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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 31.10.2023

+ W.P.(C) 9308/2022

VISHESH KHANNA Petitioner

Through: Mr Varun Nagrath, Advocate.

versus

DEPUTY COMMISSIONER OF INCOME

TAX & ORS. Respondents

Through: Mr Aseem Chawla, Sr. Standing Counsel with Ms Pratishtha Chaudhary for respondent/revenue.

Mr Rampal Singh Tomer, Ms Shubhra Parashar, Ms Vidya Mishra and Mr Yash Hari Dixit for R-4/UOI.

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 petitioner has made the following prayers in the writ petition:

“(A) A Writ of Certiorari and/or a Writ of Mandamus and/or any other writ direction or order directing the Respondent No. 1 to quash the outstanding demand along with the accrued interest, for the Assessment Year 2012-2013 and Assessment Year 2013-2014, raised against the Petitioner, through the issuance of the Impugned Notices; dated 13.10.2014(Annexure P-1) & 22.07.2015(Annexure P-2).

(B) A Writ of Mandamus, directing the Respondent No. 1 to forthwith set aside the Impugned Intimation dated 23.09.2019(Annexure P-3) and to return the refund amount sought by the Petitioner for the Assessment Year 2019-2020, along with statutory interest.

(C) A Writ of Prohibition or a Writ in the nature of Prohibition and/or any other Writ, Order or direction restraining/prohibiting the Respondent No. 1 and Respondent No. 2 from proceeding or giving effect to and/or taking any steps in pursuance to the Impugned Intimation and the Impugned Show Cause Notice dated 04.02.2020(Annexure P-4).”



2. Insofar as the relief sought in prayer Clause (B) is concerned, Mr Varun Nagrath, learned counsel, who appears on behalf of the petitioner/assessee, says that he does not wish to press the same, as the petitioner/assessee has already been refunded the amount for Assessment Year (AY) 2019-20.

3. As regards remaining prayers i.e., (A) and (C) are concerned, Mr Aseem Chawla, learned senior standing counsel, who appears on behalf of the respondent/revenue, cannot but accept that tax having been deducted at source by the employer cannot be recovered from the petitioner in view of the embargo placed by Section 205 of the Income Tax Act, 1961 [in short, "Act"].

4. This issue is covered by the judgment of the coordinate bench rendered in *Sanjay Sudan v. Assistant Commissioner of Income-tax* [223] 148 taxmann.com 329 (Delhi).

5. Accordingly, the demand for AYs 2012-13 and 2013-14 are quashed. Consequentially, the show-cause notice dated 04.02.2020 shall collapse.

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

7. Parties will act based on the digitally signed copy of the order.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

OCTOBER 31, 2023/v

[Click here to check corrigendum, if any](#)