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

+ W.P. (C) 9380/2020 & CM APPLs.30217-30218/2020

AMBICA JEWELLERS

..... Petitioner

Through: Mr. Pankaj Garg, Advocate, Advocate with
Mr. Milind Garg and Yaksh Garg,
Advocates.

versus

INCOME TAX OFFICER AND ANR.

..... Respondents

Through: Mr. Abhishek Maratha, Senior Standing
Counsel, Advocate with Mr. Pratayash
Gupta, Jr. Standing Counsel, Advocate

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Date of Decision: 27th November, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 05th February, 2020 pertaining to Assessment Year 2017-18, passed by respondent No.1 whereby the petitioner's application seeking a stay of demand has been rejected and petitioner has been directed to deposit 20% of the outstanding demand as a condition to stay further demand.
3. Learned counsel for petitioner states that the rejection of petitioner's application for the stay of tax demand with a requirement to pay minimum 20%



of the outstanding demand so as to stay the balance demand is arbitrary and against the provisions of the Income Tax Act, 1961. In support of his submission, he relies on the Office Memorandum dated 29th February, 2016 read along with the Office Memorandum dated 31st July, 2017.

4. However, a perusal of the aforesaid Office Memorandums reveal that the petitioner has an alternative effective remedy by filing a review petition before the jurisdictional Administrative Principal Commissioner of Income Tax / Commissioner of Income Tax under para 4(C) of the Office Memorandum dated 29th February, 2016.

5. Accordingly, the present writ petition and pending applications are disposed of with liberty to the petitioner to avail of the alternative effective remedy.

6. In the event, the petitioner files the review petition within two weeks, the Principal Commissioner, Income Tax, is directed to decide the same in accordance with law, within four weeks thereafter.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

NOVEMBER 27, 2020

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