IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7892 of 2025
and
W.M.P.No. of 2025

Tamil Nadu Power Finance and Infrastructure Development Corporation Ltd., (TNPFC)
Rep. by Managing Director. ...Petitioner

Vs.

1. The Commissioner of Income Tax (TDS)
No.16, BSNL Office, Greams Road,
Thousand Lights, Chennai – 600 006.

2. The Deputy Commissioner of Income Tax (TDS)
TDS Circle 3 (1)
No.16, BSNL Office, Greams Road,
Thousand Lights, Chennai – 600 006.

3. The Commissioner of Income Tax (Appeals)
National Faceless Appeal Centre,
2nd Floor, E-Ramp, Jawaharlal Nehru Stadium
New Delhi – 110 003.

4. The Chief Commissioner of Income Tax
Chennai -I, Income Tax Department
No.121, Nungambakka High Road,
Chennai – 600 034. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the first respondent in its order dated 18.02.2025 for the assessment years 2017-18 to 2023-24 in DIN : 62/CHE/18022025/00465 passed in the stay petitions dated 07.05.2024 and 08.05.2024 filed by the petitioner against the orders passed under Section 201/201(1A) by the second respondent in its orders dated 28.02.2024.

For Petitioner	:	Mr.P.S.Raman Senior Counsel
For Respondents	:	Dr.B.Ramaswamy, Senior Standing Counsel

Order

Heard Mr.P.S.Raman, the learned Senior Counsel appearing for the petitioner and Dr.B.Ramaswamy, learned Senior Standing Counsel who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order of rejection passed by the first respondent in the stay petitions dated 07.05.2024 and 08.05.2024 filed by the petitioner for the assessment years 2017-18 to 2023-

24.

3. Mr.P.S.Raman, the learned Senior Counsel for the petitioner would submit that a show cause notice dated 07.11.2023 was issued by the second respondent-Department for the AYs 2017-2018 to 2023-24 alleging that the petitioner had not deducted tax at source on applicable rates on the total interest pay outs during the aforesaid assessment years; that the petitioner, in response to the said show cause notice, filed a reply/objections in a detailed manner along with supportive documents, the second respondent, passed an order dated 28.02.2024, raising a demand of tax for a sum of Rs.771,38,94,001/- and as against the order passed by the second respondent, the petitioner filed appeals along with Stay Petitions and also filed Rectification Petitions under Section 154 of the Act for all assessment years However, both the first respondent and the second respondent rejected the Stay Petitions and Rectification Petitions and aggrieved by the order passed by the first respondent rejecting the Stay Petitions imposing a condition on the petitioner to deposit 20% of the disputed tax, the present Writ Petition is filed.

3.1 The learned Senior Counsel for the petitioner mainly contended that the petitioner, being a State owned Corporation, engaged in the business of finance, has received funds/deposits from various categories of depositors, such as Universities, Temples, Government Companies, Statutory Bodies, etc.,, all those entities are exempted from payment of TDS, under the provisions of the Income Tax Act, therefore, the question of TDS doest not arise at all, however, without prejudice to the said contention, the petitioner has submitted Form 26AS, the second respondent without appreciating the petitioner's case in a proper perspective, passed an order dated 28.02.2024, raising a demand of Rs.5,00,94,88,356/- along with consequential interest of Rs.2,70,44,05,644/- which is totalling to a sum of Rs.7,71,38,94,000/-.

3.2 The learned Senior Counsel for the petitioner would submit that though the petitioner filed Appeals challenging the order passed by the second respondent dated 28.02.2024 and pending disposals of the same, sought for a Stay of the impugned demand, by filing Petition for Stay, the first respondent rejecting the Stay Petitions on the ground that the demand could be stayed only on payment of 20% of the disputed tax. The learned Senior Counsel would submit that the imposition of 20% of the disputed tax would comes around to a sum of Rs.126 Crore, which the petitioner finds to be onerous.

