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

% *Decision delivered on: 19.07.2023*

+ **W.P.(C) 7854/2023 & CM Nos.30285-86/2023**

CCTEB INDIA PRIVATE LIMITED Petitioner
Through: Mr Sumit Bansal, Mr Udaibir Singh
Kochar and Ms Tulna Rampal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME
TAX CENTRAL CIRCLE 17 AND ANOTHER Respondents
Through: Mr Zoheb Hossain, Sr Standing
Counsel with Mr Sanjeev Menon,
Standing Counsel.

+ **W.P.(C) 7867/2023 & CM No.30306/2023**

CCTEB INDIA PRIVATE LIMITED Petitioner
Through: Mr Sumit Bansal, Mr Udaibir Singh
Kochar and Ms Tulna Rampal, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME
TAX CENTRAL CIRCLE 17 AND ANOTHER Respondents
Through: Mr Zoheb Hossain, Sr Standing
Counsel with Mr Sanjeev Menon,
Standing Counsel.

+ **W.P.(C) 7954/2023 & CM No.30624/2023**

CCTEB INDIA PRIVATE LIMITED Petitioner
Through: Mr Sumit Bansal, Mr Udaibir Singh
Kochar and Ms Tulna Rampal, Advs.



versus

ASSISTANT COMMISSIONER OF INCOME
TAX CENTRAL CIRCLE 17 AND ANOTHER..... Respondents

Through: Mr Zoheb Hossain, Sr Standing
Counsel with Mr Sanjeev Menon,
Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

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

RAJIV SHAKDHER, J. (ORAL):

1. On 31.05.2023, we had heard the matter and, broadly, etched out the contours of the case. For the sake of convenience, the relevant part of the order dated 31.05.2023 is extracted hereafter :

“2. *Issue notice.*

2.1 *Mr Zoheb Hossain, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.*

3. *These petitions concern Assessment Years (AYs) 2019-20, 2020-21 and 2021-22.*

4. *The demands raised against each of the AYs is set forth hereafter:*

| <i>Assessment Year</i> | <i>Demand Raised</i> |
|-------------------------------|----------------------------------|
| <i>2019-20</i> | <i>Rs.2,29,15,046/-</i> |
| <i>2020-21</i> | <i>Rs.35,59,11,980/-</i> |
| <i>2021-22</i> | <i>Rs.18,60,20,498/-</i> |
| <i>Total</i> | <i>Rs. 56,48,47,524/-</i> |

5. *As would be evident from the above, the total demand raised qua the petitioner is Rs.56,48,47,524/-.*

6. *Counsel for the petitioner says that pursuant to the order of the Principal Commissioner of Income Tax [in short, “PCIT”], the petitioner is now called upon to pay Rs.35,42,16,461/-.*

6.1 *It is submitted by the counsel for the petitioner that the respondents/revenue have called upon the petitioner to deposit a substantial part of the demand, when, even according to them, the petitioner has the wherewithal to liquidate the demand, if it were to ultimately fail on merits.*

7. *We are informed by the counsel for the petitioner that the appeal against the assessment order dated 29.07.2022 was lodged with the*



Commissioner of Income Tax (Appeals) [in short, "CIT(A)"] on 27.10.2022.

8. *Mr Hossain, on instructions, says that a fixed deposit/bank balance created by the petitioner amounting to approximately Rs.42 crores stands attached under Section 281B of the Income Tax Act, 1961 [in short, "Act"].*

8.1 *Mr Hossain says that the attachment dissolves today.*

9. *Given this position, for the moment, status quo as to the attachment ordered by the respondents/revenue will continue.*

10. *Mr Hossain will place the particulars of the fixed deposits created by the petitioner and the bank accounts in which money stands credited, before the court on the next date of hearing.*

11. *Accordingly, no further coercive measure will be taken against the petitioner, in respect of the demands referred to hereinabove.*

12. *It is made clear that though this order will not come in the way of CIT(A), he/she is requested to take up the appeal for hearing and disposal at the earliest.*

13. *The petitioner will be at liberty to place the order passed today before the concerned CIT(A)."*

2. Pursuant to the hearing held on 31.05.2023, Mr Zoheb Hossain, learned senior standing counsel, who appears on behalf of the respondents/revenue, has obtained instructions.

2.1 As a matter of fact, he has placed before us a hard copy of the counter-affidavit, which, we are told, has been filed with the Registry.

3. The counter-affidavit is not on record. However, Mr Sumit Bansal, who appears on behalf of the petitioner, has been provided with a hard copy of the counter-affidavit.

4. Briefly, what emerges is that a cumulative amount of approximately Rs.42 crores, which was available in the fixed deposits maintained by the petitioner with the Standard Chartered Bank, stands released to the petitioner.

5. Mr Hossain says that as of today, the attachment order of the respondents/revenue extends to the Fixed Deposit No.50200025247964 maintained by the petitioner with the HDFC Bank, Lower Parel Branch,



Mumbai, worth Rs.2,14,14,742/-.

6. As noticed on the previous date, the total demand raised against the petitioner is Rs.56,48,47,520/-.

6.1 The PCIT had called upon the petitioner to pay a part of the said demand, i.e., Rs.35,42,16,461/-.

7. According to us, 20% of the total demand, i.e., Rs.56,48,47,520/- should suffice, in line with the CBDT office memorandum F.No. 404/72/93-ITCC dated 31.07.2017. Since respondents/revenue are secured to the extent of Rs.2,14,14,742/-, the petitioner will deposit the balance amount, i.e., Rs.9,15,54,762/- so that it reaches a figure of 20% of the demand referred to hereinabove [i.e., Rs.11,29,69,504/-].

7.1 The petitioner is granted four (4) weeks for this purpose.

8. The aforesaid branch of HDFC Bank, i.e., HDFC Bank, Lower Parel Branch, Mumbai, will transfer the amount available in the said fixed deposit to the concerned officer, upon a suitable communication served upon them, within the next ten (10) days.

9. Learned counsel for the parties say that the writ petitions can be disposed of, in the aforesaid terms.

10. The Commissioner of Income Tax (Appeals) [in short, "CIT(A)"] will hear and adjudicate the appeal preferred against the assessment order dated 29.07.2022, on merits.

11. Needless to add, once deposit is made by the petitioner, no coercive measures will be taken against the petitioner, till the disposal of the appeal.

12. The above-captioned writ petitions are disposed of, in the aforesaid terms.

13. Consequently, the pending applications shall also stand closed.



14. The Registry will scan and upload the copy of the aforementioned counter-affidavit, so that it remains embedded in the case file.
15. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

JULY 19, 2023

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