HC-KAR

NC: 2026:KHC:11316
WP No. 4667 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 4667 OF 2026 (T-IT)

BETWEEN:

TERRIER SECURITY SERVICES INDIA
PRIVATE LIMITED,
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1956,
3/3/2 QUESS HOUSE, SARJAPURA MAIN ROAD,
BALAGERE, BELLANDUR S.O,
BANGALORE - 560 103.
REPRESENTED HEREIN BY ITS
GROUP HEAD - TAXATION,
MR. MUKESH KUMAR LAKHWANI

...PETITIONER

(BY SRI. T. SURYANARAYANA, SENIOR ADVOCATE FOR
SRI.TANMAYEE RAJKUMAR, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER OF INCOME-TAX,
CENTRAL CIRCLE 2(1), BANGALORE
CENTRAL REVENUE BUILDING,
QUEENS ROAD,
BENGALURU - 560 001.

2. PRINCIPAL COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE, BANGALORE
CENTRAL REVENUE BUILDING,
QUEENS ROAD,
BENGALURU 560 001.

3. CENTRALIZED PROCESSING CENTER,
REPRESENTED HEREIN BY
THE DEPUTY DIRECTOR OF INCOME TAX, CPC
BENGALURU- 560 500.

4. DIRECTOR GENERAL OF INCOME-TAX (SYSTEMS)
ARA CENTRE, GROUND FLOOR, E-2,
JHANDEWALAN EXTENSION,
NEW DELHI-110 055.

...RESPONDENTS

(BY SRI. DILIP, ADVOCATE FOR
SRI. Y.V.RAVIRAJ, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO FORTHWITH REFUND AN AMOUNT OF RS.1,98,358/-, BEING THE AMOUNT RECOVERED IN EXCESS OF 20% OF THE DEMAND DETERMINED FOR THE ASSESSMENT YEAR 2017-18, ALONG WITH APPLICABLE INTEREST AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The petitioner has sought for direction to the respondents to forthwith refund the amount recovered in excess of 20% of the demand determined for the assessment years 2017-18, 2018-19 as well as 2019-20. Further direction is sought against the respondents not to recover any portion of the demand pertaining to the assessment years 2017-18, 2018-19 and 2019-20, during the pendency of appeals.

2. The facts that are made out are that for the assessment years 2017-18, 2018-19 and 2019-20, pursuant to the revision proceedings under Section 263 of the Income Tax Act, 1961 (for short 'the Act'), respondent No.1 has passed an assessment order dated 03.03.2023 determining demand of Rs.1,41,68,680/- for assessment year 2017-18 and demand of Rs.67,69,493/- for the assessment year 2018-19.

3. It is stated that the petitioner filed separate appeals before the Commissioner of Income Tax, challenging the above assessment orders. It is further stated that petitioner has filed requests for stay of recovery of demand with respect to the said assessment orders till disposal of appeals filed before the Commissioner of Income Tax (Appeals) for both the years. It is made out from the narration of facts that the 1st respondent had issued separate email communications at Annexures-F1 and F2, calling upon the petitioner to make payment of 20% of demand payable for both the years.

4. Sri. T. Suryanarayana, learned Senior Counsel appearing for the petitioner submits that reply was made at Annexures-G1 and G2 requesting for grant of stay without insisting on deposit. It is however submitted that respondent No.1 - authority has adjusted the refunds due to the petitioner towards an amount in excess of 20% of the demand.

5. Learned Senior Counsel appearing for the petitioner would submit that in terms of the Office Memorandum dated 29.02.2016 as amended by Office Memorandum dated 31.07.2017, the application for stay is to be considered and the disputed demand to be stayed on payment of 20% of the disputed demand and accordingly, there was no warrant for adjusting refund in excess of 20%.

6. Insofar as assessment year 2019-20 as well, it is stated that the 1st respondent passed reassessment order on 19.03.2024 making certain additions / disallowances to the income of the petitioner and demand is raised.

