IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4222 OF 2018

Maharashtra Cricket Association .. Petitioner
v/s.
The Commissioner of Income Tax (Exemptions)
Pune Ors. .. Respondents

Mr. Mihir Naniwadekar a/w Mr. Rohan Deshpande i/b Ms. Alisha Pinto for the petitioner
Mr. Sham Walve for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.
DATED : 6th APRIL, 2018.

P.C.

1. At the request of the learned Counsel, this petition is taken up for final disposal.

2. This petition under Article 226 of the Constitution of India challenges the order dated 26th March, 2018 passed by the Commissioner of Income Tax (Exemptions). The impugned order dated 26th March, 2018 rejects the petitioner's application dated 19th March, 2018 seeking a stay in terms of Section 220(6) of the Income Tax Act, 1961 (the Act) in respect of its appeals for Assessment Years 2008-09, 2010-11, 2011-12 and 2012-13 pending with the Commissioner of Income Tax (Appeals).

3. In this case, the aggregate demands raised for Assessment Years

2008-09, 2010-11, 2011-12 and 2012-13 in respect of which appeals are pending is Rs.36.95 crores. It is the primary contention of the petitioner that in terms of the CBDT Circular dated 29th February, 2016, the 20% of the above demands have been paid by way of adjustment of its refund due for the other assessment years. Thus, warranting a stay for the balance demand in terms of the decision of this Court in ***Andrew Telecommunications India (P) Ltd. Vs. Principal Commissioner of Income Tax, Goa, 77 Taxmann.com 312***. The above decision was specifically relied upon its application dated 19th March, 2018. Besides, the petitioner had raised various other issues on prima facie merits of its case warranting a stay under Section 220(6) of the Act. However, the impugned order without considering the decision in *Andrew Telecommunications India (P) Ltd.* (supra) and the other submissions warranting a stay has in breach of the parameters laid down for disposal of the stay application under Section 220(6) of the Act by this Court in ***KEC International Ltd. Vs. B.R. Balakrishnan, 251 ITR 158, UTI Mubual Funds Vs. ITO, 345 ITR 71*** and reiterated in ***Mumbai Metropolitan Region Development Authority Vs. Deputy Director of Income-Tax (Exemption-1), 230 Taxman 178*** has passed the impugned order.

4. Therefore, the impugned order dated 26th March, 2018 is quashed and set aside. The petitioner's stay application dated

19th March, 2018 is restored to the file of the Commissioner of Income Tax (Exemptions) – respondent no.1 for fresh disposal in accordance with law.

5. Mr. Walve, learned Counsel appearing for the Revenue, on instructions from Ms. Sudha Gupta, Jt. Commissioner of Income Tax (OSD) states that the bank accounts which have been attached consequent to the impugned order dated 26th March, 2018 would be vacated by 10th April, 2018. Statement accepted.

6. Needless to state the Revenue will not adopt any coercive proceedings till the disposal of the petitioner's application dated 19th March, 2018 by the respondent no.1 Commissioner of Income Tax (Exemptions) in accordance with law. Further, if the order passed on the stay application is adverse to the petitioners, then it will not adopt any coercive proceedings for a period of one week from the communication of the order passed on the stay application dated 19th March, 2018 to the petitioner.

7. The petition is disposed of in the above terms. No order as to costs.

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