

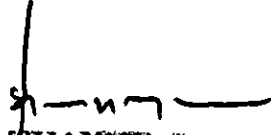



Sr. No.	Date	Orders
		<p style="text-align: center;"><del>IN THE HIGH COURT OF DELHI AT NEW DELHI</del></p> <p>+ W.P.(C) 1608/2006</p> <p>SONY INDIA P.LTD. NEW DELHI ..... Petitioner Through: Mr.M.S. Syali, Sr. Adv. with Mr.Peeyoosh Kalra, Adv.</p> <p style="text-align: center;">versus</p> <p>COMMISSIONER OF INCOME TAX DEL ..... Respondent Through: Mr.Sanjeev Sabharwal, Adv.</p> <p><b>CORAM:</b> <b>HON'BLE MR. JUSTICE T.S. THAKUR</b> <b>HON'BLE MR. JUSTICE B.N.CHATURVEDI</b></p> <p style="text-align: center;"><u><b>ORDER</b></u> <b>22.02.2006</b></p> <p>%</p> <p>After arguing the matter at considerable length, Mr.Syali, learned counsel for the petitioner, submits that although an earlier application filed before the Commissioner of Income Tax (Appeals) had been disposed of by him in terms of an order dated 25<sup>th</sup> August, 2005, the petitioner is prepared to make a fresh application before the Commissioner for an ad-interim stay of the balance amount of demand raised against it, provided the petitioner is protected against recovery of the outstanding dues till such time the said application is heard and disposed of by the Commissioner (Appeals). He submits that according to the petitioner's understanding of the legal position, the Commissioner of Income Tax (Appeals), who is hearing the appeal filed by the petitioner, is legally competent to grant an ad-interim stay of the outstanding demand on such terms as he may deem fit and</p>



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		<p data-bbox="485 226 603 264">proper.</p> <p data-bbox="485 309 1596 1400">Mr.Sabharwal, counsel appearing for the respondents, on the other hand, submits that while the respondents have no objection to the petitioner's moving a fresh application before the Commissioner of Income Tax (Appeals) and an appropriate direction from this Court to the Commissioner for disposal of any such application within a time frame, the interim protection demanded by the petitioner against recovery of the balance amount cannot be granted unconditionally. He submits that a huge demand of Rs.11.21 crores remain outstanding against the petitioner, the stay thereof has been declined by the assessing authority in exercise of its powers under Section 220 (6) of the Income Tax Act, 1961. He submits that the petitioner be directed to deposit the entire amount of outstanding dues either in lump or in installments that the Court may grant, pending disposal of the proposed application by the Commissioner.</p> <p data-bbox="485 1444 1596 2033">We do not, for the present, wish to express any opinion about the jurisdiction of the Commissioner of Income Tax (Appeals) to entertain an application for the grant of an ad-interim stay of the demand outstanding against the assessee. That is a matter which shall have to be examined by the Commissioner when the application, which the petitioner proposes to file, comes up for hearing before him. All that we need say is that the petitioner does file an application as proposed, the Commissioner is expected to examine the same in</p>



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		<p>accordance with law and pass an appropriate order expeditiously.</p> <p>Mr.Syali submits that the petitioner will be moving an application within two weeks from today. If that be so, the Commissioner shall endeavour to dispose of the said application on merits in accordance with law within six weeks from the date the application is filed. In the mean time and till such time the application is heard and disposed of by the Commissioner, the recovery of the outstanding amount on account of tax and interest shall remain stayed, subject to the petitioner depositing 50% of the said outstanding dues in two equal installments. The first installment to be paid within two weeks from today, while the second shall be payable within two weeks thereafter.</p> <p>This writ petition is, with the above direction, disposed of leaving the parties to bear their own costs. DASTI.</p> <p style="text-align: right;">   T.S. THAKUR, J </p> <p style="text-align: right;">   B.N. CHATURVEDI, J </p> <p>FEBRUARY 22, 2006 ga</p>