IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.37288 of 2025
and
W.M.P.Nos.41723 and 41724 of 2025

Manishankar Jayanthi,
W/o.Manishankar ... Petitioner

Vs.

1.The Commissioner of Income Tax (Appeals),
Aayakar Bhawan,
121, M G Road, Nungambakkam,
Chennai – 600 034.
2.The Assistant Commissioner of Income-tax,
Non-Corporate Circle 3(1), Chennai,
Wanaparthy Block, Aayakar Bhawan,
121, M G Road, Nungambakkam,
Chennai – 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Original DIN and Letter No.ITBA/COM/F/17/2025-2026/1078915550(1) dated 25.07.2025, passed by the 2nd Respondent and consequently restrain the Respondents from taking any coercive recovery steps pursuant to the Assessment Order dated 24.03.2025.

For Petitioner	:	Mr.Tarun Rao Kallakuru
For Respondents	:	Mrs.S.Premalatha Senior Standing Counsel

ORDER

Mrs.S.Premalatha, learned Senior Standing Counsel takes notice for the Respondents.

2. This Writ Petition is being disposed of at the time of admission with the consent of the learned counsel for the Petitioner and learned Senior Standing Counsel for the Respondents.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 25.07.2025 passed by the 2nd Respondent under Section 220(6) of the Income Tax Act, 1961.

4. The Petitioner individual has suffered an adverse Assessment Order dated 24.03.2025 for the Assessment Year 2023-2024. The Petitioner against the said order has filed an appeal before the 1st Respondent Commissioner of Income Tax (Appeals) under Section 246A of the Income Tax Act, 1961.

5. Similarly, the Petitioner filed a stay application before the 2nd

Respondent/Assistant Commissioner of Income Tax (Assessing Officer), which has been disposed of by the 2nd Respondent vide impugned Order dated 25.07.2025, calling upon the Petitioner to deposit 20% of the disputed tax in terms of **Instruction No.1914 of the Central Board of Direct Taxes** dated **02.12.1993** and its subsequent amendments wherein, it has been stated that mere filing of appeal against the Assessment Order will not be sufficient reason to stay the recovery of demand.

6. It appears that in the aforesaid impugned Order dated 25.07.2025, the amount supposedly due from the Petitioner is Rs.1,45,35,470/- and therefore the Petitioner has been called upon to pay a sum of Rs.29,07,094/- on or before 31.07.2025 failing which, the Petitioner was intimated that collection/recovery process will be initiated against the Petitioner.

7. The learned counsel for the Petitioner would submit that the impugned Order dated 25.07.2025 has been mechanically passed by the 2nd Respondent relying on the **Instruction No.1914 of the Central Board of Direct Taxes** dated **02.12.1993** stating that mere filing an appeal against the Assessment Order will not be sufficient reason to stay the recovery of demand without going into the merits. Hence, prays for allowing this Writ

Petition.

8. I have heard the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents and perused the materials available on record.

9. Since the Petitioner has already filed an appeal before the 1st Respondent/Appellate Authority and considering the fact that the Petitioner is an individual and taking note of the decision of the Hon'ble Supreme Court in **LG Electronics India Private Limited** Vs. **Assistant Commissioner of Income Tax**, (2013) 140 ITD 41 (Del), this Court is inclined to modify the impugned Order dated 25.07.2025, by directing the Petitioner to deposit Rs.15,00,000/- within a period of thirty (30) days from the date of receipt of a copy of this order.

10. In case the Petitioner complies with the same by depositing the aforesaid amount and furnishes the proof of the same with the 1st Respondent/Appellate Authority, the 1st Respondent/Appellate Authority

shall dispose of the appeal on merits without reference to the aspect of limitation.

11. In case the Petitioner fails to comply with the condition stipulated above, the 2nd Respondent is at liberty to proceed against the Petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

12. Needless to state, before passing any such order, the 2nd Respondent shall give due notice to the Petitioner.

13. In view of the above, all further recovery proceedings shall be kept in abeyance and shall be subject to the Petitioner complying with the above stipulated condition.

14. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

26.09.2025

Neutral Citation : Yes / No

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To:

1. The Commissioner of Income Tax (Appeals),
   Aayakar Bhawan,
   121, M G Road, Nungambakkam,
   Chennai – 600 034.

2. The Assistant Commissioner of Income-tax,
   Non-Corporate Circle 3(1), Chennai,
   Wanaparthy Block, Aayakar Bhawan,
   121, M G Road, Nungambakkam,
   Chennai – 600 034.

C.SARAVANAN, J.

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