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

Date of decision: 18th August, 2026
Date of Uploading: 22nd August, 2026

\# **CNR No. DLHC010074172026**

\+ W.P.(C) 2729/2026 & CM APPL. 13253/2026

\# **CNR No. DLHC010073632026**

\+ W.P.(C) 2733/2026 & CM APPL. 13254/2026

\# **CNR No. DLHC010110562026**

\+ W.P.(C) 3699/2026 & CM APPL. 18059/2026

VODAFONE IDEA LIMITED SUCCESSOR OF VODAFONE MOBILE SERVICES LIMITED (VMSL) WHICH MERGED WITH IDEA CELLULAR LIMITED (ICL) AND IS NOW KNOWN AS VODAFONE IDEA LIMITED REPRESENTED THROUGH ITS AUTHORIZED REPRESENTATIVE ADITYA AGGARWAL
.....Petitioner

Through: Mr. Sachit Jolly, Sr. Adv. with Ms.Soumya Singh & Mr. Abhyudaya Shankar Bajpai & Ms.Ananya Kapoor, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 78(1) NEW DELHI & ANR.

ASSISTANT COMMISSIONER OF INCOME TAX TDS CIRCLE 78 (1) NEW DELHI & ANR. .....Respondents

Through: Mr. Indruj Singh Rai, SSC with Mr.Sanjeev Menon, Mr. Rahul Singh & Ms. Priya Sarkar, JSCs, Mr. Gaurav Kumar & Mr. Prateek Bhati, Advs. along with Ms. Sanjula Halder, DCIT, Circle 78(1).

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

J U D G M E N T

Per* DINESH MEHTA, J. *(ORAL)

1. By way of the present petitions preferred under Articles 226 & 227 of the Constitution of India, the petitioner/assessee has sought directions to the respondent/Department to issue pending refunds along with applicable interest under Section 244A(1) & 244A(1A) of the Income Tax Act, 1961 (hereinafter referred to as '*the Act of 1961*') pertaining to Assessment Years 2003-04, 2008-09 to 2013-14 citing that the refund is pending for a period of about two years.

2. Mr. Sachit Jolly, learned senior counsel for the petitioner, informed that vide orders dated 30.04.2024, 05.06.2024, 26.11.2024 and 03.02.2025, the Income Tax Appellate Tribunal (hereinafter referred to as '*the Tribunal*') had directed the Assessing Officer (hereinafter referred to as '*AO*') to refund and in furtherance whereof, even the AO had passed the Appeal Effect Order on 14.10.2024, 30.10.2024 and 15.05.2026 but the amount has not been paid till today.

3. To give a bird's eye view of the relevant facts, the details of the orders and the amount due to be refunded to the petitioner are given hereunder:

Case No.	AY	Date of ITAT Order	Order giving appeal effect	Refund quantified by the assessee	Filing of Form 26B	Decision on Form 26B
WP(C) No. 2729/2026	2012-13	05.06.2024 (Pg. 48)	Order dated 30.10.2024 at Pg. 68	Rs. 11,06,37,172	Forms dated 25.04.2025 at Pg. 73	Rejected (See Pg. 247) (Reasons- Para 9 of Counter)
WP(C) No. 2733/2026	2013-14	30.04.2024 (Pg. 39)	Order dated 14.10.2024 at Pg. 44	Rs. 7,57,50,048	Form dated 01.02.2025 at Pg. 49	Rejected (See Pg. 247) (Reasons- Para 9 of Counter)
WP(C) No. 3699/2026	2003-04 and 2008-09 to 2011-12	26.11.2024 (Pg. 151) (assessee appeals); & 03.02.2025 (Pg. 172) (Revenue appeals)	Order dated 15.05.2026 at Pg. 15 of Counter	Rs. 34,45,69,250	Not filed	N.A.

4. Mr. Sachit Jolly, learned senior counsel for the petitioner, submitted that the petitioner's appeals were allowed by the Tribunal vide orders dated 30.04.2024 (AY 2013-14), 05.06.2024 (AY 2012-13), 26.11.2024 & 03.02.2025 (AYs 2003-04, 2008-09, 2009-10, 2010-11 & 2011-12). In furtherance thereof, the AO passed orders giving appeal effect of such orders on 30.10.2024, 14.10.2024 and 15.05.2026 and had found a total sum of Rs.53,09,56,470/- payable to the petitioner and in spite of this, when it came to making payment of the amount, the respondents insisted upon filing of Form 26B. He added that though the petitioner was of the view that the same

cannot be insisted upon and also knew it fully well that different High Courts have held in its own cases that such Form is not necessary, it did file the same in order to expedite the process of refund.

