WEB COPY



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED 08.02.2024**

**CORAM**

**THE HONOURABLE MR. JUSTICE R. MAHADEVAN**
**AND**
**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

**T.C.A.No.179 of 2022**

The Commissioner of Income Tax,
Chennai.
... Appellant

Vs.

M/s. Durr India Pvt. Ltd.
471, Second Floor, Prestige Polygon,
Anna Salai, Nandanam, Chennai 600 035 ... Respondent

PRAYER: Appeal filed under Section 260-A of the Income Tax Act, 1961, against the Order of Income Tax Appellate Tribunal, Madras "D" Bench, Chennai dated 29.04.2022 passed in SP No.35/Chny/2022 in I.T(TP) A No.15/Chny/2020.

For Appellant : Mr.T.Ravi Kumar

For Respondent : Mr.Arun Karthik Mohan

https://www.mhc.tn.gov.in/judis

WEB COPY



**JUDGMENT**

*(Judgment of the court was made by R. MAHADEVAN, J)*

Heard both sides and perused the materials available on record.

2. This tax case appeal is filed by the Revenue challenging the order dated 29.04.2022 passed by the Income Tax Appellate Tribunal, Madras "D" Bench, Chennai in SP No.35/Chny/2022 in I.T(TP) A No.15/Chny/2020 relating to the assessment year 2015-16 formulating the following substantial questions of law:

> *"1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law granting stay beyond a period of 365 days especially when the delay in disposal of appeal is attributable to the Assessee which is contrary to the Section 254(2A) of the Income Tax Act, 1961?*
>
> *2. Is not the finding of the Tribunal bad by extending the stay periodically upto 718 days especially when the statue prohibits granting of stay beyond 365 days and without disposing of the appeal and by not protecting the interest of the revenue adequately?"*

3. By the order impugned herein, the Tribunal allowed the stay application filed by the assessee, after having found thus:

> *"... We find that the assessee has complied with the conditions of earlier stay orders and paid the demand as directed by the Tribunal. It could also be noted that refunds for various years have also been adjusted which has further reduced the outstanding demand. It could also be noted that delay in disposal of appeal could not be attributed to any fault on the part of the assessee since the fate of the appeal hinges on constitution of*

https://www.mhc.tn.gov.in/judis

WEB COPY



*Special Bench. Under these circumstances, considering the ratio of Hon'ble Delhi High Court in the case of Pepsi Foods Pvt. Ltd. v. ACIT (376 ITR 87), we extend the stay of demand for a further period of 180 days from the date of this order or till the disposal of the quantum appeal, whichever is earlier. The conditions as stipulated in earlier stay order shall remain intact."*

*5. The stay application stands allowed in terms of our above order."*

4. We find that the order under challenge merely extends the stay of demand for a further period of 180 days from the date of receipt of the copy of the order or till the disposal of the quantum appeal whichever is earlier. The said order dated 29.04.2022 extending the stay has also expired, after a long ago. Hence, we are of the opinion that no further adjudication is required in this appeal.

5. In such view of the matter, this tax case appeal stands disposed of, keeping the substantial questions of law raised herein open to be adjudicated in an appropriate proceedings. It is made clear that we are not expressing any opinion on the merits of the case. No costs.

**[R.M.D,J.] [M.S.Q, J.]**
**08.02.2024**

Index : Yes / No
Speaking / Non-speaking Order
Neutral Citation : Yes/No
shk/ spp

R. MAHADEVAN, J.
AND

https://www.mhc.tn.gov.in/judis

WEB COPY



MOHAMMED SHAFFIQ, J.

shk/spp

To
1.The Income Tax Appellate Tribunal, Madras D Bench
Chennai.

2.The Commissioner of Income Tax,
Chennai.

3.The Income Tax Officer
Corporate Ward 1(4)
121 MG Road, Chennai - 600 034

4.The Joint Commissioner of Income Tax
Transfer Pricing Officer-1
Chennai 600 006.

T.C.A.No.179 of 2022

08.02.2024

https://www.mhc.tn.gov.in/judis