2025:AHC-LKO:61984-DB

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HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT - C No. - 16125 of 2018

U.P. Rajya Nirman Sahakari Sangh Limited

.....Petitioner(s)

Versus

Union Of India Min.Of Finance Dept.Of Revenue Thru.Secy.Andors

.....Respondent(s)

Counsel for Petitioner(s)	:	Desh Deepak Chopra, Shailesh Verma
Counsel for Respondent(s)	:	A.S.G., D.K.Pathak, Kushagra Dikshit, Manish Mishra

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE PRASHANT KUMAR, J.

1. Heard Sri D.D. Chopra, learned Senior Advocate assisted by Ms. Chandni Bhatia, Sanyam Agarwal and Sri Shailesh Verma, learned counsel appearing for the petitioner and learned counsel appearing on behalf of the respondents.

2. This is a writ petition under Article 226 of the Constitution of India wherein the petitioner has made the following prayers :-

> "(a) issue a writ of certiorari or any other writ or order of similar nature quashing notice dated 05.12.2017 issued under section 22693) of the Act (Annexure No.1) issued by the Opposite Party No.3 directing Opposite Party No.4 to pay Rs. 3.50 crore from the bank account of the Petitioner held with Opposite Party No.4.
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> (b) Issue a writ of Mandamus or any other writ or order of similar nature commanding Opposite Party no.3 to allow credit of TDS deducted in favour of the Petitioner for the A.Y. 2009-10 to A.Y. 2012-13 and A.Y. 2015-16 as appearing in notice of demand dated 23.10.2017 (Annexure No.9) and to revise income tax demand raised against the Petitioner accordingly.
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> (c) issue a writ of Mandamus or any other writ or order of similar

nature commanding Opposite Party No.3 to return the amount of Rs.1,50,00,000.00 withdrawn illegally under order dated 05.12.2017 passed under section 226(3) of the Act (Annexure No.1).

(d) issue a writ of Mandamus or any other writ or order of similar nature commanding Opposite Party no.3 to pass necessary order on Application under section 154 of the Act dated 12.12.2017 (Annexure No.10 colly.)."

3. Sri D.D. Chopra, learned Senior Advocate appearing on behalf of the petitioner, has submitted that the tax deducted at source is refundable to the petitioner as the petitioner is a Cooperative Society exempt under Section 80P of the Income Tax Act, 1961. He submits that several applications for the refund of the amount have been made, along with the relevant TDS certificates (Form 16A) filed with the Department. However, the Department is unwilling to issue the refund on the grounds that the TDS amount is not reflected in Form 26AS.

4. Upon hearing the learned counsel appearing on behalf of both parties, we are of the view that the law laid down by the Delhi High Court in **Court on Its Motion vs. Commissioner of Income Tax** (Writ Petition (CIVIL) No. 2659 of 2012, decided on 14.03.2013) and by this Court in **Rakesh Kumar Gupta vs. Union of India and Another** (Civil Misc. Writ Petition (Tax) No. 657 of 2013, decided on 06.05.2014) is clear and categorical on the point that, in the event the TDS amount is not reflected in Form 26AS, refund must still be provided if the petitioner is able to furnish the Form 16A certificates.

5. In **Court on Its Motion** (supra), the Delhi High Court after examining the issue in detail has held as follows :-

"The statutory powers given to the Assessing Officer are sufficient and should be resorted to and the assessee cannot be left to the mercy or the sweet will of the deductors. Therefore, we direct that when an assessee approaches the Assessing Officer with requisite details and particulars, the said Assessing Officer will verify whether or not the deductor has made payment of the TDS and if the payment has been made, credit of the same should be given to the assessee. These details or the TDS certificate should be

> starting point for the Assessing Officer to2013:DHC:1392-DB W.P. (C) Nos. 2659/2012 & 5443/2012 Page 41 of 45 ascertain and verify the true and correct position. The Assessing Officer will be at liberty to get in touch with the TDS circle in case he requires clarification or confirmation. He is also at liberty to get in touch with deductor by issuing a notice and compelling him to upload the correct particulars/details. The said exercise must be and should be undertaken by the Revenue, i.e. the Assessing Officer as an assessee who suffers in such cases is not due to his fault and can justifiably feel deceived and defrauded. We do not accept the stand of the Revenue that they can only write a letter to the deductor to persuade him to correct the uploaded entries or to upload the details."

6. This Court, while dealing with the similar issue, in **Rakesh Kumar Gupta** (supra) has held as follows :-

> "In the light of the aforesaid, we find from the perusal of the counter affidavit, that the respondents have denied refunding the TDS on the ground that the refund would only be granted when the TDS matches with the details mentioned in Form 26AS. Since the mismatching is not attributable to the assessee and the fault solely lay with the deductor, we find that a case has been made out for grant of a mandamus for refund of the TDS amount. The petitioner has also made out a case for payment of interest since we find that the delay in refunding the amount was attributable solely with the Income Tax Department and there is no fault on the part of the assessee."

7. Learned counsel appearing on behalf of the petitioner further buttresses his argument relying upon the instructions No.05/2013 dated 08.07.2013, wherein the circular relies on the judgment of the Delhi High Court in **Court on Its Motion (supra)** and states as follows :-

> "3. In view of the order of the Hon'ble Delhi High Court (reference: para 50 of the order), it has been decided by the Board that when an assessee approaches the Assessing Officer with requisite details and particulars in the forms of TDS certificate as an evidence against any mismatched amount, the said Assessing Officer will verify whether or not the deductor has made payment of

> the TDS in the Government Account and if the payment has been made, credit of the same should be given to the assessee. However, the Assessing Officer is at liberty to ascertain and verify the true and correct position about the TDS certificate. Such verification may be made with the relevant AO(TDS). The AO(TDS) may also, if deemed necessary, issue a notice to the deductor to compel him to file correction statement as per the procedure laid down. In this regard, the AO(TDS) may invoke all the powers and authority as available to him/her as per the Income tax Act. If required and necessary, he/she can obtain prior approval of the Director or Commissioner of Income tax. The authorities can also examine whether general approval can be given.
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> 4. Thus, the manner laid down by the Hon'ble HC in the above mandamus is a method of **due verification**. This may be brought to notice of all Officers working under your jurisdiction for compliance."

8. In light of the above judgments and the circular, we are of the view that a taxpayer should not be left at the mercy of an Assessing Officer who chooses to delay the payment of genuine refunds. Furthermore, as long as the assessee is able to provide documents proving that tax has been deducted at source, the same has to be accepted by the Assessing Officer, who cannot insist that the amount match the figures in Form 26AS. It is the responsibility of the Assessing Officer to verify the amounts provided by the assessee through the proof of Form 16A.

9. In light of the same, we are of the view that the assessee in the present case is entitled to receive a refund of the amounts once the 16A forms are accepted by the Income Tax Authority. To facilitate the entire process, we direct the petitioner to appear before the respondent No.3 on 28.10.2025 at 11:00 AM at the office of the respondent No.3.

10. The respondent No.3 is directed to take note of all the documents being filed by the petitioner and pass necessary orders in accordance with law within a period of four weeks from date.

11. The petitioner shall be at liberty to rely upon the judgments that have been cited here and the circular of the CBDT before the

Assessing Officer.

12. With the above direction, the writ petition is disposed of.

October 8, 2025
cks/-

(Prashant Kumar,J.) (Shekhar B. Saraf,J.)