

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 32594 OF 2026

Vodafone Idea Limited

... Petitioner

V/s.

The Deputy Commissioner of Income Tax
Circle -5(2)(1), Mumbai and Ors.

... Respondents

Mr. Percy Pardiwala, Senior Advocate a/w. Madhur Agrawal a/w. Jitendra Singh
a/w. Shivali Mhatre and Rajesh Gaikwad for the Petitioner

Ms. Sushma Nagaraj a/w. Abhinav Palsikar a/w. Anoushka Matai for the
Respondents

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**CORAM : B.P. COLABAWALLA AND
FARHAN P. DUBASH, JJ.**

DATE : 07th OCTOBER 2026

P.C. :

1. The Petition, as originally filed, seeks directions to the Respondents to pass orders giving effect to the orders passed by the Commissioner of Income Tax (Appeals), the Income Tax Appellate Tribunal as well as the High Court, as more particularly set out in the prayer clauses of the Petition.
2. One day prior to the filing of this Petition, the Petitioner received a communication dated 17th September 2026 (page 1097 of the paper-book),

informing the Petitioner that the refund processed and paid to the Petitioner was now being claimed by the Income Tax Department, as the same had been erroneously released to the Petitioner. Since the Petitioner was unaware as to the basis on which the refund already credited to the Petitioner's account was being asked for by the Income Tax Department, no challenge in that regard was laid when the Petition was originally filed. Thereafter, during the pendency of the Petition, it was brought to the attention of the Petitioner that the aforesaid claim was made by the Income Tax Department on the basis that the Assessing Officer had recorded his satisfaction and thereafter obtained the approval of the higher authority that the said refund credited to the Petitioner (Rs.699.55 Crores) ought not to be released to the Petitioner. This power was exercised by the Assessing Officer under Section 245(2) of the Income Tax Act, 1961 ("**IT Act**"). This intimation was also forwarded by the Assessing Officer to the Central Processing Center ("**CPC**") vide an email dated 9th September 2026 despite which, the CPC released the said refund of Rs.699.54 Crores to the Petitioner on 15th September 2026. It is on this basis that the Income Tax Department claims that the refund has been erroneously granted to the Petitioner, and therefore, seeks to recover the aforesaid amount from the bank account of the Petitioner with the State Bank of India.

3. When this matter had come up on the first date, viz., 22nd September 2026, we had allowed the Petitioner to carry out amendments to the Petition to lay a challenge to the letter dated 7th September 2026, issued by the Assessing Officer recording his satisfaction, as well as the approval dated 8th September 2026 issued by the Principal Commissioner of Income Tax (Respondent No.3). We had also granted ad-interim relief by directing that the Income Tax Department shall not recover the amount of Rs.699.54 Crores already deposited into the bank account of the Petitioner with the State Bank of India. To balance the equities, we had also directed that since this amount of Rs.699.54 Crores was lying in a fixed deposit with the State Bank of India, the said fixed deposit shall continue with the said bank and shall not be utilized for any purposes whatsoever without further orders of this Court.
4. After we heard this matter for some time yesterday, we called upon the Revenue to indicate to us as to when they would pass the orders giving effect to the pending orders passed by the higher authorities in the case of the Petitioner. Today, Ms. Nagaraj, learned Counsel appearing on behalf of the Revenue has tendered an Affidavit-in-Reply dated 5th October 2026, which is taken on record. Ms. Nagaraj has also tendered a Chart, which is taken on record and marked 'X' for identification. For the sake of convenience, the scanned copy of the said Chart attached to this order as an annexure.

5. As can be seen from the said annexure, the Chart is divided into three groups. Group A deals with passing orders giving effect where the time to pass such orders has already expired. Ms. Nagaraj states that all the matters listed in Group A (a total of 13 matters amounting to Rs.113.77 crores), the orders giving effect shall be passed within a period of six weeks from today. Group B comprises of 10 matters, where the time limit for passing the orders giving effect expires on 31st March 2027. Ms. Nagaraj, on instructions, states that the same shall be done on/before 31st January 2027. Group C relates to the matters where the orders giving effect are required to be passed by 31st March 2028. Though no timeline has been mentioned in the said Chart, Ms. Nagaraj, on instructions, states that the same shall be taken up and completed with expedition and that, the process of verification will also be commenced at the earliest.
6. Having heard Mr. Pardiwala, learned Senior Advocate appearing on behalf of the Petitioner as well as Ms. Nagaraj, learned Counsel appearing on behalf of the Respondent – Revenue, and considering the said Chart tendered to the Court, we are of the view that, insofar as the matters comprising in Group A of the Chart are concerned, the orders giving effect shall be passed within a period of six weeks from today. It is needless to clarify that this direction is given without prejudice to the contention of the Petitioner that, since the time to pass the orders giving effect to the orders of the higher authorities has

already expired, the passing of such orders is time-barred and, therefore, the Petitioner would be entitled to a refund as per the returned income of the Petitioner, as held by the Hon'ble Supreme Court in the case of *Commissioner of Income Tax vs. Shelly Products [(2003) 129 Taxman 271 (SC)]*.

