemented within the aforesaid time period.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 09, 2022
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