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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 906/2025, CM APPL. 4473/2025

PEPSICO INDIA HOLDINGS PRIVATE LIMITED

.....Petitioner

Through: Mr. Vishal Kalra, Mr. S. S. Tomar and Mr. Anil Kumar, Advs.

versus

THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 19 (1), NEW DELHI & ANR.

.....Respondents

Through: Mr. Puneet Rai, SSC, Mr. Gibran, JSC, Mr. Ashvini Kumar, Mr. Rishabh Nangia and Mr. Gibran, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **09.09.2025**

1. This petition has been filed with the following prayers:

> *"a) issue a writ of and/or order and or directions in the nature of certiorari or any other appropriate writ, order or direction to quash impugned Assessment Order passed under section 143(3) read with section 260 read with section 144B of the Act dated 12.12.2024 (Annexure P/1), computation dated 12.12.2024 (Annexure P/2) and notice under section 156 of the Act dated 12.12.2024 (Annexure P/3) issued by the Respondent No. 2 for the Assessment Year 2020-21 and;*

b) such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. One of the submissions of Mr. Kalra, Advocate is by stating that this is a second round of litigation. The petitioner had approached this court by way of writ petition being 15322/2023, which was disposed of vide order dated 01.12.2023 by stating as under :

> *"7. Having heard learned counsel for the parties, this Court is of the view that the issue at hand is no longer res integra as it has been decided by the Bombay High Court in Sulzer Pumps (supra) wherein it has been held as under:-*
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> > *"6. In our view since petitioner had already filed a reference raising his objections to the DRP and Section 144C (4) of the Act requires the Assessing Officer to pass the final order including the view expressed by the DRP, we will be justified in setting aside the order of the Assessing Officer dated 28th June, 2021 which is impugned in this petition. We would also observe that the Assessing Officer cannot be faulted for passing the impugned order. At the same time, the Assessing Officer will also have benefit of considering the views of DRP while passing a fresh Assessment Order."*
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> *8. This Court is in agreement with the view expressed by the Bombay High Court in the aforesaid decision. Once the objections have been filed by the assessee against a draft*

assessment order within the time limit prescribed under Section 144C(2)(b), the rest of the procedure should be followed as prescribed and the final assessment order ought to be passed by the Assessing Officer in accordance with the directions issued by the DRP.

9. This Court is further of the view that no prejudice will be caused to the Respondent-Department if the present petition is allowed and the impugned assessment order is set aside as Respondent-Department would be well within its rights to pass a fresh assessment order post the receipt of direction from the Respondent No. 3-DRP.

10. Accordingly the impugned assessment order dated 21st November, 2023, the computation sheet as well as all the subsequent notices are set aside and the writ petition is allowed.

3. The submission of Mr. Kalra, is that the directions of DRP having been received by the Assessing Officer on 30.07.2024 the Assessing Officer was required to pass assessment order under Section 144C(13) of the Income Tax Act, 1961 within one month from the end of the month in which the directions were received from the DRP i.e. by on or before 31.07.2024. According to him, admittedly the order has been passed by the Assessing Officer on 12.12.2024, which is much beyond the period of one month as is contemplated and as such the assessment order should be set aside on this ground alone.

4. On the other hand, Mr. Rai, Senior Standing Counsel does not dispute the submission or the position of law as advanced by Mr. Kalra. If that be so, we set aside the order dated 12.12.2024 passed by the Assessing Officer

for the Assessment Year 2020-21. We make it clear that setting aside of the assessment order dated 12.12.2024 shall not preclude the respondents to proceed in accordance with law with regard to the assessment of the Assessment Year 2020-21.

5. Petition is disposed of along with the pending application.

V. KAMESWAR RAO, J

VINOD KUMAR, J

SEPTEMBER 9, 2025
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