4. Dr.B.Ramaswamy, learned Senior Standing Counsel for the respondent strongly opposed for passing any order, being it interim or final in favour of the petitioner-assesseee by contending that in the case on hand, revenue tax involved is Rs.771,38,94,000/-, and unless or otherwise, the petitioner/assessee is making any deposit, no liberal approach shall be adopted in the petitioner;s case.. Further, it is submitted that the petitioner, being a State owned Corporation, is supposed to follow the procedure in letter and spirit in furnishing the correct details with regard to the PAN number, and in case, they seek exemption based on certain circular/notification, they ought to have furnished those details to the respondent-Department, in the absence of any valid datas, available for the respondent-Department to verify and pass orders, they cannot except any favourtism from the respondent-Department based on surmise and conjectures. Therefore, onceagain, insisted the Court not to take any linient view in the petitioner's case.

5. In reply, the learned Senior Counsel for the petitioner, the petitioner, without prejudice to their contention raised in this Writ Petition, is ready and willing to deposit Rs.30 crore, and hence, prayed for a direction that till the disposal of the Appeals by the third respondent/Appellate Authority, the order passed by the second respondent dated 28.02.2024 may be stayed.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. The petitioner-assessee, viz., M/s.Tamil Nadu Power Finance and Infrastructure Development Corporation Ltd., is wholly a State owned Public Sector Undertaking. The petitioner-Company is engaged in the business of finance. In terms of Section 133 A(2A) of the Act, a survey was conducted in the premises of the petitioner on 30.10.2023, pursuant to which, a show cause notice dated 07.11.2023 was issued by the respondent-Department for the AYs 2017-2018 to 2023-24 alleging that the petitioner had not deducted TDS at applicable rates on the total interest pay outs during the aforesaid assessment years. The petitioner, in response to the said show cause notice, filed a reply/objections in a detailed manner, along with supportive documents. The second respondent, without considering the said reply/objection in a proper perspective, passed an order under Section 201/201(1A) of the Act on 28.02.2024, raising a demand of Rs.5,00,94,88,356/- along with consequential interest of Rs.2,70,44,05,644/- which is totalling to a sum of Rs.7,71,38,94,000/-.

7.1 As against the order passed by the second respondent, treating the petitioner as "assessee in default", the petitioner filed Appeals before the third respondent along with Stay Petitions dated 07.05.2024 and 08.05.2024. Apart from the same, the petitioner also filed Rectification Petitions on the ground that the entire alleged TDS default are covered by Form 26 A and relevant circulars, notification, issued under the Act.

7.2 So far as the petitioner's Rectification Petitions are concerned, the same came to be rejected by the first respondent stating that the Google drive link was not opening for the years 2017-18 to 2021-22 and consequently, held that there is no mistake apparent on the face of record and confirmed the demand.

7.3 So far as the Stay petitions are concerned, the same have been rejected by the first respondent vide order dated 18.02.2025 citing that the demand could be stayed only on payment of 20% of the disputed tax. Aggrieved by the said order, the present Writ Petitions are filed.

7.4 Though the learned counsel for both sides fought tooth and nail regarding the demand of 20% of the disputed tax, which comes around to a sum of Rs.126 crore, considering the submission of the learned counsel for the petitioner that the petitioner has voluntarily come forward to deposit Rs.30 Crore, to which even the learned Senior Standing Counsel for the respondents is not agreable, this Court, considering the vital fact that the petitioner is a tate Owned Corporation and it plays an anchor role to the development of Power Sector Projects in the State of Tamil Nadu, as it executes an array of welfare schemes of the Government of Tamil Nadu like i) Child Protection Scheme, Covid-19 Protection Scheme, Oru Kalla Pooja Schemes, etc., also, the Pension Funds of the State of Universities under Old Pension Scheme and Contributory Pension Scheme are deposited only with the petitioner, and when they made a specific claim that they have received the money from various depositors, who are all Statutory bodies, exempted from payment of TDS, this Court is inclined to pass the following order:-

i) The impugned order dated 28.02.2024 passed by the second respondent is stayed till the disposals of the Appeals filed by the petitioners before the third respondent, however, the same is subject to the condition that the petitioner deposits Rs.30 crore of the disputed tax within a period of three weeks from the date of receipt of a copy of this order.

iii) The petitioner is also at liberty to agitate all the issues, that were canvassed herein before the Appellate Authority, which shall entertained the Appellate Authority, and the Apeals shall be disposed of on merits and in accordance with law, without being influenced by any of the observations made by this Court in this Writ Petition.

7. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.03.2025

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Index : yes/no
Neutral Citation : yes/no

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