5. Learned senior counsel further submitted that when the petitioner filed such Form, the respondents rejected petitioner's Form citing that there are certain dues *qua* petitioner's PAN and sister TANs to the tune of Rs.924,57,20,992/-, whereas most of such demand has been stayed by competent authorities/Courts.

6. A counter affidavit/reply has been filed to the writ petitions in which the respondents have fairly admitted the fact that out of the demand of Rs.924,57,20,992/-, an amount of Rs.913,66,12,715/- has been stayed by various Authorities/Courts and only a sum of Rs.10,91,08,277/- is the amount *qua* which the petitioner does not have stay operating in its favour.

7. A rejoinder has also been filed by the petitioner *inter alia* asserting that the figure of Rs.10,91,08,277/- alleged to be outstanding against the petitioner is factually incorrect and as a matter of fact only a sum of Rs.27,63,141/- is outstanding against the petitioner.

8. Be that as it may. We do not propose to go into such factual dispute and leave for the authorities to decide.

9. Mr. Sachit Jolly, learned senior counsel for the petitioner, argued that the petitioner/company is an Indian company in which approximately 50% of shares are held by the Government of India. He submitted that the petitioner is in dire need of cash, because of the capital intensive nature of the business; he raised a grievance that it is because of the approach of the respondents that a huge amount which the petitioner has deducted, is lying with the respondents and in spite of various orders by the Authorities, it is not getting refund. He

submitted that the petitioner had to file writ petitions in different High Courts and even before this Court.

10. Mr. Jolly, learned senior counsel argued that the respondents' action of insisting upon the petitioner to furnish Form 26B is absolutely illegal and arbitrary. He took the Court through scheme of Sections 200A and 201 of the Act of 1961 and highlighted that Section 200A of the Act of 1961, Rule 31A of the Income Tax Rules, 1962 (hereinafter referred to as '*the Rules of 1962*') and Form 26B are meant for the purposes of and dealing with the cases where an assessee or deductor asks for refund of the amount which has been wrongly or inadvertently deducted in excess or incorrect amount has been deducted/deposited.

11. However, when an assessment has been made and an amount is found refundable after the assessment has been done or in pursuance of the order of the Appellate Authorities or the higher Authorities, then neither the provisions of Section 200A are applicable nor any question of applicability of Form 26B arises. He, therefore, argued that the respondents' action of rejecting petitioner's Form 26B and withholding the refund for the reason cited that there is outstanding demand on petitioner's PAN and sister TAN, is illegal and such order is liable to be quashed.

12. Mr. Indruj Singh Rai, learned senior standing counsel for the respondents, on the other hand, argued that if the provisions of the statute viz Section 200A of the Act of 1961, Rule 31A of the Rules of 1962 and Form 26B are read, maybe it looks like that Form 26B does not apply to the cases likes the one in hands but it has been the consistent practice of the Department and all the Assessing Authorities throughout the country that whenever a refund of Tax Deducted at Source (TDS) is given, even in furtherance of the

orders of the Court or of the Appellate Authority, an assessee is asked to furnish Form 26B. He invited Court's attention towards the Standard Operating Procedure dated 23.03.2023 issued by the Centralized Processing Cell (TDS) (hereinafter referred to as '*SOP*'), more particularly, towards clause (v) of paragraph no.2.1.2, to contend that since there is an outstanding demand against sister associated TANs of the deductor/assessee, the request of refund could not be approved.

13. He submitted that the respondent no.1/AO, feeling bound by the SOP and the stipulations made thereunder, did not process petitioner's request, though she tried to get clarifications from higher officers. He submitted that since there has been an outstanding demand of about Rs.10 crores, the respondent no.1/AO was justified in not issuing refund to the petitioner, as provided in the SOP.

