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

+ W.P.(C) 13053/2022 & C.M.No.39538/2022

NORTEL NETWORKS INDIA PRIVATE LIMITED Petitioner

Through: Mr.Kamal Sawhney with Mr.Prashant Meharchandani, Mr.Nishank Vashistha, Mr.Nikhil Agarwal and Mr.Arun Bhadauria, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 16(1)
NEW DELHI Respondent

Through: Mr.Abhishek Maratha, Sr.Standing Counsel for the Revenue.

+ W.P.(C) 13054/2022 & C.M.No.39539/2022

NORTEL NETWORKS INDIA PRIVATE LIMITED Petitioner

Through: Mr.Kamal Sawhney with Mr.Prashant Meharchandani, Mr.Nishank Vashistha, Mr.Nikhil Agarwal and Mr.Arun Bhadauria, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX Respondent

Through: Mr.Abhishek Maratha, Sr.Standing Counsel for the Revenue.

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Date of Decision: 09th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA



J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petitions have been filed seeking directions to the Respondent to decide the rectification applications dated 19th December, 2018 and 26th December, 2018 as well as the representation dated 01st September, 2022 filed by the Petitioner for the Assessment Years 2009-10 and 2010-11 and to credit the consequential refund along with the applicable interest in the bank account of the Petitioner.
2. Learned counsel for the Petitioner states that due to the inaction of the Respondent, the Petitioner is being deprived of substantial amount of refund along with interest under Section 244A of the Income Tax Act, 1961 ('the Act') and instead, incorrect demands of Rs.35,33,160/- and Rs.7,75,66,030 have been raised against the Petitioner. He states that even though the Assessing Officer is bound to decide the rectification applications filed by the Petitioner within a period of six months as per Section 154 of the Act, the Petitioner's rectification applications are pending adjudication before the Assessing Officer for the past three years. He also relies on the Circular No.14/2001 read with Instruction no.01/2016, which mandates the Respondent to strictly comply with the statutory limitation provided in Section 154(8) of the Act in disposing of the Petitioner's rectification applications. He further states that the Citizen's Charter of 2014 and 2010 issued by Income Tax Department states that, in cases where decision on application for rectification is to be given by Department, the same must be done within two months from the end of the month in which such application is received.



3. Learned counsel for the Petitioner states that the Petitioner has addressed various letters to the authorities requesting them to decide the Petitioner's rectification applications but to no avail. He states that the parent company of the Nortel Group had filed for bankruptcy protection under the Companies Creditor Arrangement Act in Canada in the year 2009 and since then the efforts of the Nortel Group have been focused towards closure of their business operations globally including that of the Petitioner. He states that the Petitioner is attempting to close all the pending matters at the earliest, including the rectifications applications pending with the Respondent.
4. Issue notice. Mr. Abhishek Maratha, learned senior standing counsel accepts notice on behalf of the Respondent-Revenue. He prays for some time to obtain instructions.
5. However, this Court finds that CBDT instruction No.2/2013 [F. No. 225/76/2013/ITA.II] dated 05th July, 2013 and Letter [F. No.225/148/2015-ITA-II], dated 05th July, 2015 stipulates that the Assessing Officers must strictly follow the time limit of six months provided under Section 154(8) of the Act in disposing of the rectification applications.
6. Further, this Court in *Nortel Networks India International Inc. Vs Asst. CIT, WPC 12236/2021* and *Cheil India Private Limited Vs. Deputy CIT & Anr., WPC 11683/2021* has given directions to the respondents to dispose of similar rectification applications in a time-bound manner.
7. Consequently, this Court disposes of the present writ petition and application with a direction to the concerned Respondent to decide the Petitioner's rectification applications dated 19th December, 2018 and 26th December, 2018 filed under Section 154 of the Act as well as the



representation dated 01st September, 2022, in accordance with law by way of a reasoned order within six weeks. In the event of refund, if any, the same shall be granted to the Petitioner with applicable interest within the aforesaid period.

8. List the matters for compliance on 08th February, 2023.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

**SEPTEMBER 09, 2022
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