HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 7940 OF 2026

Between:

M/s DRS Logistics Private Limited, 321, Kabra Complex, No.61, MG Road, Secunderabad - 500 003, Telangana. Represented by its Director, Mr. Rajender Meherchand Agarwal, S/o Late Mr. Meherchand Agarwal.

...PETITIONER

AND

1. The Assistant / Deputy Commissioner of Tax, Circle 17(1), Hyderabad,Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.
2. The Assistant Commissioner of Income Tax, Circle 8(1), Hyderabad, Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.
3. The Commissioner of Income Tax (Appeals) - 5, Hyderabad, Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.
4. The Principal Commissioner of Income Tax - 2, Hyderabad. Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction, one, more particularly in the nature of Mandamus, declaring the action of the Respondents in adjusting the refund due to the Petitioner for the Assessment Year 2008 - 09, against the alleged demand for the Assessment Year 2012 - 13, without any intimation u/s 245 of the Income Tax Act, 1961, as arbitrary, illegal, bad in law, bereft of reasons, violative of principles of natural justice, and consequently direct the Respondents to refund the excess so adjusted after retaining 20 percentage of the alleged demand for the Assessment Year 2012 - 13, in terms of the Office Memorandum issued by the Central Board of Direct Taxes, New Delhi, dated 29.02.2016 and 31.07.2017, after granting stay of recovery, pending disposal of the Petitioners appeal before the 1st Appellate Authority, for the Assessment Year 2012 - 13, in the interests of justice.

Counsel for the Petitioner : SRI A.V.A.SIVA KARTIKEYA

Counsel for the Respondents: Ms.J.SUNITHA (SR SC FOR INCOME TAX)

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No. 7940 of 2026

DATED : 17.03.2026

Between:

M/s. DRS Logistics Private Limited
Rep., by its Director, Secunderabad, Telangana.

... Petitioner

AND

The Assistant/Deputy Commissioner of Tax,
Circle 17(1), Hyderabad and 3 others.

... Respondents

ORDER:

Mr. A.V.A. Siva Karthikeya, learned counsel for the petitioner.

Ms. J. Sunitha, learned Senior Standing Counsel appears for Income Tax Department.

2. The petitioner has preferred an appeal against the order dated 31.12.2019 passed in scrutiny assessment by Deputy Commissioner of Income Tax, Circle-17(1), Hyderabad, under Section 143(3) read with Section 147 of the Income Tax Act, 1961 (for short, "the Act") in respect of Assessment Year 2012-13 and also sought stay of the impugned demand on the basis of the statement made at para 8 of the stay application, which reads as under:

"8. As per the above referred office memorandum the 20% of the disputed demand of Rs.2,06,73,884/- (Rs.2,22,32,265 (-) TDS Rs.15,58,381) after considering TDS for the said year comes to Rs.41,34,777/- and in view of the same an amount of Rs.1,72,69,890/- has already been paid/adjusted from refund of A.Y. 2008-09 vide challan No.38503 BSR: 0004329 dt. 26.07.2018. Copy of challan marked as Annexure-A2 is enclosed for your ready reference. Breakup is as follows:

a.	Disputed demand	:	Rs. 2,06,73,884.00
b.	20% of the above i.e., (a)	:	Rs. 41,34,777.00
c.	Less: Adjusted by you as per para 8	:	Rs. 1,72,69,890.00

Hence, it is evident that more than 20% of the disputed demand has already been adjusted and we are not required to pay any amount to file petition for grant of stay of demand."

3. Stay was granted by the appellate authority. Now the petitioner has raised a claim that such refund due for the assessment year 2008-09 was adjusted against the alleged demand for Assessment Year 2012-13 without any intimation under Section 245 of the Act. The appeal is still pending.

4. In the aforesaid circumstances, after hearing learned counsel for the parties, we are of the view that though at para 11 of the application for stay dated 04.07.2024, the petitioner claims to have reserved its right to apply for refund along with interest under Section 244A of the Act on the amount being excessively adjusted beyond 20%, when the matter is subjudice before the appellate authority, raising such a claim for refund even after treating it as the amount paid or adjusted against outstanding tax liability for the Assessment Year 2012-13 for obtaining a stay in the present proceedings is not proper. The petitioner may raise such a claim after disposal of the pending appeal.

5. Learned counsel for the petitioner then submits that the appeal is pending since 2020 before the faceless authority. A direction may be issued to the said authority to dispose of the appeal in a time frame.

6. Learned counsel for the respondent Revenue does not object to the said prayer.

7. In that view of the matter, the instant writ petition is disposed of with a direction to the appellate authority to dispose of the pending appeal relatable to Assessment Year 2012-13 arising out of order dated 31.12.2017 passed under Section 143(3) read with Section 147 of the Act within a reasonable time, preferably within four months from the date of receipt of a copy of this order. However, in view of the facts and circumstances stated above, we are not inclined to allow the prayer for refund of the amount due for Assessment Year 2008-09 at this stage.

Miscellaneous applications, if any pending, shall stand closed.

SD/- K.BHAVANI SWAMY
ASSISTANT REGISTRAR

//TRUE COPY// **SECTION OFFICER**

To,

1. The Assistant / Deputy Commissioner of Tax, Circle 17(1), Hyderabad,Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.
2. The Assistant Commissioner of Income Tax, Circle 8(1), Hyderabad, Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.
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4. The Principal Commissioner of Income Tax - 2, Hyderabad. Signature Towers, Opposite Botanical Gardens, Sy. No.. 6(P) of Kondapur, Sy. No.. 37(P) of Kothaguda, Serilingampally Mandal, Hyderabad - 500 084, Ranga Reddy District, Telangana.
5. One CC to SRI A.V.A.SIVA KARTIKEYA, Advocate. [OPUC]
6. One CC to Ms.J.SUNITHA, (SR SC FOR INCOM TAX). [OPUC]
7. Two CD Copies.

BSK

TKS

HIGH COURT

DATED:17/03/2026

HIGH COURT FOR THE STATE OF TELANGANA
20 APR 2026
★ DESPATCHED ★

ORDER

WP.No.7940 of 2026

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(19) NT
8/4/26.