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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 31.08.2023

+ **W.P.(C) 11517/2023**

INTERTEK INDIA PRIVATE LIMITED Petitioner
 Through: Mr Kamal Sawhney with Mr Nihil Agarwal and Mr Puru Medhira, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 10 1
 NEW DELHI Respondent

Through: Mr Abhishek Maratha, Sr. Standing Counsel with Mr Akshat Singh, Standing Counsel.

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. Issue notice.
2. Mr Abhishek Maratha, learned senior standing counsel who appears on behalf of the respondents/revenue, accepts notice.
3. Given the directions that we propose to pass, Mr Maratha says that he does not wish to file a counter-affidavit in the matter, and he will argue the matter based on the record presently available with the Court.
 - 3.1 Therefore, with the consent of the learned counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.
4. The substantial prayer made in the writ petition, in essence, articulates



the grievance of the petitioner. Therefore, for the sake of convenience, the prayer made is set forth hereafter:

“(a) Issue a Writ of mandamus, or a Writ in the nature of mandamus, or any other appropriate Writ or Order directing the Respondent to dispose of Petitioner’s Rectification Application dated 25.05.2016 within a period of four weeks and grant consequential refund along with applicable interest under Section 244A of the Act within the said four weeks.”

5. A perusal of the prayer clause would show that the petitioner is aggrieved by the fact that its rectification application dated 25.05.2016 has not been disposed of, as yet.

6. As rightly averred by the petitioner, the timeline fixed under sections 154(a) and 154(8) of the Income Tax Act, 1961 [in short, “the Act”], is six (6) months. The period involved goes way beyond the statutory timeline fixed for the disposal of a rectification application. This is also the position that obtains as per Instruction No.1 of 2016 dated 15.02.2016.

7. That said, we find it difficult to understand why the petitioner did not approach the Court within a reasonable period. Repeated representations to the Assessing Officer (AO) and grievances sought cannot explain, in our view, the delay and laches in approaching the Court. The period involved is more than seven (7) years.

7.1 Therefore, we dispose of the writ petition with the following directions:

(i) The concerned officer will dispose of the rectification application within four (4) weeks of receipt of a copy of the judgment.



(ii) The AO will bear in mind that the first representation to the respondent was made on 09.10.2019. We are therefore, of the opinion that interest between the period after the expiry of six (6) months from when the rectification application was filed and 09.10.2019 in the facts of this case, ought not to be paid to the petitioner.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

AUGUST 31, 2023 / tr