



W.P.Nos.18420 & 18421 of 2023

WEB COPY

Dated: 23.06.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.18420 & 18421 of 2023
and WMP Nos.17636, 17637, 17638 & 17639 of 2023

M/s.Doosan power systems India Private Limited

Represented by its Director,

Namkyong Paek

Presently having office at

No.18/2A, Sennerkuppam

By pass Road, Poonamalle,

Chennai-600056.

Erstwhile office at

No.322, 2nd Floor, Building No.3,

Solitare Corporate Park,

Chakala, Andheri Kurl Road,

Andheri (East), Mumbai-400093.

... Petitioner in both WPs

Vs

1.Deputy Commissioner of Income Tax

Corporate Circle 1(1) CHE

No.121, Mahatma Gandhi Road,

Nungambakkam, Chennai-34.

2.Commissioner of Income Tax - (Appeals)

National Faceless Appeal Centre

Delhi.

3.The Additional/Joint/Deputy/Assistant Commissioner

of Income Tax/Income Tax Officer,

National e-assessment Centre, Delhi.



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4. The Principal Commissioner of Income-tax, Chennai-1,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai-34.

5. The Commissioner of Income Tax
Corporate Circle 1(1),
Aayakar Bhavan, Chennai – 600 034.
(R5 impleaded vide this order)

... Respondents in both WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st Respondent and quash the impugned orders in ITBA/RCV/F/17/2023-24/1052950525(1) and ITBA/RCV/F/17/2023-24/1052950237(1) dated 18.05.2023 for the AY 2015-16 and 2017-18 as illegal, arbitrary, against the principles of natural justice and devoid of merit and consequentially direct the 1st Respondent to grant stay of recovery of demand for the AY 2015-16 and 2017-18 pending disposal of the appeal preferred by the Petitioner before the 2nd Respondent.

(In both WPs)

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.Prabu Mukund Arunkumar
Junior Standing Counsel

COMMON ORDER

Mr.Prabhu Mukund Arunkumar, learned Junior Standing
Counel accepts notice for the respondents and is armed with necessary



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instructions to enable final disposal of these matters, even at the stage of admission.

2. The challenge is to orders dated 18.05.2023 passed by the Deputy Commissioner of Income Tax under Section 220(6) of the Income Tax Act, 1961 (in short 'Act') for assessment years 2015-16 and 2017-18 rejecting the applications for stay filed by the petitioner.

3. The necessity for stay applications arises from orders of re-assessment for assessment years 2015-16 and 2017-18, that are subject matter of statutory appeals.

4. Reasons have been assigned for rejection of the stay and the Assessing Officer at paragraph 4 notes that the petitioner had not appeared before the National Faceless Assessment Centre and had there been appearance caused, the passing of adverse assessment orders could well have been avoided.

5. It is the petitioner's case that, in fact, the petitioner has amalgated with one Doosan Chennai Works Private Limited and that the factum of amalgamation was intimated to the Department on 18.03.2016.

6. Be that as it may, the Pan of the petitioner appears to be active and it has also accessed its page on the portal of the Income Tax



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Department, as otherwise it would not have been aware of the present proceedings at all.

7. The petitioner also does not dispute the factum of it having been aware of the present proceedings, but would only point out the factum of amalgamation was well within the knowledge of the Department as well, as an order has been passed on 29.03.2023 by the Assessing Authority for the subsequent assessment year, i.e., AY 2018-19 closing the proceedings on the ground of amalgamation.

8. It would have thus been appropriate had the petitioner brought this position to the notice of the Assessing Authority in order that it could have been taken note by him. That is what has been done, in fact, for assessment year 2018-19. At paragraph 2 of order dated 20.03.2023, the cooperation of the petitioner has been noticed.

9. For the above reasons, I am not inclined to interfere with the impugned orders. Since, the petitioner has moved the Commissioner of Income Tax by way of stay applications, which is placed at page 111 and 106 of the compilation respectively, let the petitioner pursue the same forthwith and obtain appropriate orders of stay.

10. As the Commissioner of Income Tax, Corporate Circle 1(1) Aayakar Bhavan, Chennai – 6000 034 is not arrayed as respondent in



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these Writ Petitions, the said authority is impleaded as R5. Mr. Prabhu

Mukund Arun Kumar, learned Junior Standing Counsel accepts notice for the newly impleaded R5.

11. The stay applications, after hearing the petitioner, shall be disposed within a period of six (6) weeks from date of receipt of a copy of this order.

12. These Writ Petitions are disposed in the aforesaid terms.

No costs.

23.06.2023

Index : Yes / No

Speaking Order

Neutral citation: Yes/No

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Note: Registry is directed to carry out necessary amendments in the cause title.

To

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Corporate Circle 1(1) CHE
No.121, Mahatma Gandhi Road,
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2. Commissioner of Income Tax - (Appeals)
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Dr.ANITA SUMANTH,J.

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