IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No14868 of 2025
and W.M.P.No.16769 of 2025

Mahasakthi Bio Enercon Private Limited,
Represented by its Authorised Signatory,
P.Charavana Kumar,
No.64, Dr.Nanjappa Road,
Coimbatore,
Tamil Nadu – 641 018. ...Petitioner

Versus

1.The Joint Commissioner of Income Tax (OSD),
Central Circle 1, Coimbatore,
Coimbatore Main Building,
No.63, Race Course Road,
Coimbatore, Tamil Nadu – 641 018.

2.Principal Commissioner of Income Tax (Central),
302, New Building – III Floor, Investigating Building,
No.46, Mahatma Gandhi Road,
Chennai, Tamil Nadu – 600 034.

3.The Assistant Commissioner of Income Tax,
Central Circle 1, Coimbatore,
Coimbatore Main Building,
No.63, Race Course Road,
Coimbatore,
Tamil Nadu -641 018.

4.The Income Tax Appellate Tribunal (Chennai),
Represented by its Registrar,
A-3, II Floor, Rajaji Bhavan,
Besant Nagar, Chennai,
Tamil Nadu – 600 090. ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Mandamus, directing the 1st respondent to not deem the assessee as being in default of the notice of demand draft 31.03.2025 issued by the 1st respondent for the AY 2013-14 for a sum of Rs.160,09,18,414/-, as determined by the assessment order dated 31.03.2025 passed by the 1st respondent, giving effect to the revision order dated 25.03.2024 issued by the 2nd respondent under Section 263 of the Income Tax Act, 1961, until the disposal of the petitioner appeal against the revision order dated 25-03-2024, presently pending before the Income Tax Appellate Tribunal, Chennai, in ITA 467/CHNY/2025.

For Petitioner : Mr.G.K.Muthukumar
For M/s.VPK Gowtham
and Mr.Sudhakar.K

For Respondents : Mr.A.N.R.Jayaprathap
Jr.Standing Counsel

ORDER

This writ petition has been filed by the petitioner seeking to direct the 1st respondent to not deem the assessee as being in default of the notice of demand draft 31.03.2025 issued by the 1st respondent for the AY 2013-14 for a sum of Rs.160,09,18,414/-, until the disposal of the petitioner appeal against the revision order dated 25-03-2024 pending before the Income Tax Appellate Tribunal, Chennai, in ITA 467/CHNY/2025.

2.Mr.A.N.R.Jayaprathap, learned Junior Standing Counsel, takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that in the present case, the 2nd respondent had passed the revision order on 25.03.2024, under Section 263 of the Income Tax Act, 1961 for the Assessment Year 2013-14. Against the said revision order dated 25.03.2024, an appeal was preferred by the petitioner before the 4th respondent and the same was taken on record on 14.02.2025. However, based on the said revision order dated 25.03.2024, the impugned order dated 31.03.2025 was passed by the 1st respondent giving effect to the revision order, when the appeal is pending.

5.He would further submit that in a similar circumstances, this Court in the case of ***VIP Housing and Properties vs. Income-Tax Appellate Tribunal*** reported in ***[2022] 140 taxmann.com 151 (Madras)*** had directed the respondent-Department to defer the recovery proceedings till the disposal of the appeal and therefore, he urged this Court to pass a similar order.

6.Learned Junior Standing Counsel appearing for the respondents would submit that since the assessment order dated 13.02.2025 came to be passed based on the revision order dated 25.03.2024, the petitioner can also challenge the assessment order simultaneously. He would further submit that the petitioner may be directed to deposit some amount, in case, this Court is inclined to consider the plea of the petitioner.

7.Heard the learned counsel for the petitioner as well as the learned Junior Standing Counsel appearing for the respondents and perused the materials available on records.

8.Considering the submissions made by the learned counsel on either side, this Court feels that challenging the impugned assessment order will only pave the way for multiple litigation. However, it is upto the petitioner to challenge the assessment order. Further, this Court is not inclined to interfere with the veracity of the order. As held by this Court in VIP Housing case (cited supra), the respondents-Department are directed not to give effect to the order dated 25.02.2024, till the disposal of the appeal. The 4th respondent is directed to dispose of the appeal within a period of six months from the date of receipt of a copy of this order.

9.In the result, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2025

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Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
Neutral Citation:Yes/No

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KRISHNAN RAMASAMY, J.

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