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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8187/2025 & CM APPL. 469/2026 (Stay)**
SHREE KRISHNA STEEL TRADERS THROUGH PROPRIETOR
NIKHIL SHARMAPetitioner

Through: Mr. Prabhat Kumar and Mr. Samarth,
Adv.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Shlok Chandra, SSC, Ms. Naincy
Jain and Ms. Madhavi Shukla, JSCs
and Mr. Udit Dad, Adv.

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

ORDER
06.01.2026

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1. By way of the present writ petition, the petitioner has prayed that during the pendency of the statutory appeal, the respondents be restrained from recovering the outstanding demand as the petitioner has a stay in his favour, passed by Income Tax Officer, Ward 49(1) (*hereinafter referred to as the 'Assessing Officer'*), Delhi vide order dated 19.01.2024. By way of an application, prayer has also been made that the amount recovered inspite of the stay be ordered to be refunded alongwith interest.
2. Learned counsel for the petitioner asserted that in spite of the fact that vide the aforesaid order dated 19.01.2024, the Assessing Officer had granted a stay of the remaining demand for the Assessment Year (AY) 2021-2022, raised by way of the assessment order dated 26.12.2022, the Centralised Processing Center (*hereinafter referred to as 'CPC'*) has recovered



Rs.6,45,010/-.

3. Learned counsel further submitted that there are series of judgments passed by this Court, wherein the excess amount recovered in spite of the interim order or excess of 20% of the demand has been ordered to be refunded. Learned Counsel submitted that in the present case, 20% of the outstanding demand for AY 2021-21 has been paid by the petitioner and in light of the office memorandum dated 25.02.2016, (amended by office memorandum dated 31.07.2017) the remaining demand automatically gets stayed. He prayed that a direction be given to the respondents to refund the amount illegally recovered from the petitioner after passing of the stay order dated 19.01.2024.

4. Mr. Shlok Chandra, learned Senior Standing Counsel appearing for the respondents on the other hand submitted that it is correct that a sum of Rs.6,45,010/- has been recovered from the petitioner as stated, but the officers of the CPC cannot be blamed for such action inasmuch as a notice was issued to the petitioner but he failed to inform that an interim order has been granted by the Assessing Officer on 19.01.2024.

5. He further contended that it was incumbent upon the petitioner to have informed the CPC within 21 days of the receipt of the notice in this regard. He argued that in the present case, the action of the officers of the CPC is neither illegal nor arbitrary in any manner.

6. Having heard learned counsel for the parties and on perusal of record, it is apparent that an amount of Rs.6,45,010/- has been recovered from the petitioner maybe erroneously, if not illegally, notwithstanding the fact that an interim order was operating in petitioner's favour.

7. In light of the judgment of this Court rendered in **Dr. Priya Narula v.**



CIT (Commissioner of Income Tax) reported in 2022 SCC OnLine Del 354, the petitioner is entitled to a refund of the above referred amount of Rs.6,45,010/-.

8. In the era of computerization, where even assessments are made online, Income Tax returns are filed online, appeals are heard online, the situation that the CPC does not know that stay order has been passed cannot be conceived let alone countenanced. Finding fault in the petitioner that he did not inform about the stay order is highly unprofessional.

9. The petition is therefore allowed. The respondents are directed to pay back the amount of Rs. 6.45,010/- to the petitioner alongwith applicable interest thereupon within a period of four weeks from today.

10. While parting with this order, we would like to issue a general direction so that any such contingency does not arise and a situation as has emanated in the present petition be guarded against.

11. It is, therefore, ordered that every Assessing Officers, who passes stay order(s) in light of office memorandum dated 29.02.2016 (amended by office memorandum dated 31.07.2017), shall peremptorily send a copy thereof to the concerned CPC, while sending the same to the assessee. Neither any assessee shall be called upon by the CPC to provide a copy of the stay order nor shall any notice be issued by the CPC incase the demand has been stayed, and obviously no amount shall be recovered, if the demand has been stayed.

12. A copy of this order be sent to all the Principal Chief Commissioners of Income Tax, throughout the Country so that necessary office directions be issued in this regard to mitigate unnecessary harassments meted out to the assesseees.



13. The Assessing Officers shall make necessary entry on the online portal of the Department immediately after granting stay and classify the demand as 'not recoverable'.
14. The petition as well as all the pending applications are accordingly disposed of.
15. The date already fixed i.e. 22.01.2026 stands cancelled.

DINESH MEHTA, J

VINOD KUMAR, J

JANUARY 6, 2026/cd