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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) Nos. 1879/2011, 1880/2011 & 1882/2011

VODAFONE ESSARE MOBILE SERVICES LIMITED..... Petitioner

Through Mr. N. Venkatraman, Sr. Adv.  
with Ms. Sonia Mathur, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ANR

..... Respondent

Through Mr. Abhishek Maratha, Sr.  
Standing Counsel with Ms.  
Anshul Sharma, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MR. JUSTICE R.V.EASWAR**

**ORDER**

**28.11.2011**

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Mr. N. Venkatraman, Sr. Advocate appearing for the petitioner seeks permission to withdraw the present writ petition with liberty to file a fresh writ petition, in which they want to challenge vires of the proviso to Section 201(3) of the Income Tax Act, 1961 inserted by the Finance (No.2) Act, 2009 with effect from 1<sup>st</sup> April, 2010. He further submits that the petitioner should be permitted to raise grounds and contentions, which have been raised in the present writ petition. It is submitted that the constitutional validity of the proviso is required to be challenged in view of the decisions of this Court in *Commissioner of Income Tax Vs. NHK Japan Broadcasting Corporation* [2008] 305

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*ITR 137 (Delhi) and Commissioner of Income Tax Vs. Hutchison Essar Telecom Ltd., [2010] 323 ITR 230 (Delhi).* It is further prayed that the interim order passed by the Court directing that no coercive steps shall be taken may be continued for a period of 15 days to enable the petitioner to file a fresh writ petition.

We have heard the statement made by the learned senior counsel. The prayer for withdrawal is accepted and the writ petition is dismissed as withdrawn with liberty as prayed for. It is directed that the respondent will not take coercive steps to recover the impugned demand, if any, pertaining to the period mentioned in the writ petition for a period of 15 days from today.

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SANJIV KHANNA, J.

  
R.V.EASWAR, J.

NOVEMBER 28, 2011  
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