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

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*Decision delivered on: 24.08.2023*

+ **W.P.(C) 15005/2022**

SURAM TRUST

..... Petitioner

Through: Ms Rachna Agrawal, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE EXEMPT1(1),  
DELHI AND ORS

..... Respondents

Through: Mr Abhishek Maratha, Sr Standing Counsel  
with Mr Akshat Singh, Standing Counsel.

+ **W.P.(C) 15018/2022**

PRASHANT'S SON TRUST

..... Petitioner

Through: Ms Rachna Agrawal, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE  
EXEMPTION1(1), DELHI AND ORS

..... Respondents

Through: Mr Abhishek Maratha, Sr Standing Counsel  
with Mr Akshat Singh, Standing Counsel.

+ **W.P.(C) 15019/2022**

PRASHANT'S DAUGHTER TRUST

..... Petitioner

Through: Ms Rachna Agrawal, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE EXEMPT 1(1),  
DELHI AND ORS

..... Respondents

Through: Mr Abhishek Maratha, Sr Standing Counsel  
with Mr Akshat Singh, 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. These are the writ petitions filed by private discretionary trusts.
2. The writ petitions concern Assessment Year (AY) 2021-22 & 2022-23.
3. The principal grievance of all three trusts is that while they have been directed to switch from ITR-2 to ITR-5 e-filing functionality commencing from AY 2021-22, concerning the deductions/rebates which were available to them when they were treated as individual assesseees are not available in the new format.
4. It appears that, grudgingly, this aspect has been accepted by the respondents/revenue.
5. However, it is the stand of the respondents/revenue, conveyed via Mr Abhishek Maratha, learned senior standing counsel, who appears on behalf of the respondents/revenue, that the trusts can ventilate their grievances in the “regular appellate forum”.
- 5.1 According to us, this is not a satisfactory response.
6. Mr Maratha goes on to submit that the trusts can also approach the Central Board of Direct Taxes (CBDT), with an appropriate application for redressing their difficulties. In this context, our attention has been drawn by Mr Maratha to Section 119 of the Income Tax Act, 1961 [in short, “Act”].
7. *Prima facie*, the response, according to us, would not help in resolving the difficulty faced by the trusts before us as, ordinarily, the



deductions/rebates claimed by the assesseees should be embedded in the Return of Income (ROI).

8. This is a recurring problem which the respondents/revenue will have to address.

9. Furthermore, this problem may occur in the future concerning other assesseees [i.e. private discretionary trusts] as well.

10. We may note that up until today, the stand of the respondents/revenue was that they would resolve the glitch obtaining in the e-filing system. This is evident upon a perusal of the orders dated 31.10.2022, 09.12.2022, 06.01.2023 and 17.04.2023.

10.1 As a matter of fact, a perusal of our order dated 09.12.2022 would show that the applications moved on behalf of the trusts for being permitted to file returns for the aforementioned AYs in physical form were closed, as it was portrayed to the court that the respondents/revenue are attempting to resolve the glitch in the e-filing system.

10.2. All these factors would have to be taken into account by the respondent no.2, i.e., the CBDT, while deliberating on the plea articulated by the petitioner trusts in their respective writ petitions.

11. Thus, the above-captioned writ petitions are disposed of with a direction to respondent no.2/CBDT, to look into the matter and resolve the difficulty articulated by the aforementioned petitioner trusts.

12. Respondent no.2/CBDT will treat the writ petitions as applications filed under Section 119 of the Act, keeping in mind that this is a recurring problem.

13. Respondent no.2, i.e., the CBDT, is requested to pass a speaking order; a copy of which will be furnished to the petitioner trusts.



2023: DHC: 6977-DB



14. List the above-captioned writ petitions for compliance on 09.11.2023.
15. Parties will act based on the digitally signed copy of the judgment.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**AUGUST 24, 2023**

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