(2021) 08 DEL CK 0111

In the Delhi High Court

Case No : Civil Writ Petition No. 6025 Of 2021, Civil Miscellaneous Application No. 19055-19056 Of 2021

PSL Infratech Pvt. Ltd. — APPELLANT

Vs

CIT TDS, Delhi & Anr — RESPONDENT

Date of Decision : 16-08-2021

Acts Referred:

Citation : (2021) 08 DEL CK 0111

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : P. Roychaudhuri, Kunal Sharma

Final Decision : Disposed Of

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.

2. Present writ petition has been filed seeking a direction to the respondents to adjust the tax due amounting to Rs.4,21,000/- under Direct Tax Vivad

Se Vishwas Act, 2020 [DTVSV Act] with the amount of Rs.11,36,800/- that has already been deposited by the Petitioner on account of the Penalty

Order dated 04th January, 2021 and to refund the excess amount in a time bound manner.

3. On 15th July, 2021, learned counsel for the petitioner had stated that petitioner was suffering financial losses due to the inaction of the respondents.

He had stated that respondent no. 1 [CIT (TDS) Delhi] had asked the petitioner to approach respondent no. 2 [Commissioner of Income Tax,

Bangalore] for adjusting the tax due under the DTVSV Scheme with the amount deposited by it on account of the penalty order dated 04th January,

2018. He further stated that the last date of depositing the tax was 30th September, 2021 and the petitioner could not be made to suffer for the fault of the respondents.

4. Today, Mr. Kunal Sharma, learned counsel for the respondents states that penalty amount deposited by the petitioner cannot be adjusted against the tax due under DTVSV Act, as the same has been adjusted against a legal and valid demand. He further states that present case is not a case for refund. He clarifies that after making a payment of Rs.4,21,000/- under DTVSV Act, the petitioner would be entitled for the refund of Rs.11,36,800/-.

5. In the opinion of this Court, if the petitioner is entitled to refund of Rs.11,36,800/- after making payment of Rs.4,21,000/-, it is not understood as to why the respondents cannot itself adjust the amount of Rs.4,21,000/-against the amount of Rs.11,36,800/- already deposited by the petitioner on account of the Penalty Order dated 04th January, 2018.

6. Consequently, the present writ petition is disposed of with a direction to the respondents to adjust the tax demand amounting to Rs.4,21,000/-under DTVSV Act with the amount of Rs.11,36,800/- already deposited by the petitioner on account of the Penalty Order dated 04th January, 2018 on or before 31st August, 2021 and refund the balance amount within a further period of four weeks.

7. With the aforesaid directions, the present writ petition along with pending applications stands disposed of.

8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.