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

% *Date of Decision: 22.09.2023*

+ **W.P.(C) 10647/2022**

EVALUESERVE.COM PVT. LTD.

..... Petitioner

Through: Mr Salil Kapoor with Mr Sumeet  
Lalchandani, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 7(1)  
DELHI & ORS. .... Respondents

Through: Mr Zoheb Hossain, Sr Standing  
Counsel with Mr Sanjeev Menon,  
Standing Counsel.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

[Physical Hearing/Hybrid Hearing (as per request)]

**RAJIV SHAKDHER, J.: (ORAL)**

1. The substantial prayer made in the writ petition reads as follows:

*“a. Issue a writ in the nature of mandamus directing the Respondents to issue the refund of Rs. 17,09,923/- and Rs. 1,21,07,102/- for AY 2009-10 along with up to date interest as the action of the Respondents is unjust, arbitrary and against the provision of the Income Tax Act, 1961.”*

2. Mr Zoheb Hossain, learned senior standing counsel who appears on behalf of the respondents/revenue, has returned with instructions. According to his instructions, insofar as the Assessment Year (AY) in issue, i.e., AY 2009-10 is concerned, the income tax return filed for the said AY was



processed under Section 143(1) of the Income Tax Act, 1961 [in short, “Act”] and Rs. 4,11,870/- was determined as refund due to the petitioner/assessee.

3. According to Mr Hossain, this amount was remitted to the petitioner on 06.04.2011. Having said that, Mr Hossain contends that Rs.17,09,923/- claimed by the petitioner is not tenable.

4. As regards the other amount, i.e., Rs. 1,21,07,102/-, Mr Hossain once again, based on instructions received, says that this amount was recovered from the petitioner’s bank account based on the demand outstanding *qua* AY 2009-10.

5. Mr Hossain states that since the demand notice no longer survives, the said amount may have to be remitted to the petitioner/assessee.

6. Mr Salil Kapoor, who appears on behalf of the petitioner/assessee, on the other hand, says that the petitioner/assessee was never served with the intimation, if any, under Section 143(1) of the Act, whereby refund was pegged at Rs. 4,11,870/-

7. Given the aforesaid position, in our view, a direction can be issued to the respondents/revenue to remit Rs. 1,21,07,102/- to the petitioner/assessee along with applicable interest within the next four (4) weeks.

7.1 It is ordered accordingly.

8. Insofar as the other aspect is concerned, as to the difference between Rs. 4,11,870/- and Rs. 17,09,923/-, Mr Kapoor says that he will file a rectification application before the Assessing Officer (AO).

8.1 Liberty in that behalf is granted.

9. In case the petitioner was to file a rectification application within two (2) weeks of receipt of a copy of this Order, the same will be decided by the



AO within four (4) weeks thereafter.

10. The writ petition is disposed of, in the aforesaid terms.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**SEPTEMBER 22, 2023/pmc**