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

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Decision delivered on: 23.12.2022

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W.P.(C) 17620/2022 & CM Nos.56354-55/2022

PTC INDIA LTD.

..... Petitioner

Through: Mr Sachit Jolly, Mr Rohit Garg, Ms
Disha Jham, Ms Soumya Singh and
Mr Sohun Dua, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME

TAX CIRCLE 19 1, NEW DELHI & ANR. Respondents

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel with Mr Shlok Chandra, Jr.
Standing Counsel and Ms Mansie
Jain, Adv.

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 No.56355/2022

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

W.P.(C) 17620/2022 & CM Nos.56354/2022 [Application filed on behalf of the petitioner seeking interim relief]

2. Issue notice to the respondents/revenue.

3. Mr Ruchir Bhatia accepts notice on behalf of the respondents/revenue.

4. In view of the direction that we propose to pass, Mr Bhatia says that a

counter-affidavit need not be filed. Therefore, with the consent of learned counsel for the parties, the writ petition is taken up for hearing and final disposal at this stage itself.

5. The substantive prayers made in the writ petition read as follows:

(a) *A writ of Certiorari or any other appropriate writ, order, direction under Article 226/227 of the Constitution of India quashing the Impugned Order dated 23.11.2022 passed by the Respondent No.1 and thereby, granting stay of entire demand raised in notice under Section 156 of the Act for A Ys 2017-18, 2018-19 and 2020-21 till disposal of appeal by the CIT (A).*

(b) *A writ of Mandamus or any other appropriate writ, order, direction under Article 226/227 of the Constitution of India directing the Respondent No. 1 to grant refund of the amount already paid by the Petitioner under protest.*

(c) *A writ of Mandamus or any other appropriate writ, order, direction under Article 226/227 of the Constitution of India directing the Respondent No. 1 to not recover any further demand pursuant to the Impugned Order dated 23.11.2022.*

(d) *A writ of Mandamus or any other appropriate writ, order, direction under Article 226/227 of the Constitution of India directing the Commissioner of Income Tax (Appeals), to expedite the disposal of the Petitioner's Appeal for A Y s 2017-18, 2018-19 and 2020-21.”*

6. Mr Sachit Jolly, who appears on behalf of the petitioner, says that insofar as the relief sought in prayer clause (d) is concerned, the petitioner will make an appropriate application before the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”] for expediting hearing in the matter.

6.1 If such an application is made, the CIT(A) will consider the same and endeavour to dispose of the appeal at the earliest.

7. As regards the other reliefs, which are sought in the petition, are concerned, Mr Jolly says that he will move the Principal Commissioner of Income Tax for appropriate directions.

8. We may note that it is Mr Jolly's contention that the issue involved in the present matter is covered and, therefore, the petitioner should not have been called upon to deposit even 20% of the disputed demand.

9. As per Mr Jolly, the issue involved concerns the recognition of surcharge received by the petitioner from its debtors, as income, albeit on receipt basis. Therefore, insofar as the reliefs sought for in prayer clauses (a) to (c) are concerned, liberty is given to the petitioner to move an application before the aforementioned authority within 10 days of receipt of a copy of the order.

10. Upon an application being made, the concerned authority will deliberate on the same after hearing the authorized representative of the petitioner and pass an order within the next three weeks. A copy of the order will be furnished to the petitioner.

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

12. Till such time as the aforementioned authority takes a decision on the petitioner's application, no precipitate action will be taken *qua* the petitioner.

13. Needless to add, this direction will operate only if the petitioner moves an application within the timeframe set forth hereinabove.

14. If the order is adverse to the interests of the petitioner, the same shall not be given effect to for a period of two weeks.

15. Consequently, the pending application shall stand closed.
16. The parties will act, based on the digitally signed copy of the order passed today.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 23, 2022

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