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

\+ **W.P.(C) 1077/2015**

M/S A.N. COMPECT TRAFFIC & SECURTY SYSTEMS P. LTD ..... Petitioner

Through : Mr Bhushan Kapur, Advocate.

versus

INCOME TAX OFFICER & ANR ..... Respondents

Through : Mr Kamal Sawhney, Senior Standing Counsel with Mr Raghvendra Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE V.KAMESWAR RAO

O R D E R

% 24.11.2015

W.P.(C) 1077/2015 & CM No.1918/2015(stay)

On 03.09.2015, when this matter came up before us for the first time, this Court passed the following order:-

> **"CM No.1919/2015**
>
> Allowed, subject to all just exceptions.
> The application stands disposed of.
>
> **W.P.(C) 1077/2015 & CM Nos.1918/2015**
>
> The learned counsel for the petitioner states that the demand has not been stayed despite the assessed income being 1250 times the returned income. He has submitted that the assessment is very high pitched and in view of the decision of this Court in ***Soul v. Deputy Commissioner of Income Tax: (2010) 323 ITR 305 (Delhi)***, the demand should have been stayed in its entirety and the Commissioner, while passing the impugned order has not paid any heed to the said decision which clearly states that Instruction No.1914 of 2.12.1993 does not, in any manner, alter the position which existed prior to that Instruction, as was noted in ***Valvoline Cummins Ltd. v. Dy. CIT & Ors: (2008) 217 CTR (Del) 292.***
>
> Issue notice. Notice is accepted by the learned counsel for the respondent.

> The counter-affidavit be filed within four weeks. The rejoinder-affidavit, if necessary, be filed within two weeks thereafter.
>
> In the meanwhile, no coercive action shall be taken by the respondents and the bank account of the petitioner which has been attached by the respondents shall continue to be operated by the petitioner for conducting his day to day affairs in the usual course of business.
>
> Renotify on 8th May, 2015.
>
> Dasti under the signatures of the Court Master."

Thereafter, the counter-affidavit has been filed by the respondents.

We have heard the learned counsel for the parties. We set aside the order dated 02.09.2014 passed by the Assessing Officer partially rejecting the stay application filed by the petitioner in respect of the demand for Assessment Year 2011-2012. The matter is remitted to the Assessing Officer to decide the stay application afresh, after considering the observations made by us in the order dated 03.02.2015. The stay application shall be disposed of by the Assessing Officer within eight weeks. Till that application is disposed of, no coercive measures be taken.

The writ petition stands disposed of.

BADAR DURREZ AHMED, J

V.KAMESWAR RAO, J

NOVEMBER 24, 2015
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