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

\+ W.P.(C) 5564/2026

M/S JPS STEELS PVT LTD .....Petitioner

Through: Mr. Kanishk Raj, Adv.

versus

INCOME TAX OFFICER WARD 13(3) & ANR. .....Respondents

Through: Mr. Gaurav Gupta, SSC, Mr. Shivendra Singh and Mr. Yojit Pareek, JSCs and Mr. Surya Jindal, Adv.

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

<u>O R D E R</u>

% **04.05.2026**

1. The petitioner has approached this Court with the grievance that in spite of the fact that the petitioner has filed an appeal against the assessment order dated 27.05.2025. On 19.06.2023, the respondents have recovered the amount from the petitioner’s refund (on 29.01.2024).

2. Learned counsel for the petitioner submitted that the respondents have recovered about 50% of the total demand, though they could not have recovered beyond 20% in view of the circular dated 29.02.2016 (amended on 31.07.2017) issued by the Central Board of Direct Taxes (CBDT).

3. Mr. Gaurav Gupta, learned Senior Standing Counsel on the other hand submitted that the petitioner has filed the appeal before the Appellate Authority on 19.06.2023.

4. But there is neither any averment in the writ petition, nor has the

petitioner enclosed stay application so that it can be inferred that stay application was filed alongwith the memo of appeal.

5. He argued that unless a stay is specifically prayed, as required under Section 220(6) of the Income Tax Act, 1961, the respondents cannot *suo moto* grant stay nor can the petitioner claim stay beyond 20% of the outstanding demand, without having sought such relief.

6. Having heard learned counsel for the parties and upon perusal of the record, we find that there is nothing on record to show that the petitioner has ever prayed for stay of the demand beyond 20%.

7. Such being the position, we feel that the respondents are justified in recovering the amount.

8. Be that as it may. In case the petitioner moves the stay application even at this stage and serves a copy thereof to the Assessing Officer, the same shall be considered in accordance with law, more particularly in light of the circular already issued by the CBDT dated 29.02.2016 (amended on 31.07.2017), the petition stands disposed of.

9. The petition stands disposed of with above observation.

DINESH MEHTA, J

VINOD KUMAR, J

MAY 4, 2026/*ss*