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

% *Date of decision: 08.08.2022*

+ **W.P.(C) 11743/2022**

M/S CHINA CONSTRUCTION SAUSUM INDIA PVT. LTD.
.....Petitioner

Through: Mr Tarun Gulati, Sr. Adv. with
Mr Kishore Kunal, Mr Manish
Rastogi, Mr Parth and Ms Ankita
Prakash, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CENTRAL
CIRCLE-17, DELHI & ORS.Respondents

Through: Mr Kunal Sharma, Sr. Standing
Counsel with Ms Zehra Khan and
Mr Shubhendu Bhattacharya, Advs.
for Income Tax

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 34944/2022

1. Allowed, subject to just exceptions.

W.P.(C) 11743/2022 & CM APPL. 34943/2022 [*Application filed on
behalf of the petitioner seeking interim relief*]

2. Issue notice.

2.1 Mr Kunal Sharma accepts notice on behalf of the
respondents/revenue.



3. With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal at this stage itself, as only a limited issue is raised before us.

4. This writ petition is directed against the garnishee order dated 25.07.2022, which is addressed by the respondents/revenue to the petitioner's bank i.e., ICBC Bank of China.

4.1. This garnishee order was issued under section 226(3) of the Income Tax Act, 1961 [in short, 'the Act'].

4.2. The garnishee order directs the aforementioned bank to remit Rs. 317,56,70,954/- to the respondents/revenue.

5. It is not in dispute that the aforementioned garnishee order rides on the back of the order dated 20.07.2022 issued by the Assistant Commissioner of Income Tax, Central Circle 17, Delhi [in short, 'ACIT'].

5.1 ACIT *via* the aforesaid order, evidently, has rejected the application preferred by the petitioner, seeking stay of recovery proceedings.

5.2. This application was moved by the petitioner under Section 220(6) of the Act.

5.3. It is also not disputed that the petitioner has moved an application for review of the aforesaid order, which is pending consideration with respondent no. 2 i.e., Principal Commissioner of Income Tax [in short, 'PCIT'].

5.4. This step has been taken in consonance with the provisions of Office Memorandum dated 29.02.2016.

5.5. Although the expression 'review' has been used in the memorandum, it is more in the nature of a revisional power, as the order which is sought to



be reviewed has been passed by ACIT.

6. Furthermore, we are also informed (and something which is not disputed), that appeals against the separate orders of even date i.e., 31.05.2022, have been preferred concerning Assessment Years (AYs) 2019-20 to 2021-22, with the Commissioner of Appeals.

6.1. These appeals, we are told are pending consideration.

7. Given the aforesaid position, the operation of the impugned garnishee order dated 25.07.2022 shall remain stayed till such time the PCIT i.e., respondent no. 2 disposes of the application for review/revision pending before it.

7.1 In case the decision of the PCIT/respondent no. 2 is adverse to the interests of the petitioner, no effect will be given to the same for one week from the date of service of order.

8. The writ petition is disposed of in the aforesaid terms.

9. The pending application shall stand closed.

10. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

AUGUST 8, 2022 / r

Click here to check corrigendum, if any