IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.3014 OF 2018

Jayant Avinash Dave, Pune .. Petitioner.
v/s.

The Dy. Commissioner of Income Tax,
Circle-5, Pune & Ors. .. Respondents.

Mr. Mihir Naniwadekar with Mr. Rohan Deshpande, Advocates for the Petitioner.

Mr. Sham Walve, Advocate for the Respondents.

CORAM: M.S.SANKLECHA &
SANDEEP K. SHINDE,JJ.
DATE : 8th MARCH, 2018.

P.C:-

This Petition under Article 226 of the Constitution of India challenges the order dated 27.2.2018 passed by the Principal Commissioner of Income-Tax-3. By the impugned order, the Petitioner's application for stay under Section 220(6) of the Income-Tax Act, 1961 (the '**Act**') was partially rejected with a direction that the Petitioner should deposit 20% of the disputed demand arising out of assessment order dated 29.12.2017 in respect of Assessment Year 2015-2016.

2 On 29.12.2017 an assessment order was passed by the Assessing officer, holding that the sales of shares of majority stake in Beru Diesel Start Systems Private Ltd. was not assessable under the head '*Capital Gains*' as claimed but under the head '*Business Income*'. Thus, resulting in demand of Rs.11.10 Crores.

3 Being aggrieved with the order dated 29.12.2017 of the Assessing Officer, the Petitioner filed an appeal to the Commissioner of Income-Tax (Appeals[CIT (A)]. Pending the disposal of the appeal, the Petitioner filed an application for stay of the demand in terms of Section 220(6) of the Act, resulting in the impugned order dated 27.2.2018.

4 After the Petition was heard for sometime, Mr. Walve the learned counsel appearing for the Respondent/Revenue on instructions states that in peculiar facts of this case, the Respondents will not adopt coercive proceedings consequent to the order dated 29.12.2017 in case, the Petitioners file an application for stay of the impugned order before the CIT (A). On instructions, he further states that the Revenue will not adopt any coercive proceedings till the application for stay is disposed of by the CIT (A).

5 Mr. Naniwadekar the learned counsel appearing for the Petitioner states that the application would be filed within one week from today. Mr. Walve the learned counsel for the Respondent, on instructions,

states that no coercive proceedings will be adopted by the Revenue for a period of one week after the communication of the order on the Petitioner's application for stay by the CIT (A).

2 In the view of above statement, we have not examined the impugned order dated 27.2.2018. However, it is clarified that our aforesaid direction in no manner will come in a way of CIT (A) disposing of the appeal itself at the stage of stay application.

3 The Petition disposed of in the above terms. No order as to costs.

(SANDEEP K. SHINDE,J.) **(M.S.SANKLECHA,J.)**