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

\+ W.P.(C) 2489/2017 & CM Nos. 35798-35799/2016

INDIAN BROADCASTING FOUNDATION ..... Petitioner
Through: Ms. Prem Lata Bansal, Sr. Adv. with Ms. Mansi Sinha, Adv.

versus

CHIEF COMMISSIONER OF INCOME TAX (E) & ORS. ..... Respondents
Through: Mr. Sanjay Kumar and Mr. Dileep Shivpuri, Advs.

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

O R D E R

% 17.03.2017

Issue notice.

Mr. Sanjay Kumar accepts notice for the respondents. With consent of the counsel, the petition is taken up for disposal.

The petitioner is aggrieved by the AO's demand under Section 220 of the Income Tax Act, 1961 for the sum of Rs. 33,29,469/- constituting 85% of the total outstanding of Rs. 2,21,96,460/-. The petitioner's application for staying the demand is pending before the Commissioner (E). The AO has currently demanded the amount rejecting the assessee's explanation that the said sum was invested in Broadcast Audience Research Council (BARC) on account of Central Government's policy, through the directives of the appropriate ministry. It is contended that this could not result in a disallowance as such investment yielded dividend that could, in all likelihood, attract income tax.

The Court notices that the AO applied the Board's office memorandum dated 29.02.2016 and has granted relief to the extent of 85% of the demand. However, having regard to the materials on record, it is quite clear that the amounts were deposited with the BARC not by way of investment or choice, but on account of a Central Government policy.

The Court is of the opinion that this peculiar circumstance warrants adoption of the policy, spelt out in para 4(D) of the memorandum dated 29.02.2016. The petitioner's appeal may, therefore, be decided by the concerned Appellate Commissioner within three months from today. Pending a final decision, no coercive steps shall be taken to enforce the demand. In the light of the above order, the petitioner shall ensure that the review application filed before the CIT(E) and the Chief Commissioner is withdrawn within a week.

The writ petition is disposed off in the above terms.

Dasti.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 17, 2017/kk