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

% *Date of decision: 31.07.2023*

+ **W.P.(C) 10013/2023**

BRAHMAPUTRA INFRASTRUCTURE LIMITED Petitioner

Through: Mr Yogesh Jagia with Mr Amit Sood,
Mr Hirclay Minocha and Mr Chandan
Dutta, Advocates.

versus

CHIEF COMMISSIONER OF INCOME TAX (TDS) & ORS.

..... Respondents

Through: Mr Prashant Meharchandani, Sr.
Standing Counsel.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 38581/2023

1. Allowed, subject to just exceptions.

W.P.(C) 10013/2023 and CM APPL. 38580/2023 *[Application filed on
behalf of the petitioner seeking interim relief]*

2. Issue notice.

2.1 Mr Prashant Meharchandani, learned senior standing counsel, accepts
notice on behalf of the respondents/revenue.

3. Given the directions that we propose to pass, Mr Meharchandani says
that he does not wish to file a counter-affidavit in the matter and he will



argue based on the record presently available with the court.

3.1 Therefore, with the consent of the learned counsels for the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

4. Mr Yogesh Jagia, who appears on behalf of the petitioner, says that out of the total amount along with compounding charges i.e., Rs.5,16,62,737/- to be deposited for six Financial Years (FYs) spanning between FY 2013-14 and 2018-19, Rs.1.35 crores has been deposited, *albeit*, in tranches.

5. Mr Jagia says that refund amounting to nearly Rs 9.34 crores is due to the petitioner. It is therefore Mr Jagia's submission that the balance amount payable towards compounding charges can be adjusted by the respondents/revenue against refunds due to the petitioner.

6. A perusal of the letter shows that petitioner has been given several extensions; the last extension being given on 11.05.2023. The petitioner was required to deposit the entire sum towards compounding charges (as indicated hereinabove) by February, 2024.

7. Insofar as the refund is concerned, the petitioner has averred in paragraph 18 of the petition that Rs.9,44,61,415/- is due; the details concerning the same has been set out in paragraph 18 of the petition.

8. The closure of prosecution initiated against the petitioner for failure to deposit deducted tax at source concerning the FY in issue can occur only on deposit of the entire compounding charges.

9. Therefore, we are inclined to agree with the counsel for the parties that a direction that, if refund is payable, which is not required to be adjusted against the outstanding dues, the same could be released to the petitioner, for the payment of compounding charges.



- 9.1 It is ordered accordingly.
- 9.2 Mr Jagia on behalf of the petitioner undertakes to pay the balance amount payable towards compounding charges upon receipt of refund.
- 9.3 This undertaking given to the court is taken on record.
10. We make it clear, though, that if any instalment towards compounding charges is due under the existing arrangement arrived at with respondents/revenue, the petitioner shall not stand absolved of the said obligation by virtue of the order passed today.
11. The writ petition is disposed of in the aforesaid terms. Pending application shall also stand disposed of.
12. Parties will act based on the digitally signed copy of the judgment.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 31, 2023 / tr