IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.717 OF 2025

Kala Niketan RJP Group .. Petitioner

Versus

Income Tax Officer Ward- 34(2)(1), Mumbai & Ors. .. Respondents

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Mr. Dharan V. Gandhi for the petitioner.
Mr. Ravi Rattesar for the respondents.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 26 February 2025

P.C.:-

1. Heard learned counsel for the parties.

2. This petition challenges an order dated 28 December 2025 by which the PCIT has declined to extend the unconditional stay earlier granted to the petitioner during the pendency of the petitioner's appeal before the Appellate Authority.

3. After this matter was argued for some time and we expressed our disinclination to consider the petitioner's request for an unconditional stay on the tax demand, Mr Gandhi, learned counsel for the petitioner, sought a day's adjournment to obtain instructions on whether the petitioner would be willing to pay some portion of the demanded amount to the respondents.

4. Accordingly, the matter was posted for today, i.e. 26 February 2025.

5. Today, Mr Gandhi tenders an affidavit of Rajesh Jayantilal Parekh, the authorised partner of the petitioner, which reads as follows:-

> ***"AFFIDAVIT IN SUPPORT***
>
> *I, Rajesh Jayantilal Parekh, the partner of the Petitioner abovenamed, do hereby solemnly affirm and state as under:*

1. I say that the total tax demand, including interest, of the Petitioner for AY 2018-19 is Rs. 8,19,59,943/- as per notice of demand dated 28.09.2021 (Exhibit B).

2. I say that the Petitioner has paid a sum of Rs. 2,00,000/-on 20.07.2024 (page 227 of the petition).

3. I say that 10% of the demand comes to Rs. 81,95,994/- of which a sum of Rs. 2,00,000/- has been paid.

4. I say that the Petitioner shall pay a further sum of Rs. 80,00,000/- in the following manner:

Date	**Amount**
On or before 25.03.2025	Rs. 27,00,000/-
On or before 25.04.2025	Rs. 27,00,000/-
On or before 25.05.2025	Rs. 26,00,000/-
Total	**Rs. 80,00,000/-**

5. I pray that the balance demand should be stayed till the disposal of appeal by the Ld. CIT(A).

6. I also humbly pray that the Ld. CIT(A) should be directed to dispose the appeal expeditiously."

6. In the impugned order, the petitioner had been directed to pay 20% of the demanded tax, amounting to Rs. 8,19,59,943/- towards assessment year 2018-19. There is a record of the petitioner paying a sum of Rs.2 lakh on 20 July 2024. Therefore, 20% of the balance tax demand would come to approximately Rs.1.62 crore. The petitioner has now offered to pay 10% of the tax demand, which comes to approximately Rs.82 lakh. After adjusting Rs.2 lakh, the petitioner has offered to pay a sum of Rs.80 lakh to the revenue.

7. Although, the reasons for deviating from the usual rule requiring payment of at least 20% are not very convincing, because on two earlier

occasions, unconditional stays were granted in this matter, and further, the petitioner has already filed written submissions before the Commissioner of Income Tax (Appeals), We accept Mr. Gandhi's submission that tax demand be stayed upon the petitioner depositing the amount of Rs. 80 lahks on or before 25 May 2025 as undertaken by the petitioners.

8. Accordingly, by accepting the petitioner's undertaking, we stay the tax demand subject to the petitioner paying the respondents an amount of Rs.80 lakh in instalments indicated by the petitioner on or before 25 May 2025. However, we clarify that if this amount is not paid or there is any default in payment of any single instalment, this stay shall be deemed to have been vacated without further reference to this Court.

9. The department should then take immediate steps to recover the tax demand because it is neither fair to the department nor to this Court to obtain such interim orders based on undertaking and, after that, to cheerfully breach such solemn undertakings given to the Court. This would naturally be without prejudice to any action under the Contempt of Courts Act, 1971, that would be liable to be initiated against the petitioner or their partners in this matter.

10. If the amount of Rs.80 lakh is indeed paid on or before 25 May 2025, as undertaken by the petitioner, we request CIT (A) to consider expeditious disposal of the petitioner's pending appeal.

11. The petition is disposed of in the above terms without any costs order.

12. All concerned to act on the authenticated copy of this order.

(Jitendra Jain, J.) **(M. S. Sonak, J.)**