

IN THE INCOMETAX APPELLATE TRIBUNAL "D" BENCH, KOLKATA

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER
SHRI PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**SA No.8/KOL/2026
(Arising out of ITA No. 255/Kol/2026)
Assessment Year: 2023-24**

Miraj Digvijay Shah,

Kalyan Bhawan, 2, Elgin Road,

L.R. Sarani, Kolkata - 700020

[PAN: ASSPS5574R]

.....**Appellant**

vs.

DCIT, Central Circle 1(1), Kolkata,

Aayakar Bhavan, Poorva,

110 Shanti Pally, E.M. Bypass,

Kolkata - 700107

..... **Respondent**

Appearances by:

Assessee represented by : Shri Pratyush Jhunjunwala, AR

Department represented by : Shri S.B. Chakraborty, DR

Date of concluding the hearing : 13.02.2026

Date of pronouncing the order : 13.02.2026

ORDER

PER RAJESH KUMAR, ACCOUNTANT MEMBER:

By virtue of the present Stay Petition the assessee seeks the stay of outstanding demand as raised by the AO of Rs. 5.77 Crores in the appeal effect order passed pursuant to the appellate order passed by the Id CIT(A).

2. The facts in brief are that the assessee filed appeal before the Tribunal in ITA No. 255/Kol/2026 challenging the appellate order passed by the First appellate authority partly confirming the assessment order passed by the Assessing Officer for the impugned assessment year.

3. The Ld. AR vehemently submitted before us that the he apprehends the coercive measures to realise the demand by the Revenue and hence this petition for stay of outstanding demand. The Id Counsel sub mitted that the assessee has already deposited substantial part of the demand to the tune Rs 4.06 Crores on 27.03.2024 meaning thereby that the assessee has deposited more than 70% of the demand raised by the assessing officer post appeal effect order and therefore the conditions as provided u/s 254(2A) of the Act for grant of stay are fully satisfied. The Ld. counsel submitted that the said return mandates deposit of 20% of the outstanding demand whereas the assessee has already deposited more than 70% of the demand raised. The Ld. AR further submitted that the assessee has very strong case on merit also by placing before us a detailed written submissions as to how the demand raised by the AO is wrong and contrary to the provisions of the Act and therefore not sustainable under the provisions of the Act. The Ld. AR submitted that if the demand is not stayed, an irreparable damage would be caused to the assessee.

4. The Ld. AR also referred to the early hearing petition dated 12.02.2026 filed by the assessee requesting the Bench to allow the

assessee an out of turn early hearing on priority basis so that the issues raised by the assessee could be decided on merit and multiplicity of litigations is avoided. The Id AR submitted that the department has initiated revisionary proceedings against the assessee in several years and orders are expected to be passed shortly. The Id AR therefore prayed before the bench that early hearing, if granted, to the assessee would result in early disposal of the appeal and repetitive litigation could be avoided. The Ld. AR finally submitted that there is *prima facie* strong case in favour of the assessee on merit which justifies the grant of early hearing of the case which may kindly be allowed in the 4th week of February 2026.

5. The Ld. DR on the other hand, moved a petition for adjournment before the Bench requesting for adjournment of stay petition as well as early hearing petition to 28.02.2026 despite the fact the on earlier date of hearing on 30.01.2026, the revenue moved a similar adjournment petition seeking time which was allowed with a direction that no further time would be allowed on the next date fixed for hearing. Moreover, the revenue has no *locus standie* to oppose the hearing of the stay petition as the assessee has already met the conditions for grant of stay as provided in section 252(2A) of the Act which mandates that before any stay is granted, the assessee shall pay 20% of the outstanding demand. However, in the present case more than 70% of the outstanding demand has been deposited by the assessee. Considering these facts, the petition moved by the revenue for adjournment is rejected and the stay application and the early

hearing are being disposed of after hearing the Ld. Counsel for the assessee after taking into account the facts and material available on record.

6. After hearing the rival contention and perusing the material on record, we find that in this case, the total outstanding demand after giving appeal effect to the appellate order passed by the first appellate authority is Rs. 5.77 Crores out of which the assessee has already deposited Rs. 4.06 Crores meaning thereby the assessee has already deposited 70.00% of the total outstanding demand. We note that the condition prescribed u/s 254(2A) of the Act which mandates the deposit of 20% of total demand for grant of stay have been fulfilled. Therefore, in our consider view it is a fit case for grant of stay. We also note that even on merit the assessee has a very strong prima facie case in its favour and balance of convenience also weighs heavily in favour of the assessee. Therefore, we are inclined to stay the outstanding demand for a period of 180 days or the disposal of appeal whichever is earlier.

7. So far as the early petition is concerned, we note that issues in the instant assessment year have a strong bearing on the earlier assessment years in which the Id. Principal Commissioner of Income Tax has already invoked revisionary jurisdiction. Therefore, taking into account these facts, we are inclined to accord an out of turn priority hearing to the assessee and accordingly the appeal is posted for hearing on 24.02.2026. We direct both the parties the

assessee as well as revenue not to seek adjournment except for a reasonable and bonafide cause.

8. In the result, Stay Application and early hearing petition filed by the assessee are allowed.

Order pronounced on 13.02.2026

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Sd/-
[Rajesh Kumar]
Accountant Member

Dated: 13.02.2026
AK, Sr. PS

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches