IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 1863 of 2025

AND

WMP NO. 2137 OF 2025,WMP NO. 2140 OF 2025

New Chennai Township Private Limited
A Private Ltd Company, Rep By Its Authorised
Signatory Mr.Larsen.J.B,
Having Its Registered Office At No.1,
Seekanakuppam Village, Cheyyur
Kancheepuram - 603305 Tamil Nadu

..Petitioner(s)

Vs

1. The Principal Commissioner Of Income Tax -4
   Aayakaar Bhavan, Nungambakkam,
   Chennai-600 034
2. Assessment Unit
   Income Tax Department, Aayakaar Bhavan,
   Nungambakkam, Chennai-600 034

..Respondent(s)

PRAYER

Writ Petition filed under Art.226 of Constitution of India seeking for issuance of Writ of Certiorari, to call for the records of the 1st respondent in letter no. ITBA/COM/F/17/2024-25/1069886524(1) dated 23.10.2024 and quash the same in so far as it pertains to the condition demanding 20% deposit of the outstanding for stay**.**

For Petitioner(s): Mr.Harshavarthan G. for
Mr. Sharath Chandran

For Respondent(s): 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 stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

3. In this Writ Petition, the Petitioner has challenged the impugned Order dated 23.10.2024, whereby the application filed by the petitioner to stay the demand confirmed by the Assessment Order dated 18.03.2024 passed by the 2^{nd} respondent has been allowed with the following direction :-

"02. After due consideration of the facts of the case and that the assessee's appeal is pending before CIT(A), the stay is granted subject to the condition that the payment of 20% of the outstanding demand is paid in 5 instalments on or before date as per the schedule given hereunder:

First instalment	*Second instalment*	*Third instalment*	*Fourth instalment*	*Fifth instalment*
2^{nd} December 2024	*2^{nd} January 2025*	*2^{nd} February 2025*	*2^{nd} March 2025*	*31^{st} March 2025*

After payment of each instalment, the proof of the payment to be communicated to the Assessing Officer. In case of failure to pay any monthly instalment, the assessee will be treated as in default and jurisdictional Assessing Officer will enforce collection."

4. It appears that for the Assessment Year of 2021-2022, the petitioner has filed Return of Income on 31.12.2022 and the petitioner has declared 'nil' income. This was subject matter of scrutiny order under Section 143(1) of the Income Tax Act, 1961, which culminated the aforesaid Assessment Order dated 18.03.2024 pursuant to a Show Cause Notice dated 07.03.2024.

5. It also appears that the petitioner has preferred an appeal against the Assessment Order before the Appellate Authority on 18.04.2024. The appeal is said to be pending before the Appellate Authority viz., The Joint Commissioner (Appeals) or the Commissioner of Income Tax (Appeals) under Section 246 A of the Income Tax Act, 1961.

6. It is in this background, the petitioner approached the 1st respondent, which culminated in passing of the impugned order. The impugned order is challenged primarily on the strength of **Circular No.1914/1993** dated **02.02.1993** issued by the Central Board of Direct Taxes, wherein it has been clarified as follows:-

"C. GUIDELINES FOR STAYING DEMAND
(i) ….
(ii) ….
(iii) ….
(iv) ….
(v) While considering an application under Section 220(6), the Assessing Officer should consider all relevant factors having a bearing on the demand raised and communicate his decision in the form of a speaking order."

7. Reading of the impugned order indicates that there is no application of mind by the 1st respondent while fixing the amount payable by the petitioner within the schedule prescribed therein. This Court has already considered similar issue in several cases, including ***Howden Solyvent India (P) Ltd. vs. Income Tax Officer,*** dated ***19.09.2024, [2024] 168 taxmann.com 468 (Madras).*** Relevant portion of the said judgement is extracted below:-

" 5. Under these circumstances, these writ petitions are dismissed. However liberty is given to the petitioner to move suitable application for waiver in terms of the decision of the Hon'ble Supreme Court in ***Principal Commissioner of Income Tax 5 and others v. LG Electronics India Private Limited in [2018] 96 taxmann.com 656****. No costs. Consequently, connected Miscellaneous Petitions are closed."*

8. This has also been referred in the order ***dated 30.01.2026*** passed by this court in ***W.P.No. 3150 of 2026*** in the case of ***Precision Infomatic Madras Pvt Ltd., represented by its Director vs. The Principal Commissioner of Income tax-4, Nungambakkam, Chennai-600 034.*** Operative portion of the said order dated 30.01.2026 is reproduced below :-

"7. The above ratio will apply to the facts of the present case. Accordingly, the case is remitted back to the first respondent to pass a fresh orders on merits, taking into consideration the aforesaid decision of the Hon'ble Supreme Court and the Circular mentioned above within a period of six weeks from the date of receipt of a copy of this order.

8. The Appellate Commissioner shall endeavour to pass a final orders on merits in the appeal filed on 31.03.2024 filed against the Assessment order dated 16.03.2024 as expeditiously as possible, preferably within a period of nine months from the date of receipt of a copy of this order.

9. Till such time, all recovery proceedings shall be kept in abeyance.

10. Needless to state, before passing any such order, the Respondent shall hear the Petitioner.

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

9. Considering the above facts and circumstances of the case, the impugned order is set aside and the case is remitted back to the first respondent to pass a fresh orders on merits, taking into consideration the aforesaid decision of the Hon'ble Supreme Court and the Circular mentioned above within a period of six weeks from the date of receipt of a copy of this order.

10. The Appellate Commissioner shall endeavour to pass a final order on merits in the appeal filed on 18.04.2024 against the Assessment order dated 18.03.2024 as expeditiously as possible, preferably within a period of nine months from the date of receipt of a copy of this order.

11. Till such time, all recovery proceedings pursuant to the Assessment Order dated 18.03.2024 shall be kept in abeyance.

12. Needless to state, before passing any such order, the Respondent shall hear the Petitioner.

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

03-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

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