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

+ W.P.(C) 8629/2022 & CM APPL.25939/2022

M/S TOSHIBA CORPORATION

..... Petitioner

Through: Mr. Deepak Chopra and Mr. Ankul
Goyal, Advocates.

versus

COMMISSIONER OF INCOME TAX, (INTL. TAX)-3, NEW
DELHI AND ANR.

..... Respondents

Through: Mr. Ruchir Bhatia, Advocate.

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Date of Decision: 30th May, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the order dated 5th May, 2022 directing the Petitioner to deposit 20% of the disputed amount as well as order under Sections 201(1)/201(1A) of the Income Tax Act, 1961 [for short 'the Act'] and the demand notice issued under Section 156 of the Act both dated 12th November, 2021 for the Assessment Year 2016-17. Petitioner also seeks a direction to the respondent to dispose of the Petitioner's appeal expeditiously.

2. Admittedly, while deciding the stay application, the Assessing Officer



and the CIT(A) have to consider three primary issues i.e. *prima facie* case, balance of convenience and irreparable injury.

3. In the present case, the petitioner has not claimed financial hardship. Accordingly, the third factor i.e. irreparable injury is not satisfied.

4. Consequently, this Court finds no ground to interfere with the impugned order dated 5th May, 2022.

5. This Court clarifies that the benefit of the amount deposited by the petitioner in pursuance to the order dated 5th May, 2022 shall not be given to the three payees and the said pre-deposit amount shall abide by the final order to be passed by the Commissioner in the appeal. Needless to state that, in the event, Petitioner succeeds in its appeal, the Petitioner shall be entitled to refund of the entire amount deposited by it.

6. However, this Court directs the CIT(A) to dispose of the Petitioner's appeal as expeditiously as possible, preferably, within six months from today. At the request of learned counsel for the petitioner, this Court also extends the time to comply with the order dated 5th May, 2022 for a period of four weeks.

7. With the aforesaid direction, the present writ petition and pending application stand disposed of.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

MAY 30, 2022

AS