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

\+ W.P.(C) 7514/2024

CLARO ENERGY PRIVATE LIMITED .....Petitioner

Through: Mr. Rohit Rathi, Ms. Aditi Dani, Ms. Ranu Purohit, Mr. Yashas RK and Ms. Niharika Singh, Advocates

versus

ASSESSING OFFICER DY COMMISSIONER OF INCOME TAX CIRCLE 4 2 DELHI & ORS .....Respondent

Through: Mr. Vipul Agarwal, SSC, Mr. Gibran Naushad, JSC and Ms. Sakashi Shairwal, JSC

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **10.12.2024**

1. The petitioner has filed the present petition *inter alia* praying that the directions be issued to the respondent to refrain from adjusting the refunds due in respect of assessment years (AY) 2020-21, 2021-22, 2022-23 and 2023-24 against the demand in respect of AY 2018-19.

2. The petitioner has set out a tabular statement in the present petition setting out the amount of refunds due in respect of the said years, which were adjusted. The said tabular statement is reproduced below:-

AY	Amount of Refund adjusted
2020-21	Rs. 30,66,300/-
2021-22	Rs. 36,06,430/-

2022-23	Rs. 35,67,480/-
2023-24	Rs.6,37,889/-
Total	**Rs.1,08,78,099/-**

3. It is the petitioner's case that a sum of ₹1,08,78,099/- has been adjusted which is beyond the stipulated amount of 20% of the outstanding demand. The petitioner claims that the demand in respect of AY 2018-19 is ₹96,27,900/- and therefore a maximum amount of ₹19,25,580/- could be adjusted and the petitioner has taken recourse to its appellate remedies in respect of AY 2018-19 and has filed an appeal, which is now pending before the Commissioner of Income Tax (Appeals).

4. The petitioner states that he has also filed a stay application, but the same has not been entertained as yet.

5. Learned counsel appearing for the Revenue has handed over a communication dated 09.12.2024 in respect of AY 2018-19, which indicates that the petitioner's request for stay of demand was examined in the light of the guidelines dated 25.08.2017 issued by the Central Board of Direct Tax. In terms of the said guidelines, the proceedings for recovery for a sum of ₹77,02,320/- (₹96,27,900/- less 20% i.e. ₹19,25,580/-) have been stayed, subject to certain conditions. The said communication dated 09.12.2024 is taken on record.

6. Learned counsel for the Revenue further states, on instructions, that any amount adjusted in excess of ₹19,25,580/- would be refunded to the petitioner.

7. In view of the above, no further orders are required to be passed in the present petition except to direct the Revenue to refund the amount recovered in excess of 20% of the demand to the petitioner as expeditiously as possible

and in any event within a period of eight weeks from the date alongwith applicable interest, in accordance with law.

8. The petition is disposed of in aforesaid terms.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

DECEMBER 10, 2024

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Click here to check corrigendum, if any