

Alkem Laboratories Limited

Civil Writ Jurisdiction Case No.20009 of 2021

FORUM

Patna High Court

ORDER DATE

18 Aug 2023

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

The assessee on the other hand submits that when far more amounts are due from the department to the assessee, the department could enable filing of Form 26B so that the refund can be processed and the demands set off along with any interest payable to the department from the refunded amounts. The only rider would be in so far as the department also being made liable to pay the interest due on the refund. 8. Annexure-B is a circular issued by the Board which as has been declared in the cited decisions is not binding on this Court or even the assessee. There can be no prescription of a limitation period in the circular, which is not available in the statute or the rules framed thereunder. 9. In the totality of the circumstances, we are of the opinion that the entire problem could be resolved if the department avails of the provision under Section 245 of the Income Tax Act. Having found that there is no limitation for making a claim of refund; even now the assessee could make an application and when the refund is processed there can be a set off made of the amounts remaining due from the assessee for the various assessment years, from the amounts directed to be refunded. On the above reasoning, we direct the department to either enable filing of Form 26B or in the alternative permit the assessee to make a claim for refund in the physical mode which shall be considered on the basis of the statement made under Section 200 regarding the tax deducted at source. The refund being processed and permitted, the department should set off the amounts due as evident from the demand raised for the various assessment years from 2007-08 to 2021-22 as per Annexure-7 series. 10. The writ petition is allowed with the above directions.

SOURCE & VERIFICATION

Supplied court copy / compilation pp. 792-799

READ ORDER

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