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

\+ W.P.(C) 1750/2026 CM APPL. 8539/2026 CM APPL. 8540/2026 CM APPL. 8541/2026

MOBATREE MANUFACTURERS PRIVATE LIMITED

.....Petitioner

Through: Dr. B. Ramaswamy, Advocate.

versus

ASSESSMENT UNIT, INCOME TAX DEPARTMENT & ORS.

.....Respondents

Through: Mr. Shlok Chandra, Sr. Std. Counsel with Ms. Naincy Jain, Ms. Madhavi Shukla, Jr. SCs and Mr. Udit Dad, Advocate.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **23.02.2026**

1. By way of the present writing petition, the petitioner has challenged the assessment order dated 31.01.2024 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 for Assessment Year 2022-23.

2. Ms Naincy Jain, learned Junior Standing Counsel for the respondents-Department at the outset submitted that the petitioner has preferred the present writ petition simply against an assessment order dated 21.01.2024 that too after having filed an appeal before Commissioner Income Tax (Appeal). She submitted that since the petitioner has already chosen to take

the appellate proceedings provided under the Income Tax Act, 1961, it cannot maintain the present writ petition.

3. Dr. B. Ramaswamy, learned counsel for the petitioner at this juncture submitted that a huge demand has been raised against the petitioner and the company, which is running a medium scale industry, does not have the requisite liquidity to pay the demand. He added that in case, no indulgence is granted, the entire business of the petitioner would be put to peril.

4. Ms. Naincy Jain, learned Junior Standing Counsel for the respondents in response to such contentions of the petitioner pointed out that the petitioner-assessee has preferred the stay application as late as on 10.12.2025 and submitted that if the petitioner chooses not to file even the stay application, the Department cannot be blamed for having adopted coercive measures.

5. Heard learned counsel for the parties.

6. The petitioner's arguments that it does not have any means to deposit the amount cannot be countenanced. The fact as to whether the petitioner has the means to pay the demand or not is of hardly any relevance, when it comes to the maintainability of writ petition and the prayer of stay is concerned.

7. We are therefore, not inclined to interfere in the present matter, particularly when the remedy of statutory appeal is not only available to the petitioner but the same as a matter of fact has been availed. That apart, the arguments which learned counsel for the petitioner sought to raise are all within the realm of factual disputes, which cannot be gone into by this court in its jurisdiction under Article 226 of the Constitution of India.

8. The writ petition is, therefore, dismissed.

9. While dismissing the writ petition, we would like to observe that in case petitioner's stay application, which was filed on 10.12.2025, has not taken up for consideration, the same be considered and stay application be decided within 15 days of placing a certified copy of the order instant.

10. The pending application(s) stand disposed of.

DINESH MEHTA, J

VINOD KUMAR, J

FEBRUARY 23, 2026/*dd*