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

\+ W.P.(C) 928/2015

ZOOM COMMUNICATION (P) LTD. ..... Petitioner

Through: Mr. Y.K. Kapur, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX..... Respondent

Through: Mr. Zoheb Hossain, Sr. Standing Counsel along with Mr. Deepak Anand, Jr. Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

<u>O R D E R</u>

% **29.08.2016**

The present petition seeks a direction for the quashing of an order whereby the petitioner was directed to comply with the tax demand pursuant to assessment. In the course of the assessment, the AO disallowed substantial amounts leading a taxable income of over ` 97 crores. The final tax demand was ` 41 crores. The assessee had deposited ` 18.70 crores. Besides, denying the stay on the impugned order, the revenue authority have also by instruction/order dated 19.01.2015 attached the petitioner's bank's account and sought to appropriate amounts lying in it.

During the course of hearing, learned counsel had relied upon the decisions of this court as well as departmental circulars which instruct the revenue authorities and assessing officers in particular that in *"high pitched assessments"* the recovery of payment should not be generally insisted upon. The latest circular states that 15% of the tax demanded, pursuant to the assessment, could be insisted ordinarily.

During the course of hearing, the assessee was asked whether he was willing to deposit the sum of ` 2 crores. Today, counsel has placed on the record an affidavit whereby the assessee has deposed that a sum of ` 8,69,81,650/- is refundable in respect of four years (AY-2010-2013, 2013-2014, 2014-2015, 2015-2016). It is submitted that in the light of this development, the requirements of depositing the 15% amount or ` 2 crores would not arise. This Court has carefully considered the submissions of the parties. Since the assessee has now placed on the record an affidavit indicating refunds due, at this later stage, it would not be appropriate to further delay the decision in the matter. Having regard to the circumstances, the concerned AO i.e. Assistant Commissioner is hereby directed to verify as to whether amounts are in fact due by way of refund and if so, to what extent. In case the assessee's contentions are correct, it is hereby directed that if the refund due exceed ` 2 crores, the assessee would not be required to deposit any amount. The Assistant Commissioner/AO concerned shall verify the concerned record in this regard within two weeks and communicate to the assessee. In the event, it is found that for some reasons, refunds are not due or are under dispute, then the assessee shall be communicated in that regard. In the latter eventuality, the assessee shall deposit ` 2 crores within eight weeks thereafter with the revenue. Upon such deposit, the revenue shall ensure that no coercive action is taken and that the bank accounts attachment is withdrawn. Till then, no coercive steps shall be taken by the respondent. Also, it is open to the assessee to assist the Assistant Commissioner.

The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 29, 2016
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