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

% *Decision delivered on: 25.05.2023*

\+ **W.P.(C) 7327/2023 & CM APPL. 28510/2023**

PICO DEEPALI OVERLAYS CONSORTIUM BY DEEPALI DESIGNS AND EXHIBITS PRIVATE LIMITED AS ALLEGED MEMBER OF THE AOP ..... Petitioner

Through: Mr Raghavendra Singh and Mr Abhishek Gupta, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-17,NEW DELHI AND ANR ..... Respondents

Through: Mr Sanjay Kumar, Sr Standing Counsel with Ms Easha and Ms Hemlata Rawat, Standing Counsels.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.28510/2023

1. Allowed, subject to just exceptions.

W.P.(C) 7327/2023

2. Issue notice.

2.1 Ms Easha Kadian, learned standing counsel, accepts notice on behalf of the respondents/revenue.

3. Given the direction that we propose to issue, Ms Kadian says that

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counter-affidavit need not be filed, and she will argue the matter based on the record presently available with the court.

3.1 Therefore, with the consent of learned counsel for the parties, the matter is taken up for hearing and final disposal at this stage itself.

4. The substantive prayer made in the writ petition reads as follows :

> *"(a) Issue a writ of mandamus directing an expeditious disposal of ITA 518/Del/2022 before the Hon' ble ITAT, New Delhi by first deciding the preliminary issue whether DDEPL is a member of the AOP or not."*

5. The record shows that the petitioner had approached the court for the very same direction by way of an earlier writ action, i.e., W.P.(C)No.12560/2022.

6. This writ petition was disposed of by the coordinate bench on 31.08.2022 when the following short order was passed :

> *"After some arguments, learned counsel for the petitioner wishes to withdraw the present writ petition with liberty to seek the same relief from the ITAT by filing an appropriate application. This Court is confident that if the said application is filed before the ITAT, the same shall be considered in accordance with law.*
>
> *With the aforesaid observation and liberty, the present writ petition along with pending application stands disposed of."*

7. Learned counsel for the petitioner informs us that in consonance with the observations made by the coordinate bench on 31.08.2022, an application dated 14.11.2022 was filed with the Tribunal.

7.1 We are told by learned counsel for the petitioner that the Tribunal has not rendered any decision, either on the application or the substantive appeal pending adjudication before it.

8. Given this position, we request the Tribunal to dispose of the application and/or the substantive appeal pending before it at the earliest,

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though not later than four months from the date of receipt of a copy of the order passed by this court.

9. The writ petition and pending applications are disposed of, in the aforesaid terms.

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

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

MAY 25, 2023
aj

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