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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/255/2026
STARLIGHT ISPAT PRIVATE LIMITED AND ANR.
VS
UNION OF INDIA AND ORS.

BEFORE :
HON'BLE JUSTICE SMITA DAS DE
DATE : 7th August, 2026.

Appearance :
Mr. Rishi Raju, Adv.
Ms. Shreya Mundhra, Adv.
Mr. Adrish Dutta, Adv. …for petitioners.

Mr. Tarak Nath Jaiswal, Adv.
Mr. Madhu Jana, Adv. …for Income Tax Authority.

Ms. Rama Chakraborty, Adv. …for UoI.

The Court:- Whether the order dated 16.4.2026 passed by the Assessing Officer rejecting the stay application against demand of Rs. 8,43,54,073/- for the AY 2018-19 is legally sustainable, when the petitioner has already filed an appeal before the Commissioner of Income Tax being the respondent no. 4 herein on 10.4.2026.

The Assessing Officer passed an order of an assessment under Section 147 read with Section 144 B of the Income Tax Act, 1961 (hereinafter referred to said act), on 13.3.2026 raising a demand of Rs. 8,43,54,073/- for AY 2018-19.

Penalty proceedings under Section 274 read with 207A (9) were also initiated.

The petitioner filed an application for stay of demand on 10.4.2026 before the Assessing Officer.

By an order dated 16.4.2026 the Assessing Officer rejected the stay petition. The ground for rejection was that the assessed income is almost nine times of the returned income and tax liability excluding interest, is almost sixteen times of the returned tax liability.

It is submitted that the petitioner is not in a position to bear the heavy demand and genuine hardship will be caused.

The order dated 16.4.2026 is a non speaking order, suffers from perversity and is not sustainable in the eye of law and liable to be set aside.

The petitioner has already preferred an appeal before the Commissioner of Income Tax (Appeals) on 10.4.2026 which is still pending.

Reliance has been placed upon a decision of the coordinate bench of this Court dated 12.12.2024 passed in WPO 770 of 2024 wherein Commissioner of Income Tax (Appeals) was directed to dispose of the appeal within six weeks which is reproduced below:

> *"As the appeal was filed on 16th April, 2024, the Commissioner of Income Tax [Appeals] [Faceless] is requested to consider the appeal of the petitioner and dispose of the same within six weeks from the date of communication of this order by the learned counsel for the respondent-authorities to the concerned officer.*
>
> *The writ petition being WPO/770/2024 is disposed of. It is, however, made clear that the petitioner will not pray for unnecessary adjournments at the time of hearing of the appeal."*

Learned counsel appearing for the respondent authorities vehemently opposes the submissions made by the petitioner.

Respondent authorities places Reliance on CBDT circulars dated 31.7.2017 and 29.2.2016 to demonstrate that an alternative remedy is available.

As per Clause of the circular dated 29.2.2016, the petitioner ought to have approached the Principal Commissioner of Income Tax/Commissioner of Income Tax for review of the decision of the Assessing Officer.

Approaching the writ court directly for setting aside the order dated 16.4.2026, is inconformity with the circulars relied upon by the respondent authorities.

After hearing the parties and upon perusing the records this court finds that the petitioner has been able to make out a prima facie case warranting interference at this stage.

This court has taken judicial note of the relevant CBDT circulars relied upon by the respondent authorities.

Since the petitioner has already preferred an appeal before the commissioner of Income tax (Appeals) being the respondent No.4 herein the said appeal needs to be decided expeditiously.

In view of the above, the writ petition is disposed of in the following directions.

a. The order passed by the Assessing Officer dated 16.4.26 is quashed and set aside.

b. The appeal filed by the petitioner before the Commissioner of Income Tax (appeals), respondent no. 4 on 10.4.2026 be disposed of by a reasoned order in accordance with law within a period of two months from date, upon affording opportunity of hearing to the petitioner. The petitioner shall not seek unnecessary adjournments.

c. The decision shall be communicated within a week thereafter.

d. Till the decision of the Commissioner of the Income Tax (Appeals) attains finality, the respondent authorities are restrained from taking any coercive steps against the petitioner.

e. The Commissioner of the Income Tax shall take an independent decision without being influenced by any observations made in this order.

With the above observations and in light of the above circulars the writ petition is disposed of without going into the merits of the case.

Urgent Photostat certified copy of this order, if applied for, be given to the Ld. Advocates for the parties upon compliance of all necessary formalities.

(SMITA DAS DE, J.)

pkd.