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

\+ W.P. (C) 2535/2017, CM APPL.10952-10953/2017

SANDEEP KUNDALIA ..... Petitioner

Through: Ms. Prem Lata Bansal, Sr. Advocate with Mr. Ram A. Bansal and Ms. Mansi Sinha, Advocates.

versus

COMMISSIONER OF INCOME TAX, DELHI-17 & ANR. ..... Respondents

Through: Mr. Rahul Kaushik, Sr. Standing Counsel.

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

**O R D E R**

% **21.03.2017**

The petitioner challenges the notice under Section 156 of the Income Tax Act, 1961, demanding tax dues in excess of ₹1 Crore; it also challenges the attachment order made by the Revenue and further seeks a stay of the demand beyond 85% of the relief granted by it.

The brief facts are that for the assessment year 2014-15, the assessee was subjected to a tax demand of ₹1,08,54,090/- on account of its returned income assessed at ₹2,45,76,480/-. The AO disallowed the transactions on the basis of his opinion that there was insufficient supporting evidence to establish their genuineness. The demand, consequential to the assessment, was made on 27.12.2016. The assessee applied for a stay; the AO granted substantial relief, by applying a Circular relevant to high pitched assessment and exempting the deposit of 85% of the demand. This has resulted currently in the demand to the extent of about ₹16,28,000/-. The assessee complains that the amount is excessive in the given circumstances and the merits of this case. It also contends that the notice issued for attachment of its bank account - which led to the appropriation of ₹1.75 lacs is oppressive and arbitrary.

The materials on record suggest that the assessee/petitioner has approached the Commissioner for suitable relief by way of stay/suspension of demand. That application has not yet been considered.

In the circumstances, the Court is of the opinion that the Commissioner should consider the application for grant of relief having regard to the circumstances and on its merits within three weeks.

In the meanwhile, the respondents/Revenue is directed not to take any coercive action. As far as the attachment order is concerned, the Commissioner of Income Tax (Appeals) may decide - in the event the petitioner approaches it within two days - to what extent the attachment order may be lifted to enable day to day activities of the petitioner's business. In the event, the petitioner does move an application, the Commissioner may decide that independently within five days of its receipt after giving due notice.

All rights and contentions of the parties are reserved.

Writ Petition stands disposed of.

A copy of this order be given ***dasti*** under the signatures of the Court Master to both the parties.

**S. RAVINDRA BHAT, J**

**NAJMI WAZIRI, J**

**MARCH 21, 2017**
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