



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 31412 OF 2024

Bloomberg Data Services (India) Pvt. Ltd. ...Petitioner

Versus

The Deputy Commissioner of Income Tax,  
Circle 6(1)(2), Mumbai & Ors. ...Respondents

Mr. Percy Pardiwalla, Sr. Adv. i/b Harsh R. Shah, P. Savla for Petitioner.

Mr. Akhileshwar Sharma for Respondents.

CORAM: G. S. KULKARNI &  
ADVAIT M. SETHNA, JJ.

DATE: 02 DECEMBER 2024

P.C.

1. This petition under Article 226 of the Constitution of India brings to the fore a serious concern in the laxity of the Respondent-department in the matter of refund of tax to the petitioner and which is an admitted amount.

We may also observe that routinely cases are reaching this Court where refunds for no rhyme or reason are stuck, they are either not being processed or if even processed, they are not being released and in such cases the interest burden on the Government of India / Public exchequer keep mounting every passing day.

2. We are quite seriously concerned with such state of affairs. This for two fold reasons, firstly, that once the tax payer is entitled to the refund and

when there are no proceedings against the assessee in that regard are intended to be taken by the Revenue, the refund of the tax amount if any, ought to be immediately granted to the assessee, needs to be the rule. If this is being followed in breach, merely on account of negligence / laxity on the part of the department, it results into an unwarranted interest burden being imposed on the public exchequer. It may be quite easy for the tax officials not to be serious on such issue, however, it cannot be forgotten that such interest payment goes from the tax payers pockets.

3. Thus, why this laxity or lack of prompt and appropriate communication between two authorities / departments, should result in Government of India being unwarrantedly saddled with huge interest amounts is the issue. This can certainly be avoided by an effective mechanism, by having a meaningful and prompt flow of instructions between the concerned officers, handling the assessee's case. Such unwarranted interest amounts being required to be paid, if saved can be utilized for other essential public expenditures. It is the citizens of the country who are being deprived of the benefits of such amounts instead of the same being paid to the assessee's, on account of the negligence and / or the fault of the officers of the department. We have routinely seen that when the matters reach this Court, the Revenue instantly takes a position that the refund would be credited to the assessee, without disputing the claim of the assessee for refund, as in such cases there is no

defence to such petitions, as it is a statutory obligation on the part of the Revenue to refund that amounts and on such refunds huge interest amounts are paid to the assessees.

4. The present case is one of such case, wherein the petitioner being aggrieved by the Revenue's inaction of the refund being not granted to the petitioner for the Assessment Year 2016-17 and 2013-14, and which was being adjusted for the refund for 2023-24 has approached this Court. The petitioner has claimed that a large sum of refund of Rs. 77,64,71,629/- was not being granted to the petitioner. The petitioner has accordingly prayed for the following substantive reliefs:

“a. that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of certiorari under Article 226 of the Constitution of India calling for all papers and proceedings of the petitioner's case pertaining to Assessment Year 2023-24, AY 2013-14 and AY 2016-17 and after examining the validity, legality and propriety thereof, quash and set aside the adjustments of refund of AY 2023-24 and AY 2016-17;

b. that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of India directing the Respondent No.4 to promptly grant the refund along with applicable interest for AY 2023-24 up to the date of payment of refund;”

5. The reply affidavit on behalf of the Revenue of Mr. Pravin L. Pande, Assistant Commissioner of Income tax is placed on record. Considering the reply affidavit, on 11 November 2024 we had passed the following order :

“1. In view of the reply affidavit filed on behalf of the Revenue of Mr. Pravin L. Pande, Assistant Commissioner of Income Tax, fairly stating that there are inadvertent mistakes in paragraphs 8

and 11, it would be in the interest of justice that further appropriate steps be taken and as set out in the affidavit.

2. We accordingly adjourn the proceedings. Stand over to **2 December 2024. First on Board.**”

6. Today we are informed by Mr. Pardiwalla that after the aforesaid orders were passed by the Court, on 29 November 2024 a refund of Rs. 77,64,71,629/- has been granted in the proportion of Rs. 45,84,30,382/- for A. Y. 2016-17 and Rs. 31,80,41,247/- for the A. Y. 2013-14. It is however his submission that an interest of Rs. 1,83,37,215/- for A. Y. 2016-17 and Rs. 1,27,21,649/- for A. Y. 2013-14, totaling to an amount of Rs. 3,10,58,865/- (Rs.3.10 Crores) is due and payable to the petitioner which has not been granted.

7. Mr. Sharma, learned counsel for the revenue states that he would take instructions on the payment of the interest.

8. We may observe that in these situations payment of interest is an unwarranted burden required to be borne by the Government of India. The concern of the Court is on a larger issue, not only in regard to the present proceedings but in several similar proceedings reaching the Court. We are not aware as to whether the income tax department has any procedure of any internal control / checks in such matters, in which the interest burden keeps increasing purely for departmental reasons, which may be either negligence or a casual approach on the part of the officials, not taking prompt and timely

steps on such issues. We also wonder whether there is any routine audit, as to who would become accountable for such huge interest amounts being required to be paid by the Government of India, when there are refund amounts which are admittedly payable to the assessee's. Any delay being caused in making payments of such refund and the interests payable thereon, is attributable wholly to the officials of the department, as it is they who are not taking prompt actions.

9. As a Constitutional Court, we cannot overlook these issues and merely pass routine orders recording grant / receipt of refund. This ought not to be the only concern of the Court, in considering the legal rights of the assessees, as the Court would be equally concerned with the larger public interest of a burden on the public exchequer, when it is noticed by the Court that for no justifiable reasons, such refunds are blocked and huge interest in that regard is ultimately paid by the Government of India.

10. In the light of the above observations, we direct respondent Nos. 5 and 6 to place an affidavit on record, after taking appropriate instructions from the CBDT and after confirming such affidavit from the CBDT, as to approach the concerned officials are required to follow, in such situations so as to avoid burdening the public exchequer with interest payments.

11. We are constrained to pass such order, in view of the concerns, we have recorded hereinabove. In such context, we may also observe that if already

the rules are not in place, such rules would be required to be framed and if any rules are already framed, as to why such rules are not being strictly adhered, and as to why any mechanism by which accountability needs to be fixed on the particular officers, whose actions are increasing the burden on the Government of India, are concerns required to be immediately looked into. These are the issues and concern which be addressed in the reply affidavit, to be filed by the said respondents.

12. In so far as the affidavits being directed to be filed are concerned, we shall hear the parties on such affidavits on the adjourned date of hearing. We would also intended that the affidavits also take into account the figures of the interest paid on refunds during the last three assessment years so as to be a guiding factor of such expenditure, which could be avoided.

13. In the light of these concerns flagged by us, we are also equally conscious that the delayed payment of refunds not only burdens the public exchequer with such interest amounts being required to be paid, but it also brings about a situation that the assessee are deprived of these amounts causing them a serious prejudice. Also the Government of India would not be in a clear position to utilise such funds for any public purpose, as these funds are required, to be in any case paid to the assessee. Thus, any situation of an unjust enrichment is not acceptable. The situation in hand is of a delay, by which a serious prejudice to both the revenue and to the assessee is caused.

14. As regards the total interest amount of Rs.3,10,58,865, being payable to the petitioner in the present proceeding Mr. Sharma would take instructions and make an appropriate statement either on the adjourned date of hearing or earlier to that so that appropriate orders can be passed.

15. Stand over to **10 December 2024**.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)