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

\+ W.P.(C) 1110/2012

ORACLE INDIA PVT LTD. ..... Petitioner

Through: Mr. M. S. Syali, Sr. Advocate with Mr. Satyen Sethi, Mr. A. T. Panda, Ms. Gargi Sethee and Mr. Vikrant A. Maheshwri, Advs.

versus

COMMISSIONER OF INCOME -V DELHI & ANR..... Respondents

Through: Mr. Rahul Chaudhary, Sr. Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue

WITH

\+ W.P.(C) 2353/2013

ORACLE INDIA PVT. LTD ..... Petitioner

Through: Mr. M. S. Syali, Sr. Advocate with Mr. Satyen Sethi, Mr. A. T. Panda, Ms. Gargi Sethee and Mr. Vikrant A. Maheshwri, Advs.

versus

COMMISSIONER OF INCOME TAX AND ANR..... Respondents

Through: Mr. Rahul Chaudhary, Sr. Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue

WITH

\+ W.P.(C) 2500/2014

ORACLE INDIA PVT LTD ..... Petitioner

Through: Mr. M. S. Syali, Sr. Advocate with Mr. Satyen Sethi, Mr. A. T. Panda, Ms. Gargi Sethee and Mr. Vikrant A. Maheshwri, Advs.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Vivek Goyal, CGSC with Mr. Harsh Pandit & Mr. Rajeev Ranjan Shani, Advocates for UOI
Mr. Rahul Chaudhary, Sr. Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue

WITH

\+ W.P.(C) 3765/2015

ORACLE INDIA PVT.LTD ..... Petitioner

Through: Mr. M. S. Syali, Sr. Advocate with Mr. Satyen Sethi, Mr. A. T. Panda, Ms. Gargi Sethee and Mr. Vikrant A. Maheshwri, Advs.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Rahul Chaudhary, Sr. Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue

WITH

\+ W.P.(C) 735/2017

ORACLE INDIA PVT. LTD ..... Petitioner

Through: Mr. M. S. Syali, Sr. Advocate with Mr. Satyen Sethi, Mr. A. T. Panda, Ms. Gargi Sethee and Mr. Vikrant A. Maheshwri, Advs.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Rahul Chaudhary, Sr. Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue

WITH

\+ W.P.(C) 3630/2016

ORACLE INDIA PVT LTD ..... Petitioner

Through: Mr. M. S. Syali, Sr. Advocate with Mr. Satyen Sethi, Mr. A. T. Panda, Ms. Gargi Sethee and Mr. Vikrant A. Maheshwri, Advs.

versus

UNION OF INDIA, & ORS. ..... Respondents

Through: Mr. Rahul Chaudhary, Sr. Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% 13.03.2018

Learned counsel for the parties, on instructions, state that modified terms of reference for special audit are acceptable and may be taken on record. The modified terms of reference for the assessment years ('AYs') 2008-2009 to 2013-2014 signed by counsel for the parties are enclosed as annexure-A to this order and would be treated as a part of this order.

Learned counsel for the parties also agree that the special audit under Section 142(2A) of the Income Tax Act, 1961 would begin on 1.4.2018 with the audit for the AY 2008-2009. On completion of special audit for AY 2008-2009, special audit for the next AY, i.e., 2009-2010 will commence. Thereafter, on completion of the special audit for preceding year, special audit for the succeeding year would commence.

In order to ensure that there is no dispute or debate about

limitation, it is directed that the interim orders staying special audit and assessment proceeding for the AY2009-2010 and subsequent years would continue till the special audit for the immediate preceding year is completed. This direction is acceptable to both the petitioner and the respondents. Interim order for the AY 2008-2009 would remain in force till 31.3.2018.

This statement and direction is justified and necessary, as simultaneous special audit for all years would create difficulties, cause inconvenience and would require huge manpower. Further, issues overlap and some issues may not require examination in view of finding in an earlier year. This would be an aspect to be examined and considered by the assessing officer ('AO') and the special auditor. The petitioner, of course, will be at liberty to approach the AO and the special auditor, on the basis of the audit or the assessment orders passed for the earlier year.

In case any issue cannot be resolved or settled, the parties can approach the court by way of an application in the present writ petitions. We also clarify that this consent order would not affect the advance pricing agreement proceedings, which are stated to be pending.

Writ petitions are accordingly disposed of, with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 13, 2018/tp