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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1641 OF 2016

Supermax Personal Care Private Ltd. ..Petitioner
Versus
Assistant Commissioner of Income Tax,
(LTU) -1 & Ors. ..Respondents

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Mr.J.D. Mistri with Mr.Ranjit Shetty, Mr.Sankalp Anantwar, Mr.Akshay Naik, Ms.Jasmin Amalsadvala I/b. Argus Partners for Petitioner.
Mr.Charanjeet Chanderpal for Respondent - Revenue.

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CORAM: M. S. SANKLECHA &
S.C. GUPTE, JJ.

DATE : 24 AUGUST 2016

P.C. :

1 This petition under Article 226 of the Constitution of India challenges three orders, dated 12 May 2016, 7 June 2016 and 13 June 2016, passed under Section 220(6) of the Income Tax Act, 1961 (Act) by Assessing Officer (Respondent No.1), Additional Commissioner of Income Tax (Respondent No.2) and Commissioner of Income Tax (Respondent No.3) respectively.

2 All the three impugned orders rejected the prayer for unconditional stay of tax demand of Rs.1737.25 crores for Assessment Year 2011-12, consequent to Assessment Order dated 31 March 2016 till

the disposal of Petitioner's appeal by the Commissioner of Income Tax (Appeals) (Respondent No.4). The impugned orders directed the Petitioner to pay 15% of the tax due in terms of the Central Board of Direct Tax Circular dated 29 February 2016.

3 After hearing the Petitioner for sometime, we found that the issue appears to be contentious. At this stage, Mr.Chanderpal, learned Counsel for the Respondent – Revenue, on instructions, states that the appeal filed by the Petitioner on 28 April 2016 against the order dated 31 March 2016 with the Commissioner for Income-tax (Appeals) would be taken up expeditiously for hearing, and in any case, the appeal would be disposed of within six weeks from today.

4 However, it is made clear the Petitioner will co-operate in the early disposal of its appeal and would attend the hearing, as and when fixed by the Commissioner of Income Tax (Appeals). As the tax demand is huge, to safeguard the interest of the Revenue, the Petitioner will file an undertaking not to dispose of and / or alienate its property in terms identical to that recorded in order dated 3 May 2016 passed by this court in Writ Petition (Lodging) No.1020/2016 filed by the Petitioner. This undertaking would be filed with the Commissioner of Income Tax (Respondent No.3) immediately. This undertaking would continue till such time the Commissioner of Income Tax (Appeals) passes an order on the Petitioner's appeal from the order of assessment dated 31 March 2016 and for a period of two weeks thereafter.

5 It is made clear that the Respondent Revenue will also not adopt coercive proceedings against the Petitioner till such time as the

Commissioner of Income Tax (Appeals) disposes of the appeal and for a period of two weeks thereafter from the date of its communication.

6 It is made clear that the Commissioner of Income Tax (Appeals) will hear the Petitioner's appeal without insisting upon deposit of 15%, as directed by the impugned order relying upon the CBDT Circular dated 29 February 2016. It is made clear that we have not examined the merits of the contentions of the parties. Therefore, Commissioner of Income Tax (Appeals) should not be influenced in any manner by any observations made herein.

7 The petition is disposed of in the above terms. No order as to costs.

(S.C. GUPTE, J.) **(M. S. SANKLECHA, J.)**