

Holding back IT refund due to technical reason of inability of processing returns is unjust enrichment: Delhi HC

M.J. Engineering Consultants Pvt Ltd. (W.P. No. 11561/2022)

Facts:

1. Income Tax Return could not be processed under section 143 (1) of the Income Tax Act due to some technical reasons or otherwise not attributed to the assessee. Consequently, intimation regarding processing of the return could not be sent within the period as prescribed in the second proviso to section 143(1).
2. So the assessee was unable to receive his legitimate refund, as the department contended that unless there is an extension in time to process returns U/S 143(1), refund cannot be issued.

Delhi HC held as below:

1. Since the AO was unable to process the return, the return as declared/filed will have to be treated as 'deemed intimation' and an order under Section 143(1) of the Act.
2. Upon respondent's failure to process an assessee's return within time, the right to refund arises by operation of law.
3. The assessee need not file any separate claim for refund as the same is deemed to have been incorporated in the return filed by the assessee itself.
4. If the submission of learned counsel for Income Tax Department, is accepted, then it would amount to unjust enrichment on the part of the State, which is legally impermissible.
5. The respondents are directed to refund the excess amount paid as tax by the petitioner along with the interest within four weeks of receipt of this order.