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

+ W.P.(C) 8590/2022

CELERITY INFRASTRUCTURE PVT. LTD. Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

**DY COMMISSIONER OF INCOME TAX CIRCLE 73 (1), DELHI
AND OTHERS Respondents**

Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ W.P.(C) 8591/2022

CELERITY INFRASTRUCTURE PVT. LTD. Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

**DY COMMISSIONER OF INCOME TAX CIRCLE 73 (1) DELHI
AND OTHERS Respondents**

Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ W.P.(C) 8592/2022

ATS HOUSING PVT. LTD. Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

DY COMMISSIONER OF INCOME TAX CIRCLE 73 (1) DELHI
AND OTHERS Respondents
Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8440/2022 & CM APPL.25465/2022**

ATS TOWNSHIP PVT LTD Petitioner
Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

DY COMMISSIONER OF INCOME TAX CIRCLE 73 1 DELHI
AND OTHERS Respondents
Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8446/2022 & CM APPL.25477/2022**

ATS REAL ESTATE BUILDERS PVT LTD Petitioner
Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

DY COMMISSIONER OF INCOME TAX CIRCLE 73 -1 DELHI
AND OTHERS Respondents
Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8471/2022 & CM APPL.25539/2022**

ATS HOUSING PVT. LTD. Petitioner
Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

Versus

DY. COMMISSIONER OF INCOME TAX CIRCLE 73(1), DELHI
& ORS. Respondents

Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8473/2022 & CM APPL.25541/2022**

ATS INFRABUILD PVT LTD Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

DY COMMISSIONER OF INCOME TAX CIRCLE 73- 1 DELHI
AND OTHERS Respondents

Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8476/2022 & CM APPL.25544/2022**

ATS REAL ESTATE BUILDERS PVT. LTD. Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

DY. COMMISSIONER OF INCOME TAX CIRCLE 73(1), DELHI
& ORS. Respondents

Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8495/2022 & CM APPL.25574/2022**

ATS BUILDLINE PVT. LTD.

..... Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

Versus

DY. COMMISSIONER OF INCOME TAX CIRCLE 73(1), DELHI
& ORS.

..... Respondents

Through: Mr.Puneet Rai, Sr.Standing Counsel.

+ **W.P.(C) 8496/2022 & CM APPL.25575/2022**

ATS DREAMZONE PVT. LTD.

..... Petitioner

Through: Mr.Yogesh Jagia, Advocate with
Mr.Nitesh Jain and Mr.Rishabh
Nangia, Advocates.

versus

DY. COMMISSIONER OF INCOME TAX CIRCLE 73(1), DELHI
& ORS.

..... Respondents

Through: Mr.Puneet Rai, Sr.Standing Counsel.

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Date of Decision: 19th July, 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. By way of the present writ petitions, Petitioners seek directions to the Respondent No.2 to rectify Forms 3 issued on 22nd April, 2021 and to issue Forms 5 post filing of Forms 4 under Direct Tax Vivad se Vishwas Act ('DTVSV Act').
2. Learned Counsel for the Petitioner states that on 26th March, 2021, the Petitioners filed declarations in Forms 1 and 2 electronically but inadvertently declared the amounts paid by various challans excluding interest component.
3. Learned Counsel for the Petitioners states that Respondent after accepting Forms 1 and 2 in all the cases issued Forms 3 on 22nd April, 2021 wherein credit for the taxes deposited were not allowed for the reason 'mismatched' and in two writs 8476/2022 and 8447/2022 no reasons were assigned for not allowing credit for the taxes paid. Petitioners filed representations on 24th September, 2021 to rectify Forms 3 by allowing credit for taxes already deposited and subsequently attempted to file Forms 4 on 27th November, 2021 but the same were not accepted showing an error message that "date of deposit cannot be before the filing date of Forms 1 and 2".
4. Learned Counsel for the Petitioners states that the Petitioners again filed representations dated 14th December, 2021 before Respondent No.1 which were declined by order/communication dated 7th April, 2022, wherein Respondent No.1 declined credit of challans paid on the ground that taxes had been deposited under the minor head "200 instead of 400".

5. On the last date of hearing, Mr.Puneet Rai, learned counsel for the respondents, had taken time to obtain instructions. Today, Mr.Puneet Rai, learned counsel for the respondents, states that Assessing Officer (TDS) is taking steps to correct the Code of the Challans but she is facing difficulty, as the software is not permitting the challan Code correction at the Assessing Officer level and will seek assistance from CPC/Systems team. He states that in the event the software does not permit Code correction, then it would be difficult to give relief to the petitioner.

6. A perusal of the paper books reveals that there is no dispute that the petitioners deposited the taxes, however, the mistake which the petitioners have committed is that they had deposited the taxes under the minor head '200' instead of '400'.

7. In the opinion of this Court, as the petitioners have paid the taxes, they should be given the credit for the challans paid in Form 3 under the said Act. The order/communication dated 7th April, 2022 rejecting credit of taxes deposited under the DTVSV Act on the hyper-technical ground that challans have been deposited under the minor head '200' instead of '400' is unfair, illegal and contrary to the objective of enacting the DTVSV Act, 2020.

8. If the only impediment in the way of granting relief sought by the petitioner is the software, the same ought to be suitably modified to accept the applications of the petitioners. One of us, (Manmohan, J) in ***Shalu Nigam & Anr. Vs. The Regional Passport Officer & Anr. 2016 SCC OnLine Del 3023*** has held, "*In any case, technology is intended to ease and facilitate transactions and cannot be the basis for creating and defeating anybody's legal rights*". After all, the software has to be tailor-made according to the needs, aspirations and legal rights of the tax payers and not

that the tax payers' legal rights have to be tailor-made in accordance with the software being used by the Tax Department.

9. Consequently, this Court directs the respondents to correct the payment heads, record the credit of taxes deposited and to issue revised Forms 3 within four weeks. Thereafter, the petitioner shall file Forms 4 within two weeks.

10. With the aforesaid direction, the present writ petitions and applications stand disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 19, 2022
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