7. As far Group B is concerned, we direct that in these matters, orders giving effect shall be passed as expeditiously as possible and preferably on/before 31st December 2026. If, for any reason, in a given case, the order giving effect is not passed by 31st December 2026, the Revenue is free to apply for an extension, providing adequate reasons for such extension, which, in any event, shall not be beyond 31st January 2027.
8. As far as the matters in Group C are concerned, since the time limit to pass the orders giving effect is till 31st March 2028, we direct that the orders giving effect in these matters shall be taken up and completed with expedition and the authorities shall commence the process of verification at the earliest.
9. We now place the above matter on **2nd November 2026**.

10. If the Petitioner wants to file any Affidavit-in-Rejoinder to the Reply filed by the Revenue, they are free to do so, on or before 26th October 2026 and serve a copy of the same on Ms. Nagaraj, the learned Counsel appearing on behalf of the Revenue.
11. As far as the ad-interim relief is concerned, the ad-interim relief granted on 22nd September 2026, shall continue until further orders.
12. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(FARHAN P. DUBASH, J.)

(B. P. COLABAWALLA, J.)

Jyoti Pawar

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... Petitioner

Versus

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Circle-5(2)(1), Mumbai & Ors.

...Respondent

Resp.
①
7/10/26

Coram :- **B. P. Colabawalla &
Farhan P. Dubash JJ**

Date :- 07/10/2026

Marked 'X'
for Identification

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GROUP A : BEYOND THE PERIOD PRESCRIBED BY SECTION 153 (to be completed within six weeks)

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Date of Receipt of Order	Limitation	Verification the appellate direction requires
1	Aditya Birla Telecom Ltd. AY 2007-08	ITA No. 2350/Mum/2013, 11.08.2020	2.27	16.12.2020	31.03.2021	Order passed 28.09.2026; with CPC

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Date of Receipt of Order	Limitation	Verification the appellate direction requires
2	Idea Mobile Communications Ltd. AY 2005-06	ITA Nos. 6573 & 6908/Mum/2013, 07.06.2021	1.60	Not available	Beyond period	No surviving remand
3	Spice Communications Ltd. AY 2009-10	ITA No. 3425/Mum/2014, 24.02.2023	10.79	20.04.2023	31.07.2023	Order passed; with CPC
4	Idea Cellular Ltd. AY 2009-10	ITA No. 2350/Mum/2018, 31.03.2023	—	16.05.2023	31.08.2023	Reassessment quashed; no factual remand
5	Idea Cellular Ltd. AY 2009-08	ITA Nos. 3424 & 3674/Mum/2014, 27.07.2023	8.98	04.10.2023	31.03.2025	Revenue-share licence fee: double deduction and computation

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Date of Receipt of Order	Limitation	Verification the appellate direction requires
6	Idea Cellular Ltd. AY 2008-09	ITA Nos. 2285 & 2273/Mum/2014, 12.10.2022	2.60	15.12.2023	31.03.2025	Licence fee / additional expenses: factual and documentary verification
9	Vodafone Cellular Ltd. AY 2010-11	ITA No. 587/Chny/2017, 29.01.2025	5.69	03.03.2025	30.06.2025	Final ITAT findings to be given effect
10	Idea Cellular Ltd. AY 2010-11	ITA Nos. 4318 & 4513/Mum/2017, 14.10.2024	11.40	10.03.2025	30.06.2025	Section 35ABB deduction applying Bharti Hexacom
12	Vodafone Digilink Ltd. Prejudice 2009-10	ITA Nos. 1169 & 1950/Del/2014; 1169/Mum/2014, 12.02.2025; Delhi HC 11.03.2025	46.00	10.07.2025	31.10.2025	Verification letter issued on 09.09.2026; reply under consideration

