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

% **Decision Delivered on: 22.05.2023**

+ **W.P.(C) 6882/2023 & CM APPL. 26857/2023**

INFRES METHODEX PRIVATE LIMITED Petitioner
Through: Mr Preetam Singh, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 12(1)
DELHI & ORS. Respondents

Through: Mr Gaurav Gupta, Sr. Standing
Counsel with Mr Puneet Singhal and
Shivendra Singh, Jr. Standing
Counsels.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. Issue notice.
- 1.1 Mr Gaurav Gupta, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.
2. In view of the directions that we propose to pass, Mr Gupta says, that he does not wish to file a counter-affidavit in the matter, and that he will argue the matter based on the record presently available to the Court.
3. Therefore, with the consent of learned counsel for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.
4. Counsel for the petitioner says, that the petitioner's principal



grievance is, that the respondents/revenue, without following the regime set forth in Section 245 of the Income Tax Act, 1961 [in short, “the Act”] proceeded to adjust the refund available to it amounting to Rs.1,72,02,960/- for Assessment Year 2021-22 & 2022-23 against demand raised for AY 2017-18.

5. We are informed, that the demand raised qua the petitioner for AY 2017-18 is Rs.2,52,59,189/-.

6. Furthermore, counsel for the petitioner says, that he has filed an appeal against the assessment order concerning demand with respondent no.2 [i.e., Commissioner of Income Tax (Appeals)], which has not been adjudicated yet.

7. We are told, that this appeal was filed on 20.01.2020.

8. It is also the submission of the counsel for the petitioner, that an application for staying the demand concerning AY 2017-18 has been lodged with respondent no.1, which is also not being dealt with.

9. It is averred, that the said application, which is dated 29.01.2020, was lodged with the respondent no.1 on 03.02.2020.

10. Given this position, we have queried the counsel for the petitioner, whether he would have objection, if, for the moment, against the refund due qua AY 2021-2022 & 2022-23, adjustment is made to the extent of 20% of the demand raised for AY 2017-18.

11. Counsel for the petitioner says, that the petitioner will have no objection if such a direction is issued by the concerned authority.

12. It is ordered accordingly.

12.1 The concerned authority will bear this in mind, and pass an appropriate order.



13. In case the petitioner is aggrieved by the outcome i.e., the decision rendered on the application for stay, it will have liberty to take recourse to an appropriate remedy, *albeit*, as per law.
14. The concerned authority will dispose of the application for stay of demand at the earliest, though not later than three [3] weeks from the receipt of copy of the instant judgement.
15. The writ petition is disposed of in the aforesaid terms.
16. Consequently, pending application shall stand closed.
17. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 22, 2023/RV

Click here to check corrigendum, if any