$~54

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

\+ W.P.(C) 7024/2016, CM Nos. 28912-28913/2016

ALLIED STRIPS LIMITED ..... Petitioner

Through: Mr. Salil Aggarwal, Advocate along with Mr. Prakash Kumar, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX , CENTRAL CIRCLE -15, NEW DELHI & ORS. ..... Respondents

Through: Mr. P. Roy Chaudhuri, Sr. Standing Counsel.

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

**O R D E R**

% **09.08.2016**

Issue notice. Mr. P. Roy Chaudhuri, Sr. Standing Counsel accepts notice on behalf of the respondents.

The present writ petition questions an order under Section 226 (3) of the Income Tax Act (hereinafter referred to as 'the Act').

The facts essential to the case are that the petitioner's company was subjected to assessment pursuant to search proceedings conducted in its premise and thus resulted in penalties. The assessment pursuant to Section 153 (A) of the Act, raised demands in relation to four out of six orders concerned. The assessee questions the demands principally on two grounds-one that since it is currently a Sick Company in terms of Section 15 (1) of the Sick Industrial) Companies Act, 1985 (SICA), no proceedings including income tax assessments could be completed without the express approval of the BIFR. It is submitted that since this approval has not been taken till date, the demand is without authority of law. Secondly, it is urged that in view of the review judgment in ***CIT vs. Kabul Chawla*** *380 ITR 573*, the demands to the extent they pertained to finalised assessments, are unsustainable in law.

We notice that the writ petitioner was called upon by a show cause notice to reply as to why the demand of ₹ 61.93 crores should not be recovered from its assets – on 16.05.2016. The petitioner replied to the notice on 29.07.2016 and 30.05.2016. The concerned AO apparently has not made any order, rejecting or dealing with in any manner the replies to the show cause notice. In the meanwhile, the impugned order under Section 226 has been made. In our opinion, it would be appropriate that the AO deals with the replies to the show cause notice as well as the contentions of the assessee in a proper and reasoned order, in accordance with law within six weeks from today.

All rights and contentions of the parties are reserved.

The Appellate Commissioner shall expedite the hearing of the appeal and render its final decision thereon.

The writ petition is disposed of in the above terms.

In the meanwhile- till the AO passes his final order after considering the objections of the petitioner, no coercive steps shall be taken.

Order be given *dasti* under the signatures of the Court Master.

**S. RAVINDRA BHAT, J**

**DEEPA SHARMA, J**

**AUGUST 09, 2016/***sapna*