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

\+ W.P.(C) 4339/2025, CM APPL. 20067/2025 & CM APPL. 20068/2025

M/S. ELCON IMPEX PRIVATE LTD .....Petitioner

Through: Mr. N.P. Singh, Mr. Barun Dey, Mr. Pushpendra Giri, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ORS. .....Respondents

Through: Mr. Vipul Agrawal, SSC; Ms. Sakshi Shairwal, JSC; Mr. Akshat Singh, JSC with Mr. Gaoraang Ranjan, Advocate for Revenue.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% **04.04.2025**

1. Issue notice. The learned counsel appearing for the Revenue accepts notice.

2. The petitioner has filed the present petition, *inter alia*, praying as under:

> "a. Issue Writ of Mandamus, Order or Direction, directing to return / refund the total amount of Rs. 75,77,100/- which has been recovered in excess of 20% of the total disputed demand of Rs. 1,45,56,852/- created by an assessment order dated 21.12.2019 under section 143(3) of income tax act, 1961 for the assessment year 2017-2018, and/or
>
> b. Issue Writ of Mandamus, Order or Direction, prohibiting the Respondent No. 2 from recovering the impugned/disputed demand till the disposal of the appeal by the respondent no. 2 and for other reliefs, and/or
>
> c. Issue Writ of Certiorari, Order or Direction for

> SETTING ASIDE / Quashing the impugned order dated 07.02.2025 under Section 220 (6) of the Income Tax Act, 1961 issued by the Respondent no. 2, and/or
>
> d. To direct the Respondent No. 2 not to treat the Petitioner as "Assesses/Petitioner in Default"
>
> e. To issue directions to the Respondent No. 1 to hear the First Appeal filed under Section 246A of the Act, 1961 dated 05.01.2020 impugning the Assessment Order dated 21.12.2019 and dispose of the same expeditiously, which is pending for **more than 5 years 2 months / 270 weeks approx."**

3. It is the petitioner's case that its appeal for the Assessment Year [**AY**] 2017-18 is pending before the Commissioner of Income Tax (Appeal) [**CIT(A)**], however, in the meanwhile, the concerned authorities have initiated steps for recovering of the outstanding demands, including adjustments from the refunds due to the petitioner in respect of other assessment years, notwithstanding that the petitioner's application for stay of the demand is pending. The petitioner also relies on the Office Memorandum dated 29.02.2016 as amended by the Office Memorandum dated 31.07.2017.

4. The learned counsel appearing for the Revenue submits that the petitioner has an alternative remedy of approaching the Principal Commissioner of Income Tax [**PCIT**] in terms of the Office Memorandum dated 29.02.2016.

5. In view of the above, we consider it apposite to dispose of the present petition by directing that in the event the petitioner approaches the learned PCIT within a period of one week from today by filing an appropriate

application, the learned PCIT shall consider the petitioner’s grievances and pass a reasoned order, bearing in mind the decisions of this court in ***Skyline Engineering Contracts (India) (P.) Ltd v. DCIT Circle - 22(2) Delhi: W.P.(C) 6172/2021*** as well as other decisions, as expeditiously as possible and preferably within a period of three weeks thereafter.

6. The petition is disposed of in the aforesaid terms. Pending applications shall also stand disposed of. All the rights and contentions of the parties are reserved.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 04, 2025/sms

Click here to check corrigendum, if any