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Date of Receipt of Order	Limitation	Verification the appellate direction requires
14	Vodafone Digilink Ltd. AY 2007-08	ITA No. 8079/Del/2018, 21.03.2025	—	17.08.2025	30.11.2025	Consequential section 35ABB computation
15	Vodafone East Ltd. AY 2001-02	NFAC 22.09.2025; ITA No. 8089/Mum/2025, 14.07.2026	0.91	22.09.2025	31.12.2025	No fresh factual remand
20	Idea Cellular Ltd. AY 2014-15	ITA No. 2179/Mum/2018, 24.07.2025	—	03.12.2025	31.03.2026	RSLF computation under section 35ABB
24	Vodafone West Ltd. AY 2012-13	ITA No. 922/Del/2017, 09.01.2026	23.53	10.02.2026	31.05.2026	Assessment quashed void ab initio; no merits remand
	Total 13 matters		113.77			

GROUP B : LIMITATION ENDING 31.03.2027 (to be completed on or before 31 January 2027)

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Received	Limitation	Verification the appellate direction requires
7	Erstwhile Vodafone India Ltd. AY 2011-12	ITA Nos. 884 & 1916/Mum/2016, 17.05.2024	27.31	28.08.2024	31.03.2027	Brand-royalty TP remanded for fresh ALP after hearing; employee reimbursement remanded
8	Erstwhile Vodafone India Ltd. AY 2012-13	ITA No. 2834/Mum/2017, 17.05.2024	22.67	28.08.2024	31.03.2027	Brand-royalty TP remanded; employee reimbursement verification and hearing
11	Erstwhile Vodafone India Ltd. AY 2013-14	ITA No. 6671/Mum/2017, 22.10.2024	19.24	11.03.2025	31.03.2027	Brand-royalty TP remanded to TPO / AO for fresh ALP after opportunity

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Received	Limitation	Verification the appellate direction requires
16	Vodafone Mobile Services Ltd. AY 2012-13	ITA No. 8361/Del/2019, 24.10.2025	1,121.18	01.12.2025	31.03.2027	Order passed 03.09.2026. refund of Rs. 699.54 crore determined
17	Idea Cellular Ltd. AY 2011-12	ITA No. 1775/Mum/2018, 24.07.2025	152.11	03.12.2025	31.03.2027	Earlier-year discount / TDS, commission and RSLF: verification
18	Idea Cellular Ltd. AY 2012-13	ITA No. 2178/Mum/2018, 24.07.2025	—	03.12.2025	31.03.2027	Earlier-year discount, commission and RSLF: verification
19	Idea Cellular Ltd. AY 2013-14	ITA No. 2180/Mum/2018, 24.07.2025	—	03.12.2025	31.03.2027	Year-end commission verification; RSLF computation
21	Idea Cellular Ltd. AY 2015-16	ITA No. 5945/Mum/2017, 24.07.2025	—	03.12.2025	31.03.2027	Commission / earlier-year payments and RSLF: verification and recomputation

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Received	Limitation	Verification the appellate direction requires
22	Vodafone Digilink Ltd. AY 2010-11	ITA Nos. 1073 & 1158/Del/2015, 14.10.2025	7.61	03.12.2025	31.03.2027	Network-site rentals, ARC, licence fee and TDS / MAT credit: verification
23	Vodafone West Ltd. AY 2010-11	ITA Nos. 671 & 1634/Ahd/2015, 11.12.2025	73.69	02.02.2026	31.03.2027	Network-site rentals de novo with verification and hearing; expired prepaid revenue; section 35ABB
	Total 10 matters		1,423.81			

GROUP C : LIMITATION ENDING 31.03.2028 (to be taken up and completed with expedition; will commence process of verification at the earliest)

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Received	Limitation	Verification the appellate direction requires
13	Erstwhile Vodafone India Ltd. AY 2014-15	ITA No. 316/Mum/2019, 18.02.2025	146.67	15.07.2025	31.03.2028	Brand-royalty TP remanded; employee reimbursement and IBM service charge: verification
25	Vodafone West Ltd. AY 2011-12	ITA Nos. 571 & 443/Ahd/2016, 02.04.2026	15.92	07.07.2026	31.03.2028	Network-site rentals de novo; expired prepaid vouchers and section 35ABB: verification
26	Vodafone Mobile Services Ltd. AY 2013-14	ITA No. 8362/Del/2019, 18.03.2026	335.16	04.08.2026	31.03.2028	ARC alternative section 37 claim, section 35ABB computation, TDS and section 244A: verification and recomputation

Receipt order	Entity and A.Y.	Appellate order	Amount (Rs. cr)	Received	Limitation	Verification the appellate direction requires
27	Vodafone Mobile Services Ltd. AY 2015-16	ITA No. 8971/Del/2019, 30.06.2026	2,284.38	25.08.2026	31.03.2028	Licence-wise computation of section 35ABB after mergers, transfers and cancellations and the surviving licence period; ARC claim verification
	Total 4 matters		2,782.13			