IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3392 of 2015
Date of decision: 02.03.2015

M/s. Jindal Steel and Power Ltd. ....Petitioner(s)

Versus

The Commissioner of Income Tax, Hissar and another ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ajay Vohra, Sr. Advocate,
with Mr. Vishal Gupta, Advocate,
for the petitioner.

Mr. T.K. Joshi, Advocate,
for the respondents.

S.J. VAZIFDAR, A.C.J. (Oral)

1. This is a petition to continue the stay granted by the Income Tax Appellate Tribunal (in short 'ITAT') vide order dated 27.02.2014 (Annexure P-3). The ITAT directed the petitioner-assessee to pay a sum of ₹57 crores and ₹11 crores by 30.03.2014 and 30.06.2014 and stayed the balance demand for 180 days. This stay was extended vide further order dated 27.08.2014 upto 26.02.2015. The further application for stay was not allowed on the ground that the ITAT was not entitled to do so. It is for this reason that the present petition has been filed.

2. In view of the order of stay having been granted by the ITAT earlier and in view of the observations made in the order dated 27.08.2014 that the appeals could not be taken up for hearing for no fault of the assessee, it is only fair that the stay granted by the ITAT vide order dated 27.02.2014 continues pending the appeal.

3. Counsel for the respondents has raised a grievance that the

assessment for the year in question namely 2009-10 is dependent upon the assessment for the previous years namely from the assessment year 2003-04 onwards and that the petitioner has been seeking adjournments in those proceedings.

4. It is further contended that the petitioner itself agreed by the letter dated 30.01.2015 to pay a sum of ₹25 crores by the last week of March, 2015. The letter, however, must be read as a whole. Several offers were made but conditional upon the respondents also agreeing to certain aspects. One of the most important aspects was that the Commissioner of Income Tax had allegedly agreed that approvals would be granted to the assessee under Section 281 of the Income Tax Act, 1961 pursuant to the applications filed by it. Failure to deposit the amount by itself, therefore, cannot be a ground for refusing the stay.

5. The writ petition is, therefore, disposed of by continuing the order dated 27.02.2014. It is, however, in view of the undertaking on behalf of the petitioner that it will not seek any adjournment whatsoever before the Tribunal in respect of the appeals filed by it pertaining to the previous assessment years. It is agreed by the petitioner that if for any reasons, it fails to appear during the hearing, the Tribunal shall be entitled to proceed in its absence.

In the event of the respondents agreeing to all the terms and conditions contained in the letter dated 30.01.2015, liberty to apply to have this order modified or vacated.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

02.03.2015 **(G.S. SANDHAWALIA)**
shivani **JUDGE**