



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

WRIT PETITION (L) NO.19724 OF 2025

M/s. Y-NOT Films LLP

.. Petitioner

Versus

National Faceless Assessment Centre & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAO

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**Ms.Sanskruti Harode a/w Vinayak Chitale i/b Parinam
Law Associates, Advocates for the Petitioner.**

Mr.P. A. Narayanan, Advocate for Respondents/Revenue.

Mr.Himanshu Takke, AGP for Respondent No.5.

**CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : JANUARY 13, 2026**

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition seeks to quash and set aside the action of Respondent No.1 of adjusting the refund of Rs.3,39,94,725/- for A.Y.2023-24 against the Demand Order dated 28th March 2024 passed in relation to A.Y.2022-23. There is also a prayer for directing

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the Respondents to issue a consequential refund of Rs.2,36,48,429/- to the Petitioner along with interest, from the date of refund due, upto the date of receipt of the payment.

3. The main grievance of the Petitioner is that for A.Y.2022-23, an Assessment Order was passed under Section 143(3) determining the tax liability of the Petitioner in the amount of Rs.5,17,31,483/-. This Assessment Order has been challenged in Appeal before the CIT (Appeals). Whilst the Appeal was pending, the entire refund due to the Petitioner for A.Y. 2023-24 has been adjusted against the outstanding demand for A.Y.2022-23. According to the Petitioner, before any such adjustment is done, a notice under Section 245 of the Income Tax Act, 1961 has to be issued to the Petitioner. According to the Petitioner, in the facts of the present case, no such notice is issued, and hence, the adjustment is illegal and bad in law.

4. Without prejudice to the aforesaid argument, it is the case of the Petitioner that the demand for A.Y.2022-23 is challenged before the CIT (Appeals). Once this is the case, even assuming that any adjustment could be made, the same could have been done only to the extent of 20% of the demand for A.Y.2022-23. In other words, an

adjustment of only Rs.1,03,46,296/- could have been done and not the entire refund due of Rs.3.39 Crores for A.Y.2023-24. It is on this basis that the alternative prayer asks for a refund of Rs.2.36 Crores as set out in prayer clause (b) of the Petition.

5. In the above matter the Respondents have filed an affidavit-in-reply in which they have stated that they have served the notices under Section 245 by e-mail. This fact is disputed by the Petitioner in the affidavit-in-rejoinder dated 9th January 2026. As far as this aspect is concerned, since these are disputed questions of fact, we are not going into the aforesaid issue in the present Writ Petition. Therefore, the prayer seeking a refund of the entire amount of Rs.3.39 Crores is hereby rejected.

6. This leaves us to deal with the alternative prayer, namely, the refund of Rs.2.36 Crores to the Petitioner. As far as this prayer is concerned, we find considerable force in the argument canvassed on behalf of the Petitioner. It is not in dispute that the demand raised for A.Y.2022-23 is challenged in Appeal before the CIT (Appeals). That Appeal is pending. In fact, the Petitioner made an Application for stay before the Income Tax Officer, Ward-16 in which it was also pointed out

that the entire refund of Rs.3.39 Crores for A.Y.2023-24 has been adjusted against the outstanding demand for A.Y.2022-23, and that after adjusting 20% of the outstanding demand [for A.Y.2022-23], the balance ought to be refunded to the Petitioner. Since, the entire refund has been adjusted, the said Officer also granted a stay to the Petitioner vide his order dated 12th December 2024. In other words, it is not in dispute that the entire refund due for A.Y.2023-24 has been adjusted against the disputed demand for A.Y.2022-23.

7. The CBDT vide its Office Memorandum dated 29th February 2016 read with the Office Memorandum dated 31st July 2017 has categorically stated that to streamline the process of granting a stay of a demand, the Assessing Officer can grant a stay on payment of 20% of the disputed demand. The Office Memorandum also clearly states that if the Assessing Officer is of the view that the nature of demand, resulting in the disputed demand, is such that payment of a lump sum amount higher than 20% is warranted, then the Assessing Officer shall refer the matter to the Administrative Principal Commissioner of Income Tax/ Commissioner of Income Tax, who after considering the relevant facts, would decide the quantum/proportion of the demand to be paid by the

Assessee as a lump sum payment for obtaining a stay of the balance demand.

8. To put it in a nutshell, the normal practice is that for obtaining a stay of the demand, 20% of the disputed demand would have to be deposited. If for any reason that demand is to be lesser or higher than 20%, the matter has to be referred to the Administrative Principal Commissioner of Income Tax/ Commissioner of Income Tax, who would then determine the quantum/proportion of the demand to be deposited before granting a stay of the disputed demand. These Office Memorandums can be found at pages 107 and 109 of the paper book.

9. In the facts of the present case, there is no reference made to the Principal Commissioner of Income Tax/Commissioner of Income for requiring a higher amount of payment from the Petitioner/Assessee as stipulated in the aforesaid Office Memorandums. This is an undisputed fact. Once this is the case, we are clearly of the view, that at the highest, what could have been adjusted from the refund of A.Y.2023-24 was only 20% of the outstanding demand for A.Y.2022-23. As mentioned earlier, the outstanding demand for A.Y.2022-23 was

Rs.5,17,31,483/-. 20% of this amount would come to Rs.1,03,46,296/-. Only this amount could have been adjusted from the refund due for A.Y.2023-24 towards the outstanding demand for A.Y.2022-23.

10. We accordingly direct that after adjusting the amount of Rs.1,03,46,296/-, the balance amount of the refund due to the Petitioner for A.Y.2023-24, shall be refunded to the Petitioner together with interest, if any, in accordance with law. This refund shall be processed and paid within a period of 30 days from the date of uploading of this order on the High Court's website.

11. The sum of 20% [i.e. Rs.1,03,46,296/-] retained by the Department towards the demand for A.Y.2022-23, as per this order, will be subject to the outcome of the Appeal filed by the Petitioner *inter alia* challenging the Assessment Order passed for A.Y.2022-23, and which Appeal is pending before the CIT (Appeals).

12. We request the CIT (Appeals) to decide the Appeal pending before him as expeditiously as possible, and preferably within a period of 3 months from the date of communication of this order to the concerned CIT (Appeals).

13. It is needless to clarify that the balance amount of the demand for A.Y.2022-23 shall remain stayed till the disposal of the Appeal pending before the CIT (Appeals).

14. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

15. 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.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]