



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6800 OF 2024

Bajaj Steel Industries Ltd. **Vs.** Assistant Commissioner of Income Tax (TDS) Circle-1, Nagpur
& Ors.

WITH

**WRIT PETITION NOS. 6333/2024, 6334/2024, 6335/2024, 6336/2024,
6337/2024, 6338/2024, 6339/2024, 6344/2024, 6345/2024,
6799/2024, 6801/2024 AND 6802/2024**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. V. Sridharan, Senior Counsel a/b. Mr. Ravi Sawana, Ms. Neha Sharma
& Mr. Shreyas Agrawal, Counsels for the Petitioner.
Mr. Anand Parchure, Counsel with Mr. B.N. Mohata, Counsel for
Respondent Nos.1 to 5.

CORAM : ANIL L. PANSARE AND M.M. NERLIKAR, JJ.

DATE : 1st AUGUST, 2025.

The issue involved in all the petitions is identical and therefore the petitions are being disposed of by common order. For the sake of convenience, the facts of Writ Petition No.6800/2024 are being considered.

2. The issue pertains to a system generated demand notice issued under Section 156 of the Income Tax Act, 1961 (for short, "the Act of 1961"). The system does not recognize the Double Taxation Avoidance Agreements (DTAA) between the Government of India and foreign countries, which provides that tax payable by the deductee, who has source of income in India but who is non-resident of India and has no business in India but whose services are taken by the entity having business in India, is only 10% of the amount paid to him.

3. In the present case, the petitioner has deducted 10% tax for the services taken from the deductees, who are resident of Treaty countries. The argument is that the respondents are demanding 20% because deductee has no PAN, whereas by law which is well-settled, the tax payable is 10% whether or not the deductee has PAN, and despite putting the said fact to the notice of the respondents *vide* communication dated 13th March, 2014 read with letter dated 31st July, 2015, the respondents have not taken corrective steps. The learned Senior Counsel submits that the deductee has no business in India nor is a resident of India and therefore is not eligible to apply for PAN. According to him, in such circumstances, the tax payable should be determined in terms of DTAA.

4. Having heard both the sides, we find that though the petitioner has made a request to reverse the outstanding demand against Form No.27Q, the request appears to be for rectification of mistake in demand, which is usually processed in terms of Section 154 of the Act of 1961.

5. The argument of Mr. Anand Parchure, learned counsel for the respondents, that the petition suffers from delay and laches cannot be accepted because the petitioner, for all these days, is pursuing its cause by repeatedly approaching the authorities below who have not considered its grievance on merits.

6. We, accordingly, direct the Jurisdictional Officer i.e. Assistant Commissioner of Income Tax, Circle-1, TDS, Nagpur, to consider the prayer made *vide* communication dated

13th March, 2014 read with letter dated 31st July, 2015 and communications mentioned in other petitions in accordance with law which includes giving opportunity of hearing to the petitioner. The proceedings shall be concluded as expeditiously as possible and preferably by December, 2025.

7. The petitioner shall appear before the Assistant Commissioner of Income Tax, Circle-1, TDS, Nagpur, on 18th August, 2025, at 11:00 am.

8. The petitions are disposed of in terms of above.
No costs.

(M. M. NERLIKAR, J.)

(ANIL L. PANSARE, J.)

Vijaykumar