IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.30779 of 2025
and
W.M.P.No.34486 of 2025

NETHRAVATHI DISTILLERIES PRIVATE LTD
REP BY ITS DIRECTOR VISWANATHAN SATISH
NO.1 BANGALORE MAIN ROAD
AVARGERE VILLAGE KUNIGAL,
KARNATKA -572130. ...Petitioner

Vs

The ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE-1, 63 RACE COURSE
ROAD COIMBATORE-641 018. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to keep the order passed under Section 270A of the Income Tax Act 1961 bearing DIN.ITBA/PNL/F/270A/2025-26/1077945484(1) dated 27.06.2025 and the consequent demand notice issued under Section 156 of the Income Tax Act 1961. bearing DIN-Notice No.ITBA/PNL/S/156/2025-26/1077944224(1) dated 27.06.2025 for AY 2017-18 for PAN.

AAACN6939N in abeyance pending the disposal of the appeal filed by the Petitioner under Section 260A of the Act.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondent : Mr.A.N.R.Jayaprathap, Junior Standing Counsel

Order

Heard Mr.Suhrith Parthasarathy learned counsel appearing for the petitioner and Mr.A.N.R.Jayaprathap, learned Junior 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 petitioner has filed this Writ Petition seeking for a direction on the respondent to keep the order passed under Section 270A of the Income Tax Act 1961 dated 27.06.2025 and the consequent demand notice issued under Section 156 of the Income Tax Act 1961 dated 27.06.2025 for AY 2017-18 in abeyance pending the disposal of the appeal filed by the petitioner under Section 260A of the Act.

3. Mr.Suhrith Parthasarathy, learned counsel appearing for the petitioner would submit that the respondent has passed as assessment order under Section 143 (3) of the Income Tax Act, 1961 (hereinafter, referred to as 'the Act') dated 20.12.2019 as against which, the petitioner preferred an Appeal before the Appellate Authority, viz. Commissioner of Income Tax (Appeals) and the said Appeal is pending, however, since, there is no provisions in the Act to seek for stay of the assessment proceedings before the Appellate Authority, the petitioner, left with no other option, has approached this Court by way of present Writ Petition seeking for a mandamus directing the respondent not to initiate recovery proceedings against the petitioner by virtue of notice dated 27.06.2025, and to keep the said recovery proceedings in abeyance pending disposal of the Appeal by the Appellate Authority.

4. Mr.A.N.R.Jayaprathap, learned Junior Standing Counsel for respondent would submit that though as per the Statute, there is no provisions to seek stay of the recovery proceedings before the Appellate Authority, the right recourse available to the petitioner is to approach the

Assessing Officer by way of filing Stay Petition, instead of doing so, the petitioner has straightaway approached this Court, by way of filing the present Writ Petition, which is not maintainable.

5. Heard the learned counsel for the petitioner and the learned Junior Standing Counsel for the respondent and perused the materials available on record.

6. This Court in fact finds force in the submission made by the learned Junior Standing Counsel for the respondent. Admittedly, the petitioner has filed an Appeal against the assessment order passed by the respondent/Assessing Officer dated 20.12.2019 before the Appellate Authority. Therefore, if the petitioner apprehends initiation of recovery proceedings in furtherance of the impugned order, the only recourse available to the petitioner is to file an Application for Stay of the recovery proceedings before the respondent/Assessing Officer, only in the event, the Assessing Officer rejects/dismiss the Stay Petition, the petitioner can approach this Court seeking to invoke power under Article 226 of the

Constitution of India seeking for appropriate remedy either to set aside such rejection/dismissal or for staying the recovery proceedings and the petitioner, having failed to do so, is not entitled to the relief sought for in this Writ Petition.

7. Hence, I do not find any merit in the Writ Petition. Accordingly, the Writ Petition is dismissed. At this juncture, the learned counsel for the petitioner insisted this Court to safeguard the interest of the petitioner till the petitioner files an Application for Stay before the respondent/Assessing Officer. In view of the said submission, the petitioner is directed to file an Application for Stay of the recovery proceedings before the respondent/Assessing Officer within a period of two weeks from today, irrespective of receipt of copy of this order and till such an Application for Stay is taken out by the petitioner, the respondent-Assessing Officer shall not precipitate the issue and to defer the recovery proceedings.

8. With the above observation, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

The ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE-1, 63 RACE COURSE
ROAD COIMBATORE-641 018

Krishnan Ramasamy,J.,

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