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

\+ **W.P.(C) 3928/2015**

INDUS TOWERS LIMITED ..... Petitioner

Through: Mr. Gajendra Maheshwari, Advocate.

Versus

COMMISSIONER OF INCOME TAX-4 & ORS. ..... Respondents

Through: Mr. Rahul Chaudhary, Senior Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 28.11.2016

CM No. 43076/2016 & W.P.(C) 3928/2015

This application seeks stay of the assessment proceedings of Assessment Year (AY) 2014 and subsequent orders. The applicant company had undergone restructuring by an order of the Court pursuant to a policy change mandated by the Telecom Regulating Authorities. It is stated that the Special Auditor earlier appointed under Section 142(2A) of the Income Tax Act, 1961, in his report, made certain observations which are almost conclusive on the issue, and if left undisturbed, will adversely affect the petitioner's submissions in the ongoing assessment in the concerned year.

Learned counsel submits that since in W.P.(C) No. 239/2014, the Court has previously directed that the assessment orders are to be finalized sequentially i.e., chronologically, the present assessment for AYs 2013-14 and 2014-15 may not be finalized and order to that effect may be made. Learned counsel for the respondent has no objection given that the order in W.P.(C) No.239/2014 has attained finality. It is accordingly directed that for the assessment years which are covered by this writ petition, final assessment orders shall await the completion of assessment for the earlier orders. The assessee/petitioner waives its right to urge the issue of limitation till the completion of such assessment in this regard since it has specifically sought the benefit of the directions of the Court to proceed with various assessments sequentially and chronologically.

We are of the opinion that having regard to the law declared by *Delhi Development Authority Vs. UOI* 350 ITR 432, the observations or findings, if any, in the Special Auditor's report should not be treated as conclusive in any manner whatsoever by the Assessing Officer. Equally, all rights and contentions of the assessee, to make submissions on all aspects which it may be required to shed light by the AO are kept open. The AO shall not, in any manner, be influenced by the Special Auditor's objections or suggested findings in this regard.

The application is accordingly disposed off.

The learned petitioner counsel submits that the writ petition may be disposed off in the light of the above observations.

The writ petition stands disposed off accordingly.

The next date i.e., 23.01.2017 stands cancelled.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

NOVEMBER 28, 2016/sb