2026:DHC:495-DB

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

Date of decision:-20th January, 2026.

\+ W.P.(C) 538/2026 & CM APPL. 2707/2026, CM APPL. 2708/2026

VENKATACHALAM THANGAVELU .....Petitioner

Through: Ms Rano Jain and Mr. Venketesh Chaurasia, Advocates.

versus

ITO, WARD 70(1), DELHI .....Respondent

Through: Mr. Sunil Agarwal, SSC with Ms. Priya Sarkar, JSC.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

J U D G M E N T

DINESH MEHTA, J. (*ORAL*)

1. Learned counsel for the petitioner contended that by way of intimation dated 07.06.2013 under Section 143(1) of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), a demand of Rs.12,28,508/- was raised against the petitioner because the credit of TDS which Kingfisher Airlines had deducted from the salary of the petitioner amounting to Rs.10,34,982/- was not given.

2. It is contended that the issue involved in the present writ petition is squarely covered by a judgment dated 01.10.2024 of this Court rendered in *W.P.(C) 13765/2024* ***Satwant Singh Sanghera v. The Assistant Commissioner of Income Tax & Anr..***

3. Learned counsel for the petitioner further asserted that the respondent has recovered the substantial amount of said demand from the amount of

refund which became due to the petitioner. Learned counsel submitted that in the facts of the present case, not only the intimation/order that has been passed under Section 143(1) dated 07.06.2013 of the Act, of 1961 is liable to be set aside but the petitioner is also entitled for the refund of the amount which stands recovered from the petitioner.

4. Mr. Agarwal, learned Senior Standing Counsel for the respondent was not in a position to dispute the position of facts and law as stated by learned counsel for the petitioner. He however submitted that the jurisdiction of filing the writ petition is at Bangalore and not in Delhi, because the assessee's Assessing Authority has not shifted to Bangalore.

5. In response to the preliminary objection, which Mr. Agarwal, learned Senior Standing Counsel has raised, learned counsel for the petitioner submitted that when the petitioner filed a writ petition on 08.01.2026, he was resident and assessee in Delhi. However, later, pursuant to the request of the petitioner, who has recently moved to Bangalore, his assessing officer has changed to Bangalore.

6. Heard learned counsel for the parties.

7. So far as preliminary objection raised by Mr. Agarwal is concerned, we do not find any substance in the same, because when the assessee had filed return for the Assessment Year (2012-13), admittedly, the petitioner's assessing authority was at Delhi.

8. That apart the day when the petition came to be filed, the Assessing Authority of the petitioner was at Delhi. Merely because subsequently, it has changed to Bangalore, he cannot be non-suited on the ground of territorial jurisdiction.

9. Adverting to the merit of the case, we are of the view that the

respondent could perhaps been justified in disallowing the amount of TDS which was collected by Kingfisher Airlines from the petitioner's salary, as the same was not deposited by said deductor but the petitioner cannot be blamed for that and deprived of his legitimate right, as has been held by this Court in its judgment **Satwant Singh Sanghera *(supra)***.

10. We therefore allow the writ petition and quash and set aside the intimation dated 07.06.2013 to the extent it relates to the non-grant of credit of Tax Deducted at Source by the Kingfisher Airlines. The consequential demand notice and the recovery made from petitioner's refund is also declared illegal. The respondent is directed to refund the amount recovered from the petitioner along with applicable interest under Section 244(1) and 244(1) (A) of the Act of 1961, within a period of three months from today. It shall be required of the respondent to ensure that the applicable amount is paid to the petitioner.

11. Needless to observe that our order shall confine to the amount which has been deducted by the Kingfisher Airlines and in case there is any other demand raised by the Assessing Officer, the same shall not be effected.

12. The instant petition, alongwith pending applications, stands disposed of in the aforesaid terms.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

JANUARY 20, 2026/MR