NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(T). No. 66 of 2016

1. Rakesh Saraogi, S/o. Shri Satya Narayan Saraogi, aged about 52 years, Subhash Road, Ganjpara, Raipur, R/o. Anandam World City, Kachna Main Road, Near G.A.D, Colony Raipur (C.G.)

----Petitioner

Versus

1. Commissioner of Income Tax (Appeals), Central Revenue Building, Civil Lines, Raipur (C.G.)
2. Deputy Commissioner of Income Tax Officer-I (1) Central Revenue Building, Civil Lines, Raipur (C.G.)

---- Respondents

For Petitioner	:	Mr. Romir Sumit Goyal, Advocate
For Respondents	:	Mrs. Nausina Afrin Ali, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/05/2016

1. The petitioner is aggrieved by the demand made of Rs.43,81,550/- (Annexure P/1) in the assessment order dated 27.03.2016, for assessment year 2013-14. According to the petitioner, an un-reasonable high pitched assessment has been made by the assessing officer i.e. the respondent No.2 herein.

2. Counsel for the petitioner submits that against the assessment order, the petitioner has preferred an appeal before the respondent No.1 vide Annexure P-3 and if the effect and operation of the demand notice is not stayed, the respondent No.2 shall take coercive steps against the petitioner for recovery of disputed demand by attachment of the property and the bank accounts. It is contended that since the

appeal has been preferred against such assessment order, the respondents may be directed to follow their own instructions No.96, which directs that in case of harsh assessment, if appeal is preferred, then in such case, the recovery should be normally stayed. The counsel submits that in the instant case, assessment has been made to the extent of Rs.43,81,550/-, which will certainly fall within the ambit of harsh assessment. Counsel for the petitioner has referred to the decision of Delhi High Court in the matter of **Taneja Developers & Infrastructure Ltd. vs. Assistant Commissioner of Income Tax & others** reported in **(2010) 324 ITR 247,** decision of Rajasthan High Court in the matter of **His Late Highness Maharana Shri Bhagwat Singhji Of Mewar vs. Income Tax Appellate Tribunal & others** reported in **(1997) 223 ITR 192 (Raj),** decision of Madhya Pradesh High Court in the matter of **Northern Coalfields Ltd. v. Commissioner of Income Tax and others** reported in **(2015) 25 ITJ 492 (MP)** and the order dated **30.09.2014** passed by Madhya Pradesh High Court in **Writ Petition No.14939/2014 (Municipal Corporation, Satna vs. Union of India and others)** and would submit that in the similar circumstances, the Co-ordinate Bench of this High Court in **W.P.(T) 72 of 2015** has passed the similar like nature of the order, therefore, the recovery be stayed since the appeal is pending.

3. Counsel for the respondents on instructions submits that instead of keeping this petition pending it may be disposed of as the petitioner has already preferred an appeal before the respondent No.1 and that during the pendency of the appeal, no coercive steps shall be taken against the petitioner and the appeal would be decided within four weeks.

4. Considering the submission made by the parties, present petition is disposed of with a direction to respondent No.1 to decide the pending appeal of the petitioner within further period of four weeks. It is further observed that till the decision on the said appeal, respondents shall not take any coercive steps against the petitioner for recovery of disputed demand keeping the demand notice in abeyance.

5. In view of above, the petition is disposed of.

Sd/-
(Goutam Bhaduri)
JUDGE

Balram