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

+ W.P.(C) 8062/2020 & CM APPL.26231/2020

AGILENT TECHNOLOGIES INDIA PVT. LTD. Petitioner

Through: Mr. Rohit Tiwari and Mr. Saurabh D.

Karan Singh, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,

CIRCLE 1(2), NEW DELHI & ANR. Respondents

Through: Mr.Raghvendra Singh, Advocate.

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Date of Decision: 06th November, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed seeking directions to the respondents to grant a refund of Rs.5.19 Crores (Rupees Five Crores Nineteen Lacs only) (approx.) for the Assessment Year 2011-12 along with interest under Section 244A of the Income Tax Act, 1961 (hereinafter referred to as 'Act') as well as to pass a rectification order on the application of the petitioner dated 19th August, 2020 within a period of fifteen days.
3. On 16th October, 2020, the respondents had requested time to obtain instructions. Today, also the learned counsel for the respondents prays for

further time to obtain instructions on the ground that there is a new incumbent in office as well as there has been re-arrangement of jurisdiction.

4. A perusal of the file reveals that an addition of Rs.10,76,09,517/- (Rupees Ten Crores Seventy Six Lacs Nine Thousand Five Hundred Seventeen only) was made by the Assessing Officer and the assessed total income was computed at Rs.19,33,25,320/- (Rupees Nineteen Crores Thirty Three Lacs Twenty Five Thousand Three Hundred Twenty only) while passing the final assessment order under Section 143(3) of the Act.

5. Upon the matter being carried forward in appeal, the Income Tax Appellate Tribunal (for short 'ITAT') stayed the demand subject to payment of partial outstanding tax demand. Accordingly, the petitioner deposited Rs.3,00,97,380/- (Rupees Three Crores Ninety Seven Lacs Three Hundred Eighty only). A further sum of Rs.2,18,00,000/- (Rupees Two Crores Eighteen Lacs only) (approx.) was adjusted against the outstanding refunds.

6. In pursuance to the remand order passed by the ITAT, the Transfer Pricing Officer, vide order dated 09th July, 2019, recomputed the petitioner's total income at Rs.14,00,83,935/- (Fourteen Crores Eighty Three Thousand Nine Hundred Thirty Five only).

7. Thereafter, upon the petitioner filing an application under Section 154 of the Act, the Transfer Pricing Officer reduced the additional income to Nil vide order dated 19th February, 2020.

8. However, as the order dated 19th February, 2020 was not given effect to and the refund was not issued, petitioner filed the present writ petition.

9. Having perused the paper book, this Court is of the view that it is strange that the Appeal Effect Order was not passed for around eight months.

10. The fact that an assessee after succeeding in a protracted litigation has to file another legal proceeding i.e. a writ petition to implement and execute the said order, does not reflect well on the functioning of the Tax Department.

11. Consequently, this Court is of the view that the respondents should have given effect to the Appeal Effect Order as well as issued the refund immediately and there should have been no occasion for the petitioner to file the present writ petition.

12. Keeping in view of the aforesaid facts, the request for adjournment, once again, is declined and the respondents are directed to pass the Appeal Effect Order in pursuance to Transfer Pricing Officer's order dated 19th February, 2020 and to grant refund along with interest under Section 244A of the Act as well as to pass rectification orders on the petitioner's application dated 19th August, 2020 within four weeks in accordance with law.

13. With the aforesaid directions, the present writ petition and application stand disposed of.

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

MANMOHAN, J

SANJEEV NARULA, J

NOVEMBER 06, 2020

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