

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

S.P.No.24/Bang/2024 (Arising out of ITA No.571/Bang/2024) Assessment Year: 2020-21
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Binny Bansal 11 Nathan Road #24-02, Singapore 248 732 PAN NO : AKEPB4202D	Vs.	DCIT (International Taxation) Circle-1(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Percy Pardiwala, Sr. Adv
Respondent by	:	Sri V. Parithivel, D.R.

Date of Hearing	:	30.08.2024
Date of Pronouncement	:	02.09.2024

O R D E R

PER SOUNDARARAJAN K., JUDICIAL MEMBER:

This stay petition is filed by the assessee seeking stay of outstanding demand of tax and interest of Rs.254,34,32,627/- for the AY 2020-21.

2. Mr. Percy Pardiwala, Ld. Sr. Advocate on behalf of the assessee submitted that the AO vide stay order dated 13.9.2023 passed u/s 220 of the Income Tax Act, 1961 (in short "The Act") had granted stay for 80% of the total demand of Rs.254,34,32,627/- but subject to payment of at least 20% (approx..Rs.50,00,00,000/-) of the outstanding demand in 10 equally monthly instalments commencing from 30.9.2023 and ending with on 30.6.2024. The ld Sr Counsel further submitted that the AO further stated that the balance 80% of the tax is stayed till the completion of the instalments or disposal of the appeal by the ITAT whichever is earlier. The ld Sr Counsel further submitted that all the instalments were paid by the Assessee, but the appeal could not be completed even though the assessee had cooperated for the disposal of the appeal. The ld Sr Counsel further

submitted that the assessment is a high pitched assessment and therefore relied on the instruction given by the CBDT in No.96[F.No. 1/6/69-ITCC] dated 21.08.69 and prayed to grant stay till the disposal of the appeal. The Id Sr Counsel also brought to our notice about the payment of Rs50,00,00,000/ as directed by the AO and if the TDS amount of Rs 137,48,53,533/ is added, the total payment would be about 47% and prayed to grant stay for the balance outstanding dues.

3. The Id DR on the other hand submitted that the assessee may be directed to pay the entire dues since the assessment relates to the year 2020-21 and the dues are huge.

4. We heard the arguments of both sides and perused the records. On going through the documents, we found that the assessee had originally filed a stay application before the AO u/s 220 of the Act as against the demand of Rs 254,34,32,627/.The AO also by his order dated 13.09.2023 had directed the assessee to pay a sum of Rs 50,00,00,000/ in 10 equal monthly instalments. The AO granted stay for the balance 80% of the tax till the completion of instalments or disposal of the appeal by the Tribunal. Subsequently the AO issued a notice on 12.02.24 for reconsidering the stay since the appeal was not disposed off at the earliest. The assessee filed a letter explaining the reasons for the delay in completing the appeal and requested to continue the stay order. Thereafter a stay application was filed before this Tribunal on 21.02.2024 in S.P.No.14/Bang/2024. This Tribunal by its order dated 01.03.2024 had considered the stay petition and passed the following order:-

“4. Having heard the parties and perused the material available on record, we observe that there is aggregate tax liability of Rs.36.01 crores, out of which the assessee has already paid Rs.167.49 crores which is 43.39% of the total aggregate tax liability. Even otherwise the assessee is regularly complying with the terms and conditions of stay order passed by the AO and further undertake to comply with stay order according to which schedule is fixed for payment of 20% of the outstanding demand in instalments. There is also no inaction or any fault on the part of the Assessee for non-disposal of the captioned appeal. Hence considering the prima facie peculiar facts and circumstances in cumulative effects, we do not find any plausible reason or justification for reconsidering and/or initiating action by the AO for modification of such stay order granted by it. Consequently, the action of the AO for reconsideration/modification of stay order, is stayed till further order or till 06 months from today or till disposal of

the appeal, whichever would be earlier. The Assessee is also directed to comply with the directions and continue to pay the instalments as fixed in the stay order granted by the AO. In case of failure to pay the instalments in time and to cause unreasonable delay in disposal of the appeal, then this order shall vacate automatically. This order is passed accordingly.”

5. We find that, originally, the appeal came up for hearing on 31.01.24 and the assessee commenced their arguments and the Tribunal had treated the matter as Part Heard and directed the assessee to file a written synopsis on or before 12.02.24. The assessee filed their written synopsis on 12.02.24 and the Department sought further time to file the synopsis and the Tribunal granted time and adjourned the appeal to 21.02.24. In the meanwhile the assessee had paid almost all the instalments. When the appeal came up for hearing on 21.02.24 the Department requested to release the caption Part Heard and the Tribunal adjourned the matter to 01.04.24. The Department again sought for an adjournment on 01.04.24 and the appeal was adjourned to 24.04.24. This time the Tribunal had adjourned the appeal to 27.06.24 and thereafter to 29.08.24. The appeal was again reposted for hearing on 07.10.24 because of the non functioning of the Bench.

6. In the meanwhile the period of stay is expiring and therefore the assessee moved the present stay petition in S.P.No.24/Bang/2024. We have no doubt, the assessee had complied with the condition imposed by the AO and paid Rs 50,00,00,000/ without any default and the total payments made by the assessee including the TDS comes about 47% of the total demand. Further as seen from the records, the assessee cooperated for completing the appeal and therefore the delay cannot be attributed on the part of the assessee.

7. We have also perused the instructions given by the CBDT in No.96 (F.No.1/6/69-ITCC) dated 21.08.1969 in respect of the collection of disputed tax on the high pitched assessments. In the circular it was clarified that if the income determined is substantially higher than the income returned, the collection of tax in dispute should be kept in abeyance till the disposal of the appeal. In the present case before us, the assessed income is about 130

times of the returned income and therefore the assessment falls under the high pitched assessment and therefore the instruction would apply to the present facts of the case. Further the assessee also cooperated in completing the appeal and no illwill can be attributed on the assessee. In fact the assessee commenced their arguments on 31.01.24 itself and the appeal was part heard but later on adjourned, for no fault of the assessee.

8. We have considered all the facts and circumstances of the case and we are of the view that it is a fit case for granting stay for the collection of dues. We, therefore, grant stay for the balance demands for a further period of six months from today or till the disposal of the appeal, whichever is earlier. We also made it clear that the assessee as well as the Revenue would extend their fullest support and cooperation for completing the appeal within the extended period of 6 months.

9. In the result, the stay petition filed by the assessee stands allowed. Order pronounced in the open court on 02nd day of September, 2024.

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER

Sd/-
(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Bangalore,
Dated 02nd Sep, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**