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

\+ W.P.(C) 499/2024

CORTEVA AGRISCIENCE SEEDS PVT LTD (FORMERLY KNOWN AS PHI SEEDS PVT LTD) ..... Petitioner

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Aditya Vohra, Adv.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 4(2) NEW DELHI ..... Respondent

Through: Mr. Sanjay Kumar & Ms. Easha, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **12.01.2024**

CM APPL. 2211/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application is disposed of.

W.P.(C) 499/2024 & CM APPL. 2210/2024

3. The writ petitioner assails the garnishee notices dated 09 January 2024 which has been issued by the respondent under Section 226 of the Income Tax Act, 1961 ["**Act**"] and pursuant to which the petitioner's bank accounts maintained with the Standard Chartered Bank and Citi Bank have come to be freezed.

4. Mr. Vohra, learned senior counsel for the appellant has drawn our attention to the break-up of the total outstanding demand and which is set out in a tabular form hereunder:

AY	Section	Outstanding

		demand (in Rs.)
2016-17	Order under Section 143(3)	50,08,19,932
2016-17	Penalty order under section 271(1)(c)	99,77,25,958
2012-13	Interest under section 220(2)	12,07,35,972
2013-14	Interest under section 220(2)	11,04,89,400
2014-15	Interest under section 220(2)	5,69,09,700
	Total	**178,66,80,962/-**

5. Undisputedly, the writ petitioner has been unsuccessful up to the stage of the Commissioner of Income Tax (Appeals) ["**CIT(A)**"] insofar as the original order of assessment is concerned, with the CIT (A) having dismissed its appeals on 23 October 2019. Subsequently, penalty orders came to be drawn by the Assessing Officer on 05 January 2022 in terms of Section 271(1)(c) of the Act. The aforesaid order has also come to be affirmed by the CIT (A) vide an order dated 23 March 2023.

6. We are however informed that appeals have been preferred by the petitioner against the aforesaid orders and are presently pending before the Income Tax Appellate Tribunal ["**ITAT**"]. The first of those appeals was instituted as far back as 20 December 2019.

7. The respondent appears to have proceeded further to effect recoveries of the outstanding demand consequent to the dismissal of the appeals by the CIT(A) and being constrained by the limited contours of Section 220(6) of the Act.

8. Mr. Vohra further apprises the Court that in furtherance of the demand which is outstanding, the respondent has also taken over a demand draft of a sum of Rs. 98,85,00,196/-. According to learned senior counsel, the aforesaid demand draft is yet to be encashed by the Department.

9. Mr. Kumar, learned counsel for the respondent, however, on instructions has apprised us that the said demand draft has already been deposited for encashment.

10. It is in the aforesaid backdrop that a prayer is made that pending the right of the petitioner to take emergent steps before the ITAT to press its applications for stay, the respondent may be restrained from encashing the demand draft which is held, subject to the petitioner ensuring that its bank accounts which form the subject matter of seizure maintain a credit balance of Rs. 79,81,80,766/- [i.e. Rs. 178,66,80,962/- - Rs. 98,85,00,196/-].

11. In view of the aforesaid, we dispose of the writ petition with the following directions:

a. We accord liberty to the petitioner to approach the ITAT forthwith and take appropriate orders for expeditious consideration and disposal of the stay applications in the pending appeals. We further request the ITAT to take up the stay applications and dispose them of with due expedition.

b. For a period of two weeks, we direct the respondent not to encash the aforenoted demand draft which has been recovered, if not already presented for encashment. In case the demand draft has already been submitted, the proceeds thereof shall abide by the orders that the ITAT may pass on the stay applications moved by the petitioner.

c. The encashment of the demand draft as well as the further rights of the respondent to effect recoveries from the petitioner shall abide by any direction that the ITAT may pass on the stay applications.

d. Till such time as the ITAT disposes of the stay applications, the petitioner shall ensure that the concerned bank accounts maintain a credit balance of Rs. 79,81,80,766/- at all times.

e. Subject to compliance with the above and pending further orders to be passed by the ITAT, the impugned garnishee notices dated 09 January 2024 shall remain stayed.

12. Dasti under the signatures of the Court Master.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 12, 2024/kk