IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

W.P.NO.   OF 2023

BETWEEN:

Darshana Rajesh Kadakia, W/o. Rajesh Kadakia,
Aged 66 Years, Occ: Housewife,
R/o. 5-2-223, Gokul, 3rd Floor, Opp: Andhra Bank,
Distillery Road, Hyderabad – 500003,
Telangana.

.Petitioner

AND

1. The Commissioner,
   Income Tax Department, Circle-10(1),
   IT Towers, AC Guards, Masab Tank,
   Hyderabad - 500004.

2. The Additional Commissioner,
   Income Tax Department, Circle-10(1),
   IT Towers, AC Guards, Masab Tank,
   Hyderabad - 500004.

3. The Income Tax Officer,
   I.T. Towers, Ward 10(1),
   A.C. Guards, Hyderabad.

..Respondents

AFFIDAVIT

I, Darshana Rajesh Kadakia, W/o. Rajesh Kadakia, Aged 66 Years, Occ: Housewife, R/o. 5-2-223, Gokul, 3rd Floor, Opp: Andhra Bank, Distillery Road, Hyderabad – 500003, Telangana do hereby solemnly affirm and state on oath as follows;

1. I am the Petitioner herein and as such well acquainted with the facts of the case.

2. I submit that I am now filing the present Writ Petition questioning the inaction of the Respondents in processing my Income Tax Returns and not crediting an amount of Rs.47,25,500/- under Refund Sequence No.9041573875 to my account inspite of passage of about more than two years and seeking appropriate directions from this Hon'ble court.

3. I submit that I am a non-resident Indian. In the year 2006 I purchased a Flat by way of registered share transfer with respect to Flat No.1-A in Maker Apartment under Cooperative Housing Society Limited, holding 5 shares of

society bearing Share Certificate No's.001 to 005 dated 19.10.1972, situated at Mumbai for a total sale consideration of Rs.58,00,000/- and thereafter in the year 2019 I sold the above referred flat to Mr.Sudhir Arvind Shah and Mr.Hardik Sudhir Shah vide registered document No.9960 of 2019. Accordingly as per Section 139 (1) of I.T. Act the above transaction has been shown as individual status vide PAN No.AQNPO325L in the filing of Income Tax returns for the assessment year 2020-21 vide E-filing acknowledgement No.651790951161020. TDS @ 26% was deducted amounting to Rs.81,90,000/-.

4. I submit that after the process of Income Tax returns, the Department has issued a intimation notice U/s. 143 (1) which clearly determined a refundable amount of Rs.47,25,500/- on 09.01.2021 but the amount of refund is not credited in my account. I submit that, thereafter I have made a on-line complaint on 30.11.2022 under the IT portal of grievances and an acknowledgement no.9743254 was raised on the portal hoping that it will resolve my issue. I

submit that in the grievance resolution it is stated that "*the tax payer is now requested to validate / revalidate the correct bank account to which the refund is required to be credited successfully in the e-filing portal and nominate the same for receipt of refund so as to enable the CPC to issue the refund".* However, my Bank Account, PAN number etc., were marked by HDFC Bank as an inoperative account as I had no transaction in India. But, upon the information of the Income Tax Department, my Bank account was reactivated, KYC refilled, PAN re-updated and as per HDFC Bank the account is fully functional without any defaults.

5. I submit that when I tried to log-in to the Income Tax portal with my login id for raising a refund / re-issue request, the relevant assessment year 2020-2021 is not reflected on the portal hence the Petitioner is unable to raise the re-issue refund request electronically.

6. I submit that, keeping in view the above, I have given a written representation dated 06.01.2023 to the Income Tax

Officer at IT Towers, requesting to process the refund manually. I reliably learnt from the IT Department that the ITO has no option to manually process the refund and the refund can only be processed by an on-line application on the IT portal by using the login id of the assessee. I submit that the Petitioner herein has no other option except approaching this Hon'ble Court to file the present Writ Petition seeking appropriate directions to the Respondents.

7. I have got no other equally efficacious alternative remedy except to approach this Hon'ble Court invoking the extra ordinary original jurisdiction vested in this Hon'ble Court under Article 226 of The Constitution of India.

8. I have not filed any other Writ Petition or proceeding for the same relief which is claimed in the present Writ Petition and no other proceedings are pending before any other forum with respect to the same subject matter.

9. It is necessary that the Hon'ble Court may be pleased to direct the Respondents herein to consider the representation of the Petitioner dated 06.01.2023 and refund the amount of Rs.47,25,500/- along with interest to the Petitioner pending disposal of the Writ Petition.

10. It is therefore prayed that the Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction declaring the inaction of the Respondents in processing the refund order manually as the Income Tax portal does not reflect the Refund Assessment Year 2020-2021 in its portal disabling the petitioner from raising refund / re-issue request and consequently direct the Respondents to process the refund order of the Petitioner manually and issue refund along with interest and pass such other order or orders in the interest of justice.

Sworn and signed before me on
this the ___ day of ______ 2023 Deponent
at Hyderabad.

Advocate/Hyderabad

VERIFICATION

I, Darshana Rajesh Kadakia, W/o. Rajesh Kadakia, Aged 66 Years, Occ: Housewife, R/o. 5-2-223, Gokul, 3rd Floor, Opp: Andhra Bank, Distillery Road, Hyderabad – 500003,Telangana being the deponent herein do hereby verify and declare that the contents of the above paragraphs 1 to 6 are true and correct to the best of my knowledge, information and belief and the contents of the paragraphs No. 7 to 10 are believed to be correct as per legal advice.

Hence, Verified on this the ___ day of ________, 2023 at Hyderabad.

Counsel for the Petitioner   Deponent