$~56

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

\+ **W.P.(C) 5965/2017**

TATA TELESERVICES LIMITED ..... Petitioner

Through: Mr. Tarun Gulati, Mr. Sparsh Bhargava, Mr. Anupam Mishra & Ms. Rachana Yadav, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX ..... Respondent

Through: Mr. Rahul Kaushik, Senior Standing Counsel for the Revenue with Mr. Harshit Bansal, ACIT, Circle 76(1), TDS.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **17.07.2017**

CM No. 24774/2017 (Exemption)

1. Allowed, subject to all just exceptions.

WP (C) No.5965/2017 & CM No. 24773/2017 (Stay)

2. The challenge in the present petition is to the impugned order dated 7th April, 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in the stay application filed by the Petitioner in its pending ITA Nos.3328-3332/Del/2015 for the Financial Years 2006-07 to 2010-11.

3. The short point made by Mr. Tarun Gulati, learned counsel appearing for the Petitioner is that there are several factual errors in the impugned order. He points out that the ITAT failed to note that some amount had already been paid by the Petitioner under protest. It failed to note that the Petitioner was undergoing huge losses. Also, the fact that in respect of the demand arising from the alleged failure to deduct TDS under Section 194J of the Income Tax Act, 1961 ('Act'), there are already several decisions of this Court as well as the ITAT itself in favour of the Petitioner, has also not been considered by the ITAT.

4. The immediate grievance is that pursuant to two notices dated 6th July, 2017 and 14th July, 2017 have been issued under Section 226(3) of the Act by the Department seeking to attach the bank accounts of the Petitioner.

5. Notice. Mr. Rahul Kaushik, learned counsel accepts notice.

6. Having heard learned counsel for the parties, the Court is of the view that the application for stay filed by the Petitioner before the ITAT should be heard afresh by the ITAT in view of the factors pointed out by learned counsel for the Petitioner as noted hereinbefore.

7. Leaving it open to the Petitioner to once again urge all the points in its favour as averred in the stay application and reserving the right of the Revenue to oppose those points on merits, the Court sets aside the impugned order dated 7th April, 2017 passed by the ITAT and restores to its file SA No. 315-319/Del/2015 filed by the Petitioner. The ITAT

should endeavour to dispose of the said stay applications not later than six weeks from the date it receives a copy of this order.

8. The petition and the application are disposed of.

9. A copy of this order be given *dasti* to the learned counsel for the parties under the signature of the Court Master.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 17, 2017
b'nesh