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

TUESDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT PETITION NO: 33131 OF 2025

Between:

Spandana Rural and Urban Development Organisation, Rep by its Executive Secretary, Mrs Padmaja Gangireddy, Plot No 31 and 32, Ramky Selenium Towers Tower-A, Ground Floor, Financial District, Mannu S.O Gachibowli, Hyderabad, Telangana-500032.

...PETITIONER

AND

1. Commissioner of Income Tax (Exemptions), 2nd Floor, Aayakar Bhavan, Basheerbagh, Hyderabad, Telangana.
2. Assessment Unit, Income Tax Department, National e-Assessment Center, Room No.401, 2ndFloor, E-Ramp, Jawaharlal Nehru Stadium, New Delhi-110 003.
3. Principal Chief Commissioner of Income Tax, (Exemptions), R.No 2504, E-2, Block 25th Floor, Civic Centre, New Delhi.
4. Union of India, rep. by its Secretary, Ministry of Finance, Government of India, North Block, New Delhi-110 001.

...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 of Mandamus or any other appropriate writ, order or direction- (a) Set aside the decision on stay application issued by the 1st Respondent vide its letter dated 13.10.2025 demanding Rs 8 crores , the order of stay application as the matter being a huge amount for grant of stay on tax demand is unjust, unconstitutional, and detrimental to the charitable sector and society at large covered and contrary to the decision of the Hon'ble Court of Andhra Pradesh in Petitioner's own case.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings, including, any recovery, pursuant to the impugned order under Section 143(3) read with 144B of the Income Tax Act, 1961 dated13.10.2025 issued by the 1 'Respondent, for the assessment year 2023-24and grant, stay until the matter is decided before CIT(A), NFAC as otherwise the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner : Ms.AKRUTI AGARWAL

Counsel for the Respondents No.1to3 : VIJHAY K PUNNA (SENIOR SC FOR CBIC)

Counsel for the Respondent No.4 : SRI MUKHERJEE,
rep, SRI N.BHUJANGA RAO, DY.SOLICITOR GENERAL OF INDIA

The Court made the following: ORDER

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

WRIT PETITION No. 33131 of 2025

ORDER:

Heard Ms. Akruti Agarwal, learned counsel appearing for petitioner; Mr. Vijhay K Punna, learned Senior Standing Counsel for Income Tax appearing for respondent Nos.1 to 3 and Sri B. Mukherjee, learned counsel appearing for Sri N. Bhujanga Rao, learned Deputy Solicitor General of India for respondent No.4.

2. Earlier, the order dated 23.08.2025 passed by respondent No.1 - Commissioner of Income-tax (Exemption), Hyderabad (for short 'CIT (Exemption)'), granting a conditional stay of the demand on making partial payment of Rs.8.00 crore on or before 01.09.2025 in relation to the proceedings for recovery of taxes for the Assessment Year 2023-24 during pendency of the appeal was set aside by this Court *vide* order dated 23.09.2025 in Writ Petition No.28734 of 2025 and remanded to CIT (Exemption) to pass a fresh speaking order after considering the grounds raised by the assessee in its stay

petition. Detailed speaking order dated 13.10.2025 passed thereafter by CIT (Exemption) whereby the petitioner was directed to deposit Rs.8.00 crore, which is less than the CBDT guidelines of 20%, on or before 28.10.2025 for the Assessment Year 2023-24 is under challenge in the present Writ Petition. The relevant part of the said order is extracted hereunder.

> "7. The submissions made by the assessee have been duly considered. However, the request for stay of collection of taxes without any payment cannot be accepted for the following reasons:
>
> 1. Mere pendency of appeal does not warrant automatic stay of demand. As per settled principles of law, unless the assessee demonstrates a strong prima facie case and financial hardship, stay of demand without payment cannot be granted.
>
> 2. The assessee has not provided any documentary evidence to substantiate the claim of financial incapacity or to demonstrate that any steps have been taken to raise funds to meet the tax demand partially.
>
> 3. The high-pitched nature of the demand alone is not sufficient ground for granting stay, particularly when there is no material provided to establish that part-payment is not possible under any circumstances.
>
> 4. The Assessing Officer, in the assessment order, has discussed in detail why in his view the assessee's activities do not qualify as charitable within the meaning of section 2(15). These issues pertain to the merits of the appeal and are noted here only for background. It is open to the assessee to advance all such contentions before the CIT(A), who is the statutory appellate authority.

