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

\+ W.P.(C) 4537/2015

BETA INFRATECH (P) LTD ..... Petitioner

Through: Mr S. Ganesh, Sr Advocate with Mr Anand Sukumar, Mr S. Sukumaran and Mr Bhupesh Pathak

versus

THE INCOME TAX OFFICER, WARD 4(3), NEW DELHI ..... Respondent

Through: Mr Kamal Sawhney

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% 06.05.2015

CM No. 8225/2015

The exemption is allowed subject to all just exceptions.

W.P.(C) 4537/2015 and CM No. 8226/2015

This writ petition is directed against the order dated 24.04.2015 which has been passed by the Income Tax Officer, Ward 4(3), New Delhi on an application for stay of demand under Section 220(6) of the Income-tax Act, 1961. The matter pertains to the assessment year 2012-13. According to Mr Ganesh, the learned senior counsel appearing on behalf of the petitioner, the returned income was a loss of Rs 2.28 lakhs approximately. The assessed income is over Rs 203 crores. Therefore, according to him this is a high pitched assessment and demand. It has also been contended that the order passed by the Assessing Officer is a non-reasoned order without taking into account several decisions of this court and that of the Supreme Court. Mr Ganesh, in particular, referred to the decisions of this court in ***Soul v. Deputy Commissioner of Income-tax, Central Circle-10***; **323 ITR 305 (Del)** and ***Valvoline Cummins Ltd. V. Deputy Commissioner of Income Tax, Circle 17(1)***; **(2008) 307 ITR 103 (Del)**. The said decisions have interpreted the CBDT circulars which are in question.

After hearing the learned counsel for the parties, we are in agreement with the submission made by Mr Ganesh that the Assessing Officer ought to have passed a speaking order in the facts and circumstances of this case. Consequently, we set aside the order dated 24.04.2015 and remit the matter to the Assessing Officer to consider the application under Section 220(6) of the said Act afresh. While doing so he shall grant an opportunity of hearing to the petitioner and shall also take particular note of the above mentioned two decisions and other decisions of the Supreme Court which may be cited by the petitioner. Till the disposal of the application, the respondent shall not take any coercive action.

The writ petition stands disposed of in the above terms.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MAY 06, 2015
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