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

+ W.P.(C) 15067/2022

KRBL LIMITED

..... Petitioner

Through : Ms. Ananya Kapoor with Mr. Sumit
Lalchandani, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME

TAX CIRCLE 13(1), DELHI AND ORS Respondents

Through : Mr. Ajit Sharma, Senior Standing
Counsel for Revenue along with
Mr. A. Renganath, Advocate.

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Date of Decision: 01st November, 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):

CM APPL. 46552/2022 (for exemption)

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

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1. Present writ petition has been filed seeking a direction to the Respondents to issue the refund of Rs.35,63,56,882/- along with up-to-date interest being admittedly due to the Petitioner pursuant to appeal effect order dated 05th April, 2021 arising out of order of CIT(A), pass the appeal effect

order pursuant to the ITAT order dated 09th May, 2022 as well as issue additional refund of Rs. 20,36,43,118/- along with up-to-date interest and to release the refund of Rs.60,00,000/- seized at the time of search along with up-to-date interest due to the Petitioner pursuant to the ITAT order dated 09th May, 2022.

2. Learned counsel for the Petitioner states that the ITAT vide order dated 09th May, 2022, decided all issues in favour of the Petitioner and the entire additions were deleted. She states that the Petitioner is now entitled to a refund of remaining taxes paid under protest amounting to Rs.56,00,00,000/- along with applicable interest under Sections 244A/244A(1A) of the Income Tax Act, 1961 ('the Act').

3. Learned counsel for the Petitioner states that the Petitioner has filed letters dated 20th May, 2022 and 11th July, 2022 with the Respondents for passing of an appeal effect order pursuant to the ITAT order and also for release of refunds legally due to the Petitioner, but to no avail. She submits that non-issuance of refund is in violation of Article 265 of the Constitution of India and also against Sections 237 and 240 of the Act.

4. Issue notice. Mr.Ajit Sharma, learned senior standing counsel accepts notice on behalf of the Respondents-Revenue. He states that the Revenue is in the process of filing an appeal against the order of the ITAT.

5. Having heard learned counsel for the parties, this Court is of the view that the Respondents-Revenue has had sufficient time to file an appeal against the order of the ITAT. In any event, in accordance with the mandate of law, the appeal effect order has to be passed within three months of passing the appeal order.

6. Keeping in view the limited prayer sought in the present writ petition, the same is disposed of along with the pending application with a direction to the Respondents-Revenue to consider:-

- (i) Issue of refund of Rs.35,63,56,882/- along with up-to-date interest being due to the Petitioner pursuant to appeal effect order dated 05th April, 2021 arising out of order of CIT(A);
- (ii) Passing an appeal effect order pursuant to ITAT order dated 09th May, 2022; and
- (iii) Issue of additional refund of Rs.20,36,43,118/- along with up-to-date interest.

7. The necessary appeal effect order and payments of refunds shall be made within a period of six weeks. The rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 01, 2022
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