14. In rejoinder, Mr. Sachit Jolly, learned senior counsel for the petitioner, submitted that the argument in relation to the SOP and the applicability of such SOP is equally out of question as is the applicability of Form 26B. He read the opening paragraph of the SOP, which is reproduced hereunder, and submitted that it did not apply to Section 201 of the Act of 1961 and applies only to cases covered by Section 200A of the Act of 1961.

> *"Prior to insertion of section 200A in the Income Tax Act, 1961 ("the Act"), by the Finance (No. 2) Act, 2009, there was no express provision in the Act for processing TDS statement filed by the deductor under section 200(3). Consequently, there was no formal mechanism in the Act for granting of refund claimed, if any, in the TDS statement filed. However, for mitigating genuine hardship of the deductor, the Board issued*

Circulars from time to time, the latest circular on the subject being Circular No. 2/2011 dated 27.04.2011 detailing the procedure for granting of refund of TDS on payments made to residents and Circular No. 7/2007 dated 23.10.2007 detailing the procedure for granting of refund of TDS on payments made to non-residents."

emphasis supplied

15. Heard learned counsel for the parties.

16. The case in hands portrays a grim picture of the state of affairs prevailing in the Department so far as issues relating to refund is concerned. The amount relating to the petitioner for AYs 2003-04, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 is still lying with the Department after 10 years of legal battle which it had won before the Tribunal in June 2024. The petitioner's plight does not end here. After having won the legal battle before the Tribunal, though the AO found an amount of Rs.53,09,56,470/- refundable to the petitioner in October 2024 & May 2026 but has still not remitted the amount. This time the AO took refuge of Form 26B and purported outstanding demand of petitioner's sister TANs to the tune of Rs.10,91,08,277/-.

17. Having gone through the scheme of the Act of 1961, more particularly, Sections 200A and 201 of the Act of 1961, Rule 31A of the Rules of 1962 and Form 26B, we have no hesitation in holding that Sections 200A & 201 of the Act of 1961 operate on entirely different fields and spheres. Section 201 of the Act of 1961 is a provision which deals with the assessment of TDS while Section 200A of the Act of 1961 deals with adjustment of TDS prior to assessment at the level of CPC. Rule 31A of the Rules of 1962 is a procedure

provided for such adjustment and Form 26B is a form meant to facilitate such adjustment.

18. Once the assessment by a competent AO has been made under Section 201 of the Act of 1961 and/or any Appellate Authority passes an order and the refund arises or emanates therefrom, it becomes a vested and crystallised right of an assessee to get the refund, along with applicable interest, subject of course to the Department's right to challenge such order in accordance with law. Such order is neither subservient to Section 200A of the Act of 1961 nor to Rule 31A of the Rules of 1962.

19. We hold it very categorically that once an assessment under Section 201 of the Act of 1961 has been made, neither Rule 31A of the Rules of 1962 applies nor can the AO or the CPC compel any assessee to furnish Form 26B and therefore, the amount found refundable after giving effect to the Appellate Authority's order has to be paid along with applicable interest, subject of course to withholding or adjustment by way of legally passed order under Section 245 of the Act of 1961.

20. Unless any order under Section 245 of the Act of 1961 is passed, the AO or the CPC cannot withhold any amount of an assessee once the Appellate Authority or the AO finds an amount to be refundable after passing of an order under Section 201 of the Act of 1961 or pursuant to an appeal arising therefrom.

21. In the instant case, the respondents have failed to show any order passed by the competent Authority withholding or adjusting any refund having been passed in exercise of powers under Section 245 of the Act of 1961. Such being the position, the plea taken by the respondents that the refund has not been issued because of the pending outstanding demand *qua*

petitioner's PAN and sister TANs is clearly untenable in law, arbitrary and violative of Articles 14, 19(1)(g) & 300A of the Constitution of India. The writ petitions are, therefore, allowed.

22. The respondents are directed to pay to the petitioner the amount of Rs.53,09,56,470/- along with applicable interest under Sections 244A & 244A(1A) of the Act of 1961 on or before 30.09.2026.

23. In case the amount is not credited in petitioner's account by 30.09.2026, the entire amount shall carry interest @1% per month over and above statutory interest.

24. It is a fit case for imposition of exemplary cost, but we make the case easy.

25. All pending applications are also disposed of.

(DINESH MEHTA)
JUDGE

(RAJNEESH KUMAR GUPTA)
JUDGE

AUGUST 18, 2026
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