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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010443182026

+ **W.P.(C) 13661/2026 & CM APPL. 63816/2026**

INTUGINE TECHNOLOGIES PRIVATE LIMITED Petitioner

Through: Appearance not given.

versus

INCOME TAX OFFICER, WARD 12 1 & ANR. Respondents

**Through: Mr. Gaurav Gupta, SSC along with
Mr. Shivendra Singh, Mr. Yojit
Pareek, JSCs and Mr. Surya Jindal,
Advocate.**

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% 17.09.2026

1. By way of the present writ petition, the petitioner has prayed for the following reliefs:

- i. *Issue an appropriate Writ, Order or Direction, including a Writ of Certiorari, quashing the Impugned Intimation dated 24.02.2026 issued u/s 245 of the Act (Annexure-P1), along with the consequential adjustment of the Petitioner's refund against the disputed demand pertaining to A.Y. 2022-23(Annexure-P2)*
- ii. *Writ of Mandamus or any other appropriate writ, order or direction directing the Respondents to forthwith release the refund, in excess of an amount equivalent to 20% of the disputed demand.*



iii. Issue an appropriate Writ of Prohibition restraining the Respondents from taking any further coercive recovery action, including adjustment of refunds, towards the disputed demand pertaining to A.Y. 2022-23 during the pendency of the statutory first appeal;

2. Learned Counsel for the petitioner submits that, against the Assessment Order dated 21.03.2024, whereby a demand of Rs.1.21 crores were raised, the petitioner-assessee had preferred an appeal on 27.03.2024. However, notwithstanding the Office Memorandum (OM) dated 29.02.2016, as modified by the OM dated 31.07.2017, the respondents have recovered a sum of Rs.72,75,800/-, which is substantially in excess of the amount prescribed under the aforesaid OMs.

3. Learned Counsel for the petitioner submits that the respondents were not justified in effecting recovery in excess of the amount mentioned in the aforesaid OMs. He, therefore, prays that directions be issued to the respondents to refund the excess amount recovered from the petitioner.

4. Learned Counsel for the respondents, at the outset, points out that, although the petitioner-assessee had preferred an appeal against the Assessment Order, no stay application was filed either before the Assessing Officer (AO) or before the Appellate Authority seeking stay of the demand. He argued that, in the absence of any stay application, the AO was justified in effecting recovery of the outstanding demand.

5. Learned Counsel for the petitioner could not dispute the above fact, as pointed out by the learned Counsel for the respondents. He acknowledged that no stay application was filed by the petitioner until the date on which the



recovery was effected.

6. A perusal of the OM dated 29.02.2016 issued by the Central Board of Direct Taxes (CBDT) leaves no room for ambiguity that it enjoins upon an assessee to move a stay application. Unless and until an assessee prays for a stay of demand or applies for a stay, such stay cannot be granted as a matter of course. It will not be out of place to reproduce para nos. 2 and 4 (D) of order dated 29.02.2016:-

“2. In part 'C' of the Instruction, it has been prescribed that a demand will be stayed only if there are valid reasons for doing so and that mere filing of an appeal against the assessment order will not be a sufficient reason to stay the recovery of demand. It has been further prescribed that while granting stay, the field officers may require the assessee to offer a suitable security (bank guarantee, etc.) and/ or require the assessee to pay a reasonable amount in lump sum or in instalments.

(D) The assessing officer shall dispose of a stay petition within 2 weeks of filing of the petition. If a reference has been made to Pr. CIT/ CIT under para 4 (B) above or a review petition has been filed by the assessee under para 4 (C) above, the same shall also be disposed of by the Pr. CIT/ CIT within 2 weeks of the assessing officer making such reference or the assessee filing such review, as the case may be.”

7. A conjoint reading of the aforesaid paragraphs makes it clear that mere filing of an appeal does not operate as a stay of the demand. The assessee is required to seek stay by filing a stay petition, which the AO is required to dispose of within two weeks of its filing. Thus, in the absence of any stay petition having been filed by the petitioner, no stay of the demand could be claimed as a matter of course.



8. We are, therefore, of the view that, in the absence of any stay application having been filed by the petitioner, the respondents were not wrong in effecting recovery. Therefore, the refund as claimed by the petitioner in excess of 20% of the amount, cannot be granted.

9. Be that as it may. Considering that a substantial amount has already been recovered against the total demand of Rs.1.21 crores, we, hereby, order that the respondents shall not effect any further recovery from the petitioner until the disposal of the appeal by the Commissioner of Income Tax (Appeals).

10. The present petition stands disposed of, accordingly. Pending application(s), if any, also stand disposed of.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

SEPTEMBER 17, 2026/v