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

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Date of Decision: 09.05.2025

+ **W.P.(C) 15336/2024**

SCHNEIDER ELECTRIC INDIA PVT LTD

.....Petitioner

Through: Mr. Sachit Jolly, Sr. Advocate with
Mr. Mansha Anand, Mr. Abhyudaya
Shankar Bajpai, Mr. Aditya Rathore
and Mr. Sohum Dua, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 22 2
NEW DELHI & ANR.

.....Respondents

Through: Mr. Puneet Rai, SSC with Mr.
Ashvini Kumar, Mr. Gibran Naushad
and Mr. Rishabh Nangia, JSCs for
Income Tax Department.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (Oral)

1. The petitioner has filed the present petition, *inter alia*, praying as under: -

“issue a writ in the nature of mandamus or any other appropriate writ, order or direction declaring that the assessment proceedings for AY 2005-06 (*sic*) [AY 2006-07] are barred by limitation therefore, direct the Respondents to grant refund of taxes paid/ deposited/adjusted in the case of Petitioner for AY 2005-06 (*sic*) [AY 2006-07], along with applicable interest under Section 244A(1) and 244A(1A) of the Act, as per law;”



2. The petitioner is a company incorporated in India and is a 100 percent subsidiary of Schneider France. During the previous year relevant to Assessment Year [AY] 2006-07, the petitioner was engaged in the business of manufacturing low voltage and medium voltage equipments – Air Circuit Breakers (ACB), Miniature Circuit Breakers, Moulded Case Circuit Breakers, RM 6, Contractors, Push Buttons and Ring Master units. The petitioner was also engaged in the distribution of imported electric equipments mainly for industrial use; repair and maintenance services; implementation and development of ERP packages; e-content/e-catalogue services, research and development services; and business support services.

3. The petitioner had filed its return of income for AY 2006-07 on 10.11.2006, declaring a total income of ₹44,10,53,465/- after claiming a deduction of ₹3,02,257/- under Section 80G of the Income Tax Act, 1961 [Act]. The petitioner's income was processed under Section 143(1) of the Act. It was thereafter selected for scrutiny and notices under Section 143(2) of the Act were issued to the petitioner.

4. On 12.10.2010, the Assessing Officer [AO] passed the assessment order under Section 143(3) of the Act assessing the petitioner's income at ₹48,04,16,000/- after making the addition of ₹3,92,87,647/- on account of transfer pricing and ₹74,880/- on account of depreciation. The AO further raised a demand of ₹1,35,49,446/- as per the computation sheet attached along with the said assessment order.

5. On 24.03.2012, the legitimate Refund payable to the petitioner



amounting to ₹1,55,81,863/- for AY 2011-12 was adjusted against the demand of ₹1,35,49,446/- for AY 2006-07.

6. The petitioner appealed the said assessment order before the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.5867/Del/2010. The learned ITAT allowed the said appeal for statistical purposes by the order dated 23.11.2012 and set aside the assessment order as well as directions issued by the learned Dispute Resolution Panel [**DRP**]. The learned ITAT restored the matter before the learned DRP with the direction to issue *de novo* direction in accordance with law and after affording due opportunity to the petitioner. The learned ITAT also directed the AO to allow the relief as claimed with reference to the depreciation.

7. It is the petitioner's contention that pursuant to the order dated 23.11.2012 passed by the learned ITAT, the AO was obligated to pass the consequential/appeal effect order, latest by 31.03.2015, adjudicating the issues that were remanded by the learned ITAT. However, despite the lapse of more than twelve (12) years from the date of the learned ITAT's order, the AO has failed to pass the said consequential/appeal effect order. As a result, the proceedings before the AO have become time-barred under Section 153 of the Act. Consequently, the returned income as filed by the petitioner stands accepted under law. In view of the above, the petitioner, *vide* a letter dated 10.07.2019 (submitted on 11.07.2019), requested the AO to release the due income tax refund along with applicable interest in accordance with law.



8. The petitioner by the letter dated 10.03.2021 (submitted on 12.03.2021), requested the AO to pass the consequential order after deleting the additions made with respect to Transfer Pricing and to grant the refund of tax due to the petitioner along with applicable interest under Sections 244A(1) and 244A(1A) of the Act, in accordance with law. However, the AO has neither processed the refund nor has issued any further communication in this regard.

9. The learned counsel for the petitioner contends that in terms of the provisions of sub-sections (2A) and (3) of Section 153 of the Act, as were in force prior to their substitution by the Finance Act, 2016 with effect from 01.06.2016, the time limit for passing an order giving effect to the findings or directions contained in an appellate order, including those issued by the learned ITAT, was one year from the end of the financial year in which the order under Section 250 or Section 254 was received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

10. According to the petitioner, the period to pass the order on remand by the learned ITAT expired on 31.03.2015, however, no order was passed by the AO till the date. Thus, the assessment proceedings in respect of AY 2006-07 are time barred.

11. Concededly, the issue is covered by the decision of this court in *Indian Renewable Energy Development Agency Ltd. v. Pr. CIT(LTU) New Delhi & Anr.: 2023 SCC Online Del 8357* and the decision in *Aricent*



Technologies (Holdings) Ltd. v. Assistant Commissioner of Income Tax & Anr.: Neutral citation: 2023/DHC/001521.

12. The time period for passing the assessment order has since lapsed and, therefore, the return filed by the petitioner is required to be considered as accepted.

13. The Revenue shall process the petitioner's claim for refund in accordance with law, bearing in mind the aforesaid position as expeditiously as possible, preferably within a period of twelve weeks from date.

14. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 09, 2025

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Click here to check corrigendum, if any