

Withholding refund u/s 241A without processing the ITR held invalid: HC

Summary – The High Court of Bombay in a recent case of Tata Communications Ltd., (the Assessee) held that Withholding refund u/s 241A without processing the ITR is invalid

Facts

- Assessee filed its return claiming a refund and also subsequently revised the return.
- Without processing the returns, a notice was issued by the Assessing Officer proposing to withhold the refund in view of section 241A.
- The assessee filed instant petition contending that section 241A could only be invoked, after the refund due was determined under section 143(1).

Held

- The HC stated that Section 241A of the Act empowers the Assessing Officer to withhold the refund which has become due for reasons stated therein, this only after determining the refund due under section 143(1) of the Act.
- Since in the present case the neither the regular return of income nor the revised return of income has been processed the question of withholding any refund under section 241A does not arise.
- Hence the SCN issued by AO needs to be quashed and set aside.