IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY

WRIT PETITION Nos.27454, 27512 and 27534 of 2026

20.08.2026

Between:
M/s.VSAIPPL-SMC(JV),
101 & 102, 1st Floor, Cyber View Residency,
Near the Westin Hotel, Vittal Rao Nagar,
Madhapur, Gafoornagar, Hyderabad-500 081,
Telangana.

…Petitioner

A N D

The Income Tax Officer, TDS, Ward (TDS)-2(3),
Hyderabad and others.

…Respondents

COMMON ORDER:

Heard Mr.A.V.A.Siva Kartikeya, learned counsel appearing for the petitioner and Mr.Raja Shekar Rao Salvaji, learned Senior Standing Counsel for Income Tax Department, appearing for the respondents. Perused the record.

2. In the present writ petitions, the impugned orders passed are in respect of the same assessee, but relate to different assessment years.

Therefore, the Bench has decided to hear all the matters together and dispose of them through a common order.

3. The writ petitions are one which were filed assailing the order dated 09.04.2025 for the assessment years 2022-2023, 2023-2024 and 2024-25 passed by respondent No.1 respectively and also order dated 30.01.2026 passed by respondent No.2. *Vide* the two impugned orders, the authorities have put a condition on stay application for payment of 20% of the demand for staying of the remaining portion of the demand raised by the authorities.

4. Learned counsel for the petitioner referring to two orders submits that both respondent No.1 as also respondent No.2 have substantially relied upon the Central Board of Direct Taxes (CBDT) instructions dated 21.03.1996, which stood partly modified by another CBDT instructions dated 29.02.2016 and again on 31.07.2017 which prescribes for payment of 20% of the outstanding demand by the assessee in the course of staying of the remaining portion of the outstanding demand.

5. Learned counsel for the petitioner submits that the law by now is well settled that in the course of deciding an application under Section

220 (6) of the Income Tax Act, 1961 (for short "the Act"), for grant of interim stay, the authorities cannot rely upon any executive instructions passed by the CBDT, rather, they would have to decide the application on its own merits strictly in accordance with law exercising discretionary powers considering the merits of the application for interim relief, which in the instant cases having not done so by the authorities, the impugned orders are to be held to be bad in law.

6. Learned Senior Standing Counsel for the Income Tax Department, on the other hand, justifying the orders submits that even though a reference has been made to the instructions, but, later part of the orders passed by the authorities would go to show that they have considered the submissions put forth by the petitioner and thereafter, have imposed the condition of depositing 20% of the outstanding demand for the stay of the remaining portion of the outstanding demand. Thus, the writ petitions are liable to be rejected.

7. Having heard the contentions put forth on either side and a perusal of the records, more particularly, a plain reading of the impugned order dated 09.04.2025, as also order dated 30.01.2026, this Bench has no hesitation in reaching to the conclusion that both the

authorities i.e. respondent No.1 as also respondent No.2 in the course of deciding the application for stay, pre-dominantly taking the stand for the deposit of 20% based upon the CBDT instructions. As has been contended by learned counsel for the petitioner, by now it is well settled proposition of law that in the course of deciding application under Section 220 of the Act seeking of stay pending the appeal before the appellate authority, the authority has to independently exercise its discretionary powers and relying on the executive instructions is not permissible. In fact, if we look at the order dated 09.04.2025 passed by respondent No.1, the order starts with reference to the instructions both in para No.1 as also para No.2 and only thereafter, the authority proceeded and decided the same, so also, in the order passed by respondent No.2 also in the decision part of the order, respondent No.2 heavily relied upon the instructions issued by the Department requiring depositing of 20% for granting of stay. This, in the opinion of this Bench is totally uncalled for.

8. A plain reading of the provisions of Section 220(6) of the Act, in itself, very emphatically makes it clear that the authority concerned has to exercise its discretion by taking into consideration the overall

facts and circumstances of the case, decide the stay application, and also decide whether any conditions, if at all, have to be imposed, and, if so, what should be the nature of such conditions and to what extent. This aspect is totally absent from the impugned orders in the instant writ petitions and, therefore, in the opinion of this Bench, both the orders dated 09.04.2025 and 30.01.2026 passed by respondent No.2, being unsustainable in the eye of law, deserve to be accordingly set aside.

9. In view of the same, the matters stand remanded back to respondent No.1 to take decision afresh on the application under Section 220(6) of the Act strictly in accordance with the provisions envisaged under the Income Tax Act in this regard without being in any manner influenced by the CBDT instructions referred to in the impugned order.

10. Given the fact that we are remanding the matters to respondent No.1, let an appropriate decision be taken afresh on interim stay application within a period of four weeks. Meanwhile, the respondents shall not take any coercive steps for realizing the outstanding demand.

11. The Writ Petitions stand allowed accordingly. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

P.SAM KOSHY, J

VAKITI RAMAKRISHNA REDDY, J

20.08.2026
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