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

\+ W.P.(C) 2702/2017 & CM Nos. 11708-11709/2017

MAX LIFE INSURANCE COMPANY ..... Petitioner
Through: Mr Ajay Vohra, Sr. Adv. with Mr. Himanshu Sinha and Ms. Vrinda Tulshan, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX ..... Respondent
Through: Mr. Asheesh Jain, Sr. St. Counsel with Mr. Arun Khatri, Adv.

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

O R D E R

% 27.03.2017

The petitioner is aggrieved by a notice dated 14.03.2017 given by the AO seeking to give effect to the CIT(A)'s directions with respect to the carry forward and set off of losses claimed by the assessee in respect of AY 2002-03 to AY 2009-10. It is submitted that this in effect amounts to re-visiting a concluded assessment and, therefore, impermissible in law.

At the outset, it is pointed out by counsel for the Revenue, who appears on advance notice, that the petitioner has appealed to the ITAT, which is yet to be approached under proviso to Section 254(2A) of the Income Tax Act, 1961 (in short the Act).

Counsel for the petitioner further submits that the AO is duty bound to conclude the assessment under Section 153 of the Act latest by 31.03.2017 and its application is for extension of time by six months is pending.

In view of the submissions made this Court is of the opinion that the petitioner should apply for appropriate interim relief before the ITAT, which shall examine and rule upon relief claimed independently, on its merits. Likewise, the AO should consider the petitioner's request for extension of time to complete the assessment for the relevant assessment years under Section 153(5), appropriately, having regard to the circumstances, in accordance with law. It is open to the petitioner to seek appropriate orders from the ITAT for expeditious disposal of its appeals. In case such request is made, the ITAT may consider it reasonably.

The writ petition is disposed off.

Dasti under the signatures of the Court Master.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 27, 2017/kk