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

+ **ITA 137/2023**

ITA 138/2023

UNITECH WIRELESS TAMIL NADU PVT LTD..... Appellant

Through: Mr Deepak Chopra, Advocate.

versus

COMMISSIONER OF INCOME TAX & ORS. Respondents

Through: Mr Sanjeev Menon, Advocate.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

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10.03.2023

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

CM APPL.11340/2023 in ITA 137/2023

CM APPL.11342/2023 in ITA 138/2023

1. Allowed, subject to just exceptions.

ITA 137/2023 and CM APPL.11339/2023 [*Application filed on behalf of the appellant seeking interim relief*]

ITA 138/2023 and CM APPL.11341/2023 [*Application filed on behalf of the appellant seeking interim relief*]

2. These appeals concern Assessment Years (AY) 2012-2013 (ITA 137/2023) and 2013-2014 (ITA 138/2023).

3. Mr Deepak Chopra, learned counsel, who appears on behalf of the appellant, says that this issue arises in certain other matters as well, including the appellant's own matter relating to AY 2010-2011.

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3.1 Mr Chopra has placed before us a hardcopy of the order dated 10.02.2023 passed in ITA 20/2023.

3.2 Mr Sanjeev Menon, who appears on behalf of the respondents/revenue, affirms this position.

4. Accordingly, the following question of law is framed for this court's consideration:

Whether the Income Tax Appellate Tribunal fell into error in interpreting the provision of Section 194H of the Income Tax Act, 1961 given the facts and circumstances obtaining in the case?

5. Mr Chopra points out that for the AY under consideration, in the aforementioned appeals, the position with regard to the amounts paid *qua* the demands raised is as follows:

A.Y.	Demand Raised	Demand Paid	Date of Challan Payment
2012-2013	INR 29,81,09,878	INR 14,90,00,000	24.06.2014, 15.07.2014, 14.08.2014, 16.09.2014, 14.10.2014, 14.11.2014, 10.12.2014, 13.01.2015, 12.02.2015 and 13.03.2015
2013-2014	INR 21,19,68,427	INR 10,59,84,214	26.07.2017

6. In view of the statement made by Mr Chopra and given the fact that, as per his statement, a substantial amount of the demand stands secured by the deposits made, we are inclined to stay the recovery of balance demand, during the pendency of the above-captioned appeals.

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6.1 Liberty is, however, given to the learned counsel for the respondents/revenue to approach the court, in case the figures furnished by Mr Chopra, as noted hereinabove, are not found to be correct.

7. Accordingly, CM APPL. 11339/2023 in ITA 137/2023 and CM APPL. 11341/2023 in ITA 138/2023 shall stand disposed of.

8. List the above-captioned appeals on 17.05.2023.

9. Counsel for the parties will file their written submissions, not exceeding three pages each, at least five days before the next date of hearing.

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

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 10, 2023 / tr

[Click here to check corrigendum, if any](#)

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