IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1960 OF 2017

Piramal Enterprises Limited .... Petitioner
Vs.
The Commissioner of Income-tax
(Appeals)-57 & Others .... Respondents

Mr. J.D. Mistri, Senior Counsel with Mr. Madhur Agrawal i/by Mr. Atul K. Jasani for the Petitioner.
Mr. N.C. Mohanty for the Respondents.

CORAM: S.C. DHARMADHIKARI &
SMT. VIBHA KANKANWADI, JJ.

DATE : AUGUST 14, 2017

P.C:

1. After this writ petition was argued for some time, Mr. Mistri, on instructions, states that if this Court keeps any larger issue or wider question open about the constitutionality and validity of the provisions, particularly Section 144C of the Income Tax Act, 1961, then, the petitioner would file an appeal to the Income Tax Appellate Tribunal against the order dated 28-4-2017 of the Commissioner of Income Tax (Appeals)-57,

Mumbai, copy of which is at Annexure-J (page 288 of the paper-book) and such appeal would be filed within a period of ten days from the date of receipt of a copy of this order.

2. Since this is a writ petition directly filed in this Court challenging the order passed by the First Appellate Authority as above and there is a complete remedy of approaching the Income-Tax Appellate Tribunal against such an order and which remedy is of appeal, where both question of law and fact can be raised, then, we do not entertain this writ petition. The writ petition is disposed of on the ground of availability of alternate, equally efficacious remedy of an appeal to the Tribunal. However, we clarify that in the event the petitioner still wishes to raise the larger issue of the constitutional validity of Section 144C of the Income-Tax Act, 1961, that issue is kept open for being raised at an appropriate stage and in appropriate proceedings. Since the petitioner's Senior Counsel has stated that he has instructions to state before the Court that an appeal would be filed within a period of ten days from the date of receipt of a copy of this order, we requested Mr. Mohanty to

take instructions whether the Revenue will stay its hands and not recover the amount, under the order of the First Appellate Authority, by coercive means.

3. Mr. Mohanty, in all fairness, states that till the appeal is lodged and filed and intimation in that behalf is given to the concerned Recovery Officer, the Recovery Officer will not initiate any proceedings for recovery of the amounts under the First Appellate Authority's order by coercive means.

4. We accept both sides' statements made on instructions before us as undertakings to this Court. We keep open every aspect of the matter equally the constitutionality and validity of Section 144C of the Income-Tax Act, 1961 and dispose of this writ petition accordingly.

(SMT. VIBHA KANKANWADI, J.) (S.C. DHARMADHIKARI, J.)