IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 19TH DAY OF MARCH 2013

BEFORE

THE HON'BLE MR.JUSTICE RAM MOHAN REDDY

WRIT PETITION NO. 8598 OF 2013 (T-IT)

BETWEEN:

M/S. LEARNING CURVE TECHNOLOGIES
BANGALORE PRIVATE LIMITED
NO. 29, 20TH CROSS, 3RD MAIN, BALAJI LAYOUT
HOYSALA NAGAR, BANGALORE – 560016
REP. BY ITS DIRECTOR
MRS. PUJA BATHLA, AGED 35 YEARS

...PETITIONER

(BY SRI. N. MANOHAR FOR MURTHY & CO., ADVS.)

AND:

1. THE ASSISTANT COMMISSIONER OF INCOME TAX
RANGE-II, 14/3A, RASHTROTHANA BHAVAN
NRUPATHUNGA ROAD
BANGALORE – 560001

2. THE COMMISSIONER OF INCOME TAX
BANGALORE – I, FIRST FLOOR
CENTRAL REVENUE BUILDINGS
QUEENS' ROAD, BANGALORE - 560001

... RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DT. 7/11/2012 PASSED BY R2 VIDE ANNEX.C AS NULL AND VOID; DIRECT R2 TO REFUND THE TDS AMOUNT CLAIMED BY THE PETITIONER AS SUM OF RS.1,92,317/- AS SHOWN IN THE RETURN OF INCOME IN ANNEX.A; AND ETC.

THIS WRIT PETITION IS COMING ON FOR PRL.HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

Petitioner having filed its return for the assessment year 2009-10 ie., financial year 2008-09 on the basis of an audit report dt. 19/6/2009 declaring tax deducted at source (TDS) of Rs.1,94,462/-, nevertheless filed an application by way of a letter dt. 19/3/2012 – Annex.B for refund of the TDS. That letter reads as follows:

> *"**Sub**: Condonation of delay in filing the IT Return and Refund claim for the Assessment Year 2009-10*
>
> *PAN – AABCL2479G*
> *Assessment Year: 2009-10*
>
> *With reference to the above subject we would like to state that due to change of management and sever slow down in the business during the Financial Year 2009-10 we were not in a position to finalize the accounts and file the Income Tax Return and Refund claim within the statutory time limit prescribed under section 239 of the Income TaxAct.*
>
> *In this regard we would like to request you to kindly condone the delay of filing the IT Return for the Assessment Year 2009-10 and grant the refund claimed at the earliest. The Income Tax Return Acknowledgment for the Assessment Year 2009-10 has been enclosed herewith for your reference.*
>
> *Kindly do the needful at the earliest."*

2. The Commissioner of Income Tax having the jurisdiction to condone the delay in the matter of effecting refund of TDS, after extending an opportunity to the authorized representative of the petitioner who attended the inquiry and considering the averments set out in Annex.B, extracted supra, was of the opinion that the explanation offered is far from satisfactory over the condonation of delay and accordingly by letter dt. 7/11/2012 – Annex.C, rejected the request. In my considered opinion, no exception can be taken to the reasons, findings and conclusions arrived at by the authority. Petition devoid of merit, is accordingly rejected.

Sd/-
JUDGE

Rd/-