7. The petitioner had filed an appeal before the Commissioner of Income Tax (Appeals) which is pending consideration and has made a request for stay of recovery of demand till disposal of the appeal.

8. It is made out that the 1st respondent had issued a communication calling upon the petitioner to make payment of 20% of the demand payable for assessment year 2019-20 at Annexure-L.

9. It is submitted that the petitioner had made out a request for stay of the demand without insisting on any deposit. It is made out that in the meantime refund for the years 2021-22 and 2024-25 came to be adjusted against the demand.

10. Learned Senior Counsel submits reiterating submission as noticed above that adjustment of refunds could not exceed more than 20% of the demand. The details of demand, quantification of 20% of the demand, adjustment made by way of set off to refunds are found in the table at page-19 of the petition, which is extracted as below:

Assessment years	Demand	20% of the demand	Adjustments made	% of demand	Excess amount
2017-18	Rs. 1,41,68,680/-	Rs. 28,33,736/-	Rs. 30,32,095/- (against of AY 2020-21)	21.39%	Rs. 1,98,358/-
2018-19	Rs. 67,69,493/-	Rs. 13,53,898/-	Rs. 72,29,554/- (against of AY 2020-21)	106.70%	Rs. 58,75,656/-
2019-20	Rs. 5,69,37,493/-	Rs. 1,13,87,564/-	Rs. 7,64,92,639/- (against refund of AYs 2020-21, 2021-22 and 2024-25)	134%	Rs. 6,51,05,075/-

11. The facts are not in dispute that appeals were filed and were pending as also applications for stay. No doubt the revenue has sought for deposit of 20% in order to consider the application for stay. However, a perusal of the Office Memorandum bearing F.No.404/72/93-ITCC dated 29.02.2016 would reveal that the authority in order to streamline the process of grant of stay and standardize the quantum of lump sum payment required to be made by the assessee, has issued directions. It is provided that "where the outstanding demand is disputed before the Commissioner of Income Tax (Appeals), the assessing officer shall grant stay of demand till disposal of first

appeal on payment of 15% of the disputed demand, unless the case falls within category discussed in para (B)".

12. This Office Memorandum has been amended by Office Memorandum F.No.404/72/93-ITCC dated 31.07.2017, whereby reference to 15% is modified by substituting the same by '20% of disputed demand'.

13. In the present cases on hand, it is not in dispute that the authority has called upon the petitioner to make deposit of 20% in terms of the communication at Annexures-F, F1, F2 and Annexure-L. If that were to be so, the question of making reference to para-4(B) of the office memorandum referred to above, does not arise as the Assessing Officer has made demand only of 20%. Logical consequence would be that the petitioner was required to pay 20% of the demand to avail of stay which Assessing Officer was required to grant.

14. In the event, application for stay is pending and amount of refund is available for adjustment, the only manner of construing the mandate of the Office Memorandum referred to above is that the refund to be adjusted to the extent of 20% in cases falling under para-4(A) of the Office Memorandum referred to above. Accordingly, in light of refund being made in excess of 20% as is evidenced from the table referred to above, the present petition is required to be allowed in the following terms:

(i) Respondent No.1 is directed to refund an amount in excess of 20% of demand for the assessment years 2017-2018, 2018-19 and 2019-20 i.e., Rs.1,98,358/-.

(ii) Needless to state, in light of the adjustment of refund towards 20% of the demand for the respective years and noticing the pendency of appeals, the authority to issue a communication regarding entitlement of the petitioner of stay in terms of the Office Memorandum and the respondents are restrained from making any demand pursuant to the orders impugned relating to the assessment years 2017-18, 2018-19 and 2019-20 till finalisation of appeals stated to have been filed by the petitioner for the relevant years.

(iii) The Assessing Officer may make necessary entries in the portal regarding the order of stay.

15. Accordingly, petition is ***allowed***, in light of the above discussion.

SD/-
(S SUNIL DUTT YADAV)
JUDGE

MCR