5. The assessee has relied on the Hon'ble Andhra Pradesh High Court's judgment in its own case for an earlier year. However, it has not specifically demonstrated with supporting material that the factual matrix for the year under consideration is identical. Such issues, in any case, fall within the domain of the appellate authority for adjudication, and cannot be conclusively examined in the present proceedings.

6. Without prejudice to the above, it is emphasized that this office cannot step into the role of the appellate authority and decide the merits of additions made by the Assessing Officer. The assessee is at liberty to advance all its arguments before the CIT(A) in the appeal proceedings.

7. The additional contention of the assessee regarding the AO's jurisdiction under section 143(3) read with section 12AB has been duly considered. However, the validity or otherwise of the assessment order and the scope of the AO's powers are matters to be examined in appellate proceedings. While disposing a stay petition under section 220(6), this office cannot assume the powers of appellate authority. Such issues are squarely within the jurisdiction of the appellate authority where the assessee's appeal is already pending. Accordingly, this ground cannot be accepted as a basis for granting full stay of demand without any payment.

7.1 Further, in this regard, reliance is placed on the decision of the **Hon'ble High Court for the State of Telangana at Hyderabad in the Writ Petition No. 8794 of 2023 in the case of Zoos and Parks Authority of Telangana vs. the Commissioner of Income Tax (Exemptions), Hyderabad** wherein the Hon'ble Court held that the ends of justice would meet if the petitioner deposited a sum of Rs. 3 crores within a period of fifteen days from the date of the order. Upon such deposit, the demand raised by the respondents for the Assessment Years 2016-17 to 2021-22 was directed to remain stayed till disposal of the appeals stated to be pending before the first appellate authority.

7.2 Reliance is also placed on the decision of the **Hon'ble High Court of Andhra Pradesh at Amaravati in the writ petition No. 22770 OF 2025, dtd. 30.08.2025, in the case of Sasi Foundation vs. the Commissioner of Income Tax (Exemptions), Hyderabad,** wherein the Hon'ble Court held as follows: (1) The impugned order, dated 23.08.2025 is modified to the extent that the petitioner shall deposit 10% of the outstanding amount within a period of four (04) weeks from the date of the order, and (2) The appellate authority shall dispose of the appeal within a period of three (03) months from the date of receipt of a copy of this order.

7.3 Reliance is also placed on the decision of the **Hon'ble High Court of Andhra Pradesh at Amaravati in the writ petition No. 23494 OF 2025, dtd. 04.09.2025, in the case of Moulana Minorities Welfare and Educational Society vs. Union of India and Others,** wherein the Hon'ble Court held as follows: (1) The impugned order, dated 23.08.2025 is modified to the extent that the petitioner shall deposit 10% of the outstanding amount within a period of four (04) weeks from the date of the order; and (2) The appellate authority shall dispose of the appeal within a period of three (03) months from the date of receipt of a copy of this order.

8. Further, it is observed that the assessee's latest financials reflect a **bank balance of Rs. 53.79 crore as on 31.03.2025**. No material has been placed to show that the said balance is earmarked or otherwise unavailable for meeting tax obligations. In these circumstances, the claim of financial hardship is not substantiated, and it cannot be said that the assessee is unable to make even a partial payment towards the outstanding demand. During the hearing on 06.10.2025, the AR was also asked to submit the bank accounts of the assessee along with respective balances as on that date. **However, by email dated 07.10.2025, only account numbers were furnished, without balances. Thus, once again, the assessee has not established any genuine financial hardship.**

9. In view of the above discussion, the assessee's request for complete stay of demand without any payment cannot be accepted. Considering

the assessee's contentions, the binding judicial precedents relied upon, the CBDT guidelines and the financial position of the assessee, it is necessary to strike a balance between the interests of the Revenue and the assessee. Accordingly, out of the total outstanding demand, the assessee is directed to pay a sum of **Rs. 8,00,00,000/-** (which is less than the CBDT guidelines of 20%) for AY 2023-24 on or before **28.10.2025**. The assessee shall furnish copies of challans to the Assessing Officer concerned, with a copy marked to the undersigned. Subject to such payment within the stipulated time, recovery of the balance demand shall remain stayed until disposal of the first appeal or **31.01.2026**, whichever is earlier,

10. In this regard, it may please be noted that, if the demand as stated above is not paid on or before 28.10.2025, the stay granted as above, will automatically stands cancelled without any further communication and the Assessing Officer shall initiate necessary Income Tax proceedings for recovery of the demand.

11. It may be noted that all other legal provisions of the Act like interest payable on the outstanding demand u/s 220(2) etc, are applicable, in this case irrespective of grant of the stay of the demand as mentioned above.

