IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 15131 of 2025
AND
WMP NO. 17053 OF 2025,WMP NO. 17060 OF 2025

Tamil Nadu Power Finance And Infrastructure,
Development Corporation Limited (TNPFC),
Represented by Managing Director,
490/3-4, Tufidco Powerfin Tower,
Anna Salai, Chennai 600 035.

Petitioner(s)

Vs

1.Assessment Unit,
Income Tax Department,
New Delhi.

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 (TDS),
No.16 BSNL Office, Greams Road,
Thousand Lights, Chennai 600 006.

4.The Chief Commissioner Of Income Tax,
Chennai -1, Income Tax Department,
No. 121, Nungambakkam High Road,
Chennai - 600 034.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records of the first respondent in its order DIN - ITBA/AST/S/143(3)/2024-25/1074376418(1) dated 11.03.2025 for the Assessment year 2023 -2024, the consequential Notice for penalty bearing DIN ITBA/PNL/S/270A/2024-25/1074376484(1) dated 11.03.2025 and notice of demand issued under sec 156 of the Income Tax Act dated 11.03.2025 issued by the First Respondent bearing DIN ITBA/AST/S/156/2024-25/1074376502(1), quash the said proceedings.

For Petitioner(s): Mr.P.S.Raman,
Senior Advocate
Assisted By Mr.C.Gauthama Raj

For Respondent(s): Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned assessment order dated 11.03.2025, passed by the 1^{st} respondent, relating to the Assessment Year 2023-2024.

2.Mr.P.S.Raman, learned Senior Counsel assisted by Mr.Gauthama Raj, learned counsel for the petitioner would submit that, the present dispute pertains to the Assessment Year 2023-2024. The impugned order has been passed disallowing a sum of Rs.2,49,92,01,086/-, stating the same fall within the purview of Section 40(a)(ia) of the Income Tax Act. The petitioner received deposits from various types of depositors, who all are exempted entities under the Income Tax Act and to those entities, if any interest on deposits are paid since they are all exempted entities, they are not required to deduct TDS. However, alleging that the petitioner failed to deduct tax at source, the order under Section 201/201 (1A) of the Income Tax Act came to be passed on 28.02.2024 by the 2nd respondent, treating the assessee as 'assessee in default'. Consequently, the present impugned order has been passed by the 1st respondent alleging that on account of the failure on the part of the petitioner to deduct tax at source, the 30% of the income of the petitioner cannot be allowed as deduction as per Section 40(a)(ia) of the Income Tax Act.

3.Learned Senior Counsel would further submit that challenging the order dated 28.02.2024, the petitioner has preferred appeals along with stay petition. Since the said stay petition was rejected on the ground that the demand could be stayed only on payment of 20% of the disputed tax, the petitioner challenged the said rejection order by way of writ petition in W.P.No.7892 of 2025. This Court by virtue of the order dated 21.03.2025, stayed the order dated 28.02.2024 passed by the 2nd respondent till the disposal of the appeals filed by the petitioner with a direction to the petitioner to deposit a sum of Rs.30 Crores. As per the direction of this Court, the petitioner made such payment and therefore, till the disposal of the appeals the respondent cannot proceed against the petitioner. On the other hand, if the appeals got dismissed, the assessment order cannot be quashed and the same can be proceeded with. Therefore, he requested to fix time limit to dispose of the said appeals and appropriate orders may be passed to defer the recovery proceedings till such time.

4.Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents by referring paragraph Nos. 4, 5 and 6 of the counter affidavit would submit that the order passed under Section 143(3) read with Section 144B for Assessment Year 2023-2024, disallowing Rs.2,49,92,01,086/- under Section 40(a)(ia), is strictly in accordance with statutory provisions. However, since this Court stayed the assessment order dated 28.02.2024 till the disposal of the appeals pending before the Appellate Authority on condition to the petitioner to pay Rs.30 Crores out of the disputed tax amount, two months time may be granted to dispose of the appeals and till then no recovery proceedings will be initiated. In the event the petitioner failed to succeed in the appeals, the respondents can proceed with the recovery process.

5.Heard Mr.P.S.Raman, learned Senior Counsel for the petitioner as well as Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents and perused the materials available on record.

6.Considering the submissions made by the learned Senior Counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents, it is evident that the assessment order dated 28.02.2024 came to be passed against the petitioner on the ground that the petitioner failed to deduct TDS for the assessment year 2023-24. However, according to the petitioner, the petitioner received money from various types of depositors, who are all exempted entities and therefore, they are not liable to deduct TDS and against the said proceedings, the petitioner preferred appeals along with stay petition. Since the stay petition got rejected on the ground that demand could be stayed only on payment of 20% of the disputed tax, the petitioner challenged the rejection order in W.P.No.7892 of 2025 and this Court vide order dated 21.03.2025, stayed the assessment order dated 28.02.2024 subject to the payment of Rs.30 crores. The relevant portion of the order dated 21.03.2025 is extracted hereunder:-

> "…….
>
> **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 agreeable, this Court, considering the vital fact that the petitioner is

a state 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.
>
> ii) 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 Appeals 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.Now, in the present writ petition based on the same issue of non-deduction of TDS by the petitioner for the assessment year 2023-24, the impugned order dated 11.03.2025 has been passed stating that since the petitioner failed to deduct TDS, 30% of the total TDS would be considered as income of the petitioner in terms of provisions of Section 40(a)(ia) of the Income Tax Act. No doubt as contended by the learned Senior Standing Counsel for the respondent that if the petitioner failed to deduct TDS, 30% of the TDS would be considered as income and tax will be levied for the same. However, since the assessment order dated 28.02.2024 passed against the petitioner for non-deduction of TDS for the assessment Year 2023-24 has been stayed in the aforesaid writ petition until the disposal of the appeals, as the order impugned herein is also pertaining to the same issue of TDS which was already stayed by this Court, it would be appropriate to stay the present proceedings as well until the disposal of the appeals filed by the petitioner against the assessment order dated 28.02.2024.

8.In view of the above, this Court passes the following orders:-

(i) The 1st respondent to defer the recovery proceeding till the disposal of the appeals in ADDL/JCIT(A)-1 CHANDIGARH/1004/2016-17 to 2022-2023 filed by the petitioner challenging the assessment order dated 28.02.2024.

(ii) The Appellate Authority is directed to dispose of the appeals as expeditiously as possibly, preferable within a period of three months from the date of receipt of a copy of this order and till the disposal of the appeals, the recovery proceedings shall be deferred in the present case.

9.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18-06-2025

rst
Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No

To

1.Assessment Unit,
Income Tax Department,
New Delhi.

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 (TDS),
No.16, BSNL Office, Greams Road,
Thousand Lights Chennai 600 006.

4.The Chief Commissioner of Income Tax,
Chennai -1, Income Tax Department,
No. 121, Nungambakkam High Road,
Chennai - 600 034.

KRISHNAN RAMASAMY J.

rst

WP No. 15131 of 2025

AND

WMP NO. 17053 OF 2025,

WMP NO. 17060 OF 2025

18-06-2025