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

\+ W.P.(C) 5248/2026 & CM APPL. 25724/2026, CM APPL. 25725/2026, CM APPL. 25726/2026

GREENBAY INFRASTRUCTURE PVT LTD .....Petitioner

Through: Ms. Kavita Jha, Sr. Adv. with Mr. Kumail Abbas, Mr. Himanshu, Ms. Ragini Handa, Mr. Deepanshu Mehta and Ms. Aadishree, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Arun Kumar Tiwari, CGSC with Ms. K. M. Pratima and Ms. Preeti Kumari, Advs. for UOI
Mr. Manisha Agrawal Narain, CGSC with Mr. Sidhant, Mr. Divanshu, Advs.
Mr. Sunil Agarwal, SSC with Ms. Monica Benjamin, JSC, Mr. Gibrah Naushad, JSC, Mr. Rohit Chakraborty and Ms. Nancy Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MS. JUSTICE MADHU JAIN

O R D E R

% **20.04.2026**

1. By way of present writ petition, the petitioner has challenged the notice dated 25.03.2026 issued by the respondents under Section 226(3) of the Income Tax Act, 1961 *(hereinafter referred to as 'the Act of 1961')* whereby, the petitioner's bank account has been attached for ensuring the recovery of the outstanding demand for financial years 2011-12 and 2014-15.

2. Ms. Jha, learned Senior Counsel for the petitioner submitted that the demand for financial year 2011-12 amounting to Rs. 78,92,927/- is in relation to penalty which was imposed by the Assessing Officer under Section 271C of the Act of 1961, and argued that there was no addition on income, when the assessment order was passed.

3. Learned senior counsel submitted that the subject penalty, was imposed, as the assessee had omitted to deduct tax on the contractual payment, which according to assessee was not required to be deducted.

4. The petitioner has approached this Court with a grievance that against such order (for financial year 2011-12), the petitioner had preferred an appeal before the Commissioner Income Tax (Appeal) on 03.12.2019 and even after passing of 6 years, neither the appeal has been decided nor has the petitioner heard anything in this regard, though it has filed written submissions way back.

5. The other demand for financial year 2014-15, which is to the tune of Rs. 4,91,23,098/- for financial year 2014-15 relates to an order, whereby the petitioner was held to be an assessee in default under Section 201(1)/ 201(1A) of the Act of 1961, as the petitioner had not deducted tax on the payments made to Yamuna Express Way Development Authority.

6. Learned senior counsel argued that in light of judgment of this Court in ***Rajesh Projects (India) Pvt. Ltd. v. CIT*** reported in [2017] 78 Taxmann.com 263 (Delhi) and subsequent circular dated 24.12.2020, no tax is required to be deducted from the payments made to said authority and therefore the impugned demand is *per-se* illegal and void..

7. She further added that even against above order dated 24.12.2020, the petitioner has preferred an appeal on 26.04.2022 and the same is pending

consideration. She submitted that on one hand, petitioner's appeal is pending before the Appellate Authority for years together and on the other hand the respondents have issued impugned notice under Section 226(3) of the Act despite the fact that the petitioner is having a strong *prima facie* case in its favour. She submitted that still, the respondents have issued a garnishee notice dated 25.03.2026 due to which, the petitioner's rights guaranteed under Articles 19(1)(g) & 300 A of the Constitution of India have been infringed.

8. Ms. Benjamin, learned junior standing counsel for the respondents on the other hand submitted that the petitioner, having filed the appeal, has not taken the trouble of even filing a stay application and in spite of the fact that a number of notices requiring the petitioner to deposit the outstanding demand have been issued, no steps or legal remedies were taken. She added that in absence of any interim order, the respondent's action was absolutely justified.

9. Having heard learned counsel for the parties, we find that the demand against the petitioner is essentially on account of non-deduction of tax at source, which issues appear to have been decided in petitioner's favour. This Court, therefore, is of the view that the petitioner is having a strong *prima facie* case.

10. Given, that petitioner's appeals for financial year 2011-12 and 2014-15 are lying pending for six and four years respectively, we are firmly of the view that the petitioner is entitled for indulgence and protection from coercive measures of recovery.

11. The petition is, therefore, allowed. The impugned notice dated 25.03.2026 issued under Section 226(3) of the Act of 1961 is hereby quashed. The Assessing Officer shall forthwith send a formal communication of recalling the garnishee notice dated 25.03.2026. The Appellate Authority is

directed to decide the petitioner's appeals for financial year 2011-12 (***CIT (A) Delhi-4/10284/2019-20***) and for financial year 2014-15 (***NFAC/2014-15/10125637***) as early as possible, preferably within a period of 3 months from placing a certified copy of the order instant. In case, the appeal(s) of the petitioners are rejected and the demand is otherwise upheld, the respondents shall be free to take appropriate recovery action in accordance with law.

12. The writ petition is disposed of alongwith pending applications.

DINESH MEHTA, J.

MADHU JAIN, J.

APRIL 20, 2026/*ys*