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

+ W.P.(C) 14586/2022

MUFG BANK, LTD.

..... Petitioner

Through: Mr.Nikhil Ranjan with Mr.Kamal
Arya, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE
2(2)(1), INTERNATIONAL TAXATION, DELHI AND ORS.

..... Respondents

Through: Mr.Kunal Sharma, Sr.Standing
Counsel for the Revenue and Ms.
Zeyhra Khan and Mr. Siddharth,
Advocates.

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Date of Decision: 17th October, 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:

C.M.No.44719/2022

Allowed, subject to all just exceptions

Accordingly, the application stands disposed of.

W.P.(C) 14586/2022

1. Present writ petition has been filed seeking a direction to the Respondents to pass the order giving effect to the order of the Income tax Appellate Tribunal ('Tribunal') dated 13th September 2019 as well as

computing the losses for the Assessment Year 2000-01 to be carried forward to subsequent year(s) and pass the order for the Assessment Year 2005-06 setting off the losses and issue consequential refund along with interest under section 244A(1) and additional interest under section 244(1A) of the Income Tax Act, 1961 ('the Act').

2. Learned counsel for the Petitioner states that the Petitioner is entitled to carry forward losses (including unabsorbed depreciation) amounting to Rs. 38,73,42,584/- for the Assessment Year 2000-01 to the subsequent year(s) by virtue of the relief given by the Tribunal vide order dated 13th September 2019. However, he states that the Respondent No.1 has failed to pass the order giving effect to the order of the Tribunal without giving any reason due to which the legitimate refund available to the Petitioner on account of losses to be carried forward to the subsequent years is blocked.

3. Learned counsel for the Petitioner states that the Petitioner vide emails dated 23rd April, 2021, 14th October, 2021, 24th December, 2021, 22nd February, 2022 and 20th May, 2022 reminded Respondent No.1 about passing the order giving effect to the order of the Tribunal and requested to re-compute the losses for the Assessment Year 2000-01 to be carried forward to subsequent year, but to no avail.

4. Learned counsel for the Petitioner further states that the Respondents have grossly failed in their duty under law in not passing the order giving effect to the order of the Tribunal dated 13th September 2019 and issuing the refund as per the provisions of Section 153(5) of the Act and their action of withholding the refund is *ex facie* violative of Articles 265 and 300A of the Constitution of India.

5. Issue notice. Mr.Kunal Sharma, learned senior standing counsel accepts notice on behalf of the Respondents-Revenue. He states that the Assessing Officer is in the process of giving effect to the order of the Tribunal dated 13th September, 2019.
6. Keeping in view the aforesaid, present writ petition is disposed of with a direction to the Respondents-Revenue to pass the order giving effect to the order of the Tribunal dated 13th September, 2019 as well as computing the losses for the Assessment Year 2000-01 to be carried forward to subsequent year(s) and pass the order for the Assessment Year 2005-06 setting off the losses and issue the consequential refund, if any, along with interest under Section 244A(1) and additional interest under Section 244(1A) of the Act within eight weeks.
7. List for compliance on 10th January, 2023.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

OCTOBER 17, 2022
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