12. All stay petitions stand disposed of pursuant to this order."

3. Learned counsel for the petitioner submits that the petitioner is a charitable organization which is entitled to exemption under Section 11 of the Income-tax Act, 1961 (for short 'the Act') as it carries out micro finance activity which is a charitable activity not being a business in terms of Section 2(15) of the Act. The petitioner also has registration under Section 12A of the Act. Reference is made to the judgment dated 10.07.2013 passed by the erstwhile High Court of

Andhra Pradesh in ITTA.No.304 of 2013 in the case of the same petitioner. The learned counsel further submits that the impugned order would lead to onerous financial hardship to the petitioner as it is a charitable organization. It is further submitted that CIT (Exemption) did not ask the petitioner to provide a bank statement in the hearing on 06.10.2025 but only the bank account numbers. Therefore, CIT (Exemption) has not accorded due consideration to the grounds urged by the petitioner by reiterating the earlier order dated 23.08.2025 directing the petitioner to make a partial payment of Rs.8.00 crore. Therefore, the impugned order may be set aside and stay of recovery of the impugned demand may be granted pending disposal of the appeal.

4. Learned counsel for the Income Tax has opposed the prayer. He has taken this Court to the contents of the impugned order and submitted that the petitioner failed to demonstrate the claim of financial incapacity to meet the tax demand partially. The CIT (Exemption) has rightly observed that contentions on merits are to be dealt with in the appellate proceedings and not while disposing of the stay petition. The

petitioner also did not show the bank balance in its accounts during the course of personal hearing on 06.10.2025 to demonstrate its financial incapacity. The direction to pay Rs.8.00 crore is less than 20% of the total demand recoverable as per CBDT guidelines for the relevant Assessment Year 2023-24. Therefore, this Court may refuse to interfere in the impugned order.

5. We have considered the submissions of the learned counsel for the parties.

6. A perusal of the relevant part of the impugned order, extracted hereinabove, shows that the petitioner has not been able to produce the bank statements reflecting the balance in its accounts even during the course of hearing to make out a case of financial incapacity. The bank statement of the petitioner reflected the balance of Rs.53.79 crore as on 31.03.2025. The contentions as to the exemptions permissible to the petitioner as a charitable organization are matters which are pending before the appellate authority. Therefore, CIT (Exemption) has refrained from making any comments thereupon. The appeal is pending and in the absence of any

serious financial incapacity, a direction to make partial payment of Rs.8.00 crore which is less than 20% of the total demand of Rs.53,74,67,120/- is commensurate with the requirement of balance between the interests of Revenue and the assessee during pendency of the appeal. Therefore, this Court is not inclined to interfere in the matter. The appellate authority would endeavour to dispose of the appeal in a reasonable time-bound manner.

With the aforesaid observation, the instant Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

SD/-T. SRINIVASA REDDY
ASSISTANT REGISTRAR

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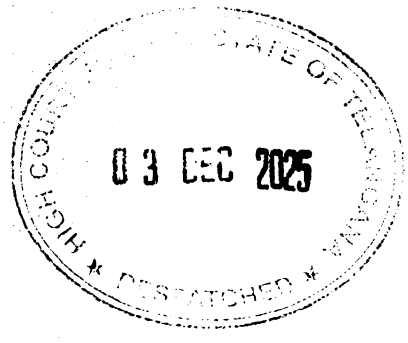
SECTION OFFICER

To,

1. The Commissioner of Income Tax (Exemptions), 2nd Floor, Aayakar Bhavan, Basheerbagh, Hyderabad, Telangana.
2. The Assessment Unit, Income Tax Department, National e-Assessment Center, Room No.401, 2ndFloor, E-Ramp, Jawaharlal Nehru Stadium, New Delhi-110 003.
3. The Principal Chief Commissioner of Income Tax, (Exemptions), R.No 2504, E-2, Block 25th Floor, Civic Centre, New Delhi.
4. The Secretary, Ministry of Finance, Government of India, North Block, New Delhi-110 001.
5. One CC to SRI AKRUTI AGARWAL, Advocate. [OPUC]
6. One CC to SRI VIJHAY K PUNNA (SENIOR SC FOR CBIC). [OPUC]
7. One CC to SRI N.BHUJANGA RAO, Deputy/Additional Solicitor General of India, High Court for the State of Telangana at Hyderabad. [OPUC]
8. Two CD Copies. PA

HIGH COURT

DATED:04/11/2025



ORDER

WP.No.33131 of 2025

DISMISSING THE WRIT PETITION WITHOUT COSTS

(10) PA
14/11/25