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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 6610/2016 & CM 27096/2016**

MAX LIFE INSURANCE CO. LTD. ..... Petitioner
Through: Mr. M.S. Syali, Senior Advocate with Ms. Husnal Syali, Mr. Tarun Singh, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX & ORS. ..... Respondent
Through: Mr. Ruchir Bhatia, Advocate.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

O R D E R

% **29.07.2016**

1. Notice. Mr. Ruchir Bhatia, learned counsel for the Revenue, accepts notice.

2. The grievance of the Petitioner is that the application filed by it under Section 220(6) of the Income Tax Act, 1961(‘Act’) before the Assessing Officer (‘AO’) in relation to the demand created by the assessment order dated 22nd March 2016 has yet not been disposed of, although the said application was filed on 27th April 2016. The Petitioner narrates how the proceedings have taken place not only before the AO but also before the Commissioner of Income tax on 15th, 22nd and 25th July 2016, during the course of which the Petitioner has been asked to make an upfront interim payment of Rs. 50 lakhs, which it has.

3. The controversy revolves around taxing of the profits on the sale of investments by the Petitioner which is in the life insurance business. It is pointed out that taxes @ 12.5% have already been paid by the Petitioner on the profit of sale of investments for the Assessment Year 2013-14.

4. Referring to the recent Office Memorandum (OM) dated 29th February 2016, issued by the Central Board of Direct Taxes ('CBDT') in modification of its earlier Instruction No. 1914, dated 21st March 1996, Mr. M.S. Syali, learned Senior Advocate appearing for the Petitioner points out that it was incumbent upon the AO to have disposed of the said application under Section 220 (6) of the Act, within two weeks of its filing. The said OM gives a discretion to the AO to grant a stay of the demand on payment of 15% of the disputed demand. It is submitted that if the tax already paid by the Petitioner on the profit of sale of investments @12.5% together with the Rs.50 lakhs already deposited is taken into account, then the sum available with the Department would work out well above 15% of the demand.

5. Mr. Ruchir Bhatia, learned counsel for the Revenue, assures the Court that not later than one week from today, the AO will pass a reasoned order disposing of the Petitioner's application under Section 220(6) of the Act. He also assures the Court that all of the above points urged before this Court by the Petitioner will be taken into account by the AO while passing the said order.

6. The above assurance of Mr Bhatia is placed on record and it is directed that till the expiry of ten days after the AO communicates to the Petitioner the order disposing of its application under Section 220(6) of the Act, no

coercive measures will be taken against the Petitioner. During that period it will be open to the Petitioner, if aggrieved by the order of the AO, to seek such appropriate remedy as available to it in accordance with law.

7. The petition and the application are disposed of.

S. MURALIDHAR, J

NAJMI WAZIRI, J

JULY 29, 2016
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