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

W.P.(C) 6683/2021

HARBUX SINGH SIDHU

..... Petitioner

Through: Mr.Aakash Khattar with Mr.Gaurav
Gupta, Advocates.

versus

DEPARTMENT OF INCOME TAX

..... Respondent

Through: Ms.Vibhooti Malhotra, Sr.Standing
counsel for Income Tax.
Mr.Virender Pratap Singh Charak
with Ms.Shubhra Parashar,
Mr.Pushpender Singh Charak,
Advocates for UOI.

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Date of Decision: 19th July, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

JUDGMENT

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking refund of the excess advance tax deposited by the Petitioner amounting to Rs. 6,50,000/, along with interest at the rate of 12% from the date of deposit of original challan up to the date of realization of such amount. Petitioner also seeks a direction to the Respondents to adjudicate the claim of Petitioner in an expedited manner and pay an amount of Rs 5 Lakhs towards the cost of the present

proceedings and mental harassment to the Petitioner.

3. Learned Counsel for the Petitioner submits that Petitioner had deposited a sum of Rs. 6,50,000/- towards advance-tax for the Assessment Year 2000-01. He states that the Petitioner had misplaced the original challan for the same and informed the Department, so that he could be issued the refund in future, whenever the necessary document was provided.

4. Learned Counsel for the Petitioner states that Petitioner found the original challan dated 31st January, 2001 showing the payment of Advance Tax amounting to Rs. 6,50,000/-, made by the Petitioner and filed an application dated 14th July, 2003 with the Income Tax Office requesting for rectification of the account and apprising them of the fact that the Petitioner had finally traced the original challan. He states that Petitioner got a certificate dated 10th October, 2009 issued by Syndicate Bank, Green Park Extension Branch duly certifying that the Petitioner made a payment of Rs.6,50,000/- on 31st January, 2001 vide cheque No. 040718, and submitted the same to the Respondents .

5. Learned Counsel for the Petitioner states that the Respondent had vide its letter dated 19th April, 2016 requested the Bank officials to verify the transaction of the Petitioner by which it had made a payment of Rs. 6,50,000/- towards payment of Advance Tax for FY 2000-01. He states that the Bank, in its reply letter dated 13th May, 2016, informed the Respondent that the record for the year 2001 had already been destroyed as per the bank policy.

6. Keeping in view the aforesaid facts, this Court is of the view that the Petitioner in the year 2021 cannot seek refund of the excess advance tax deposited for the Assessment Year 2000-01, as it is a stale claim. It is

settled law that representations made by the Petitioner would not extend the period of limitation. In any event, the Bank vide letter dated 13th May, 2016 had informed the Respondent that it has no record with regard to the excess payment made by the Petitioner for the Assessment Year 2000-01. No proceeding had been filed by the petitioner within three years from the said date. Consequently, the present writ petition is dismissed on the ground of delay and laches.

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

MANMOHAN, J

NAVIN CHAWLA, J

JULY 19, 2021
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