

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: BANGALORE**

**BEFORE SHRI N.V.VASUDEVAN, JUDICIAL MEMBER  
And  
SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER**

**Stay Petn.No.42/Bang/2015  
(In IT(TP)A No.328/Bang/2015)  
(Assessment year: 2010-11)**

M/s.GE Medical Systems (India) Pvt. Ltd.  
(Since merged with WIPRO GE Healthcare Pvt.Ltd.)  
Plot 3, 3A, 4 Kadugodi Industrial Area,  
Bangalore-560067. ... Appellant  
PAN: AAACG7655G

Vs.

Deputy Commissioner of Income-tax,  
Circle 7(1)(2),  
Bangalore- ... Respondent

Appellant by: Shri K.R.Pradeep, CA.  
Respondent by: Shri C.H.Sundar Rao, CIT(DR).

Date of hearing : 26-03-2015.  
Date of pronouncement: 26-03-2015.

**O R D E R**

**Per ABRAHAM P. GEORGE, AM:**

Through this stay petition, assessee pleads for stay of recovery of tax and interest of Rs.35,06,18,271/- out of total demand of Rs.56,03,20,053/-.

2. Learned counsel for the assessee submitted that out of the total demand of Rs.56,03,20,053/-, a sum of Rs.20,97,01,783/- stands paid/adjusted by the Department.

According to him, the assessment giving rise to the demand was on a non-existing company. As per the learned counsel for the assessee, M/s.GE Medical Systems (India) Pvt. Ltd., stood merged with M/s.Wipro GE Healthcare Pvt. Ltd. through High Court order dated 27/8/2013 and despite this fact coming to the notice of the lower authorities, assessment was done in the name of M/s.GE Medical Systems (India) Pvt. Ltd., Per contra, learned Departmental Representative submitted that assessee was not able to establish any prima facie case for grant of a stay, nor show any financial difficulty.

3. We have heard the counsel and perused the orders. Copy of order dated 24/07/2013 of Hon'ble jurisdictional High Court in Co.P.No.34/2013 c/w Co.P.No.40/2013 whereby their Lordships had allowed the petitions of the assessee and M/s.Wipro GE Healthcare Pvt. Ltd., for amalgamating the former with the latter. Draft assessment order was passed by the Assessing Officer on 28/02/2014 when the amalgamation stood approved by the Court. While filing the objections before DRP in Form 35A, name was mentioned by the assessee as "Wipro GE Healthcare Pvt. Ltd. for (for the merged entity GE Medical Systems (India) Pvt. Ltd.)." Despite this the DRP issued directions under section 144C(5) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short] on 28/11/2014 in the name of GE Medical Systems (India) Pvt. Ltd. Final assessment order dated 30/12/2014 was also passed in the same name. Thus, the

assessee, in our opinion, has been to show a prima facie case that the assessment and demand were on a non-existent entity, which did not even have a bank account in its own name.

4. We therefore, grant stay of the balance demand of Rs.35,06,18,271/- for a period of 180 days from the date of this order. The appeal is posted for hearing on 21/7/2015. Date declared in open court.

5. In the result, stay petition stands allowed.

*Pronounced in the open court on 26<sup>th</sup> March, 2015.*

**sd/-**  
**(N.V.Vasudevan)**  
**JUDICIAL MEMBER**  
*eksrinivasulu*

**sd/-**  
**(Abraham P.George)**  
**ACCOUNTANT MEMBER**

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar  
Income-tax Appellate tribunal  
Bangalore