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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2513/2016

NORTEL NETWORKS SINGAPORE PTE. LTD. (IN
COMPULSORY WINDING UP)

..... Petitioner

Through: Mr. Deepak Chopra, Mr.Amit Srivastava
and Ms. Manasvini Bajpai, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX Respondent

Through: Mr. Rahul Chaudhary, Senior Standing
counsel.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

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22.03.2016

W.P.(C) No.2513 of 2016 & CM APPL 10752 of 2016(stay)

1. Notice. Mr. Rahul Chaudhary, learned counsel for the Revenue accepts notice.
2. The short question involved in this petition is whether the Income Tax Appellate Tribunal ('ITAT') was justified in stipulating, by the impugned order dated 24th February 2016, on an application filed by the Petitioner seeking extension of the interim order that was already continuing in its appeal being ITA No.553/Del/2015, the condition that the Petitioner should deposit a sum of Rs. 20 lakhs in two instalments, the first instalment on or before 31st March 2016 and the second instalment on or before 30th April 2016.

3. The fact of the matter is that there was an unconditional stay continuing in the appeal. Either because the Revenue was seeking adjournment or the Bench of the ITAT which was to hear the appeal was not constituted, the appeal could not be heard. In the circumstances, the ITAT should not have modified the interim order that was already continuing unless it was of the view that the Assessee had deliberately delayed hearing of the appeal or there was some change in the circumstances.

4. Learned counsel for the Revenue submitted that the Petitioner was under liquidation and it might be difficult for the Revenue to recover the tax demand. On the other hand, learned counsel for the Petitioner submits that in view of the dire financial situation of the Petitioner, it is prepared to go in for a settlement. The Court is of the view that these submissions were for the ITAT to consider.

5. Consequently, the Court modifies the impugned order of the ITAT dated 24th February 2016 to the extent it requires the Petitioner to deposit a sum of Rs. 20 lakhs in two instalments. That part of the impugned order is hereby set aside. The remaining part of the impugned order is left undisturbed.

6. The petition and the application are disposed of in the above terms.

7. *Dasti.*

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 22, 2016
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