IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 485 OF 2018

AND
WRIT PETITION NO. 614 OF 2018

Uber India Systems Pvt. Ltd. ….Petitioner
V/s.
Joint Commissioner of Income-Tax
(TDS) (OSD)-2(3) and 3 Ors. ….Respondents

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Mr. Jehangir Mistri, Senior Counsel a/w. Mr. Nishant Thakkar a/w. Ms. Jasmin Amalsadvale i/by. PDS Legal, Advocate for the petitioner.

Mr. Suresh Kumar a/w. Mr. Samiksha Kanani, Advocate for the respondent.

CORAM :- M.S. SANKLECHA, &

SANDEEP K. SHINDE, JJ.

DATE :- 2ND MAY, 2018.

P.C. :-

1. These two petitions filed under Article 226 of the Constitution of India challenges two orders dated 7th

February, 2018 passed under Section 201(1)/201(1)(A) of the Income Tax Act, 1961 (the Act) alongwith two consequent demand notices in respect of Assessment Years 2016-17 and 2017-18 respectively. Thus, the two petitions.

2. The principal grievance of the petitioners is that, the assessment orders dated 7th February, 2018 have been passed in breach of principles of natural justice. This is, as the show cause notices dated 5th February, 2018 issued by the Assessing Officer called upon the petitioners to furnish information/documents in relation to proceedings under Section 201(1) of the Act on/or before 9th February, 2018 for Assessment Years 2016-17 and 2017-18. However, the impugned orders are passed prior to 9th February, 2018 i.e. on 7th February, 2018. Moreover, the two demand notices had, in breach of Section 220 of the Act called upon the petitioners to pay the demands for the Assessment Years 2016-17 and 2017-18 consequent to the orders within a period of seven days. This without giving any reasons for curtailing the statutorily available period of 30 days in terms of Section 220 of the Act.

3. Mr. Suresh Kumar, Learned Counsel appearing

for the Revenue objects to the petition being entertained as the impugned orders dated 7th February, 2018 are appeallable to the Commissioner of Income Tax (Appeals) under the Act.

4. Mr. Suresh Kumar, Learned Counsel appearing for the Revenue, in the peculiar facts herein on instructions of Mr. Pratap Singh-Commissioner of Income-Tax (TDS)-2-respondent no.3, states that in case the petitioners file an Appeal within two weeks from today in respect of the impugned orders dated 7th February, 2018 to the Commissioner of Income Tax (Appeals), the Revenue will not adopt any coercive proceedings to recover the demand due consequent to the impugned orders till the disposal of the Appeal by the Commissioner of Income Tax (Appeal). Mr. Suresh Kumar, further states on instructions of Mr. Kumar Sanjay, the Commissioner of Income Tax (Appeals)-respondent no.6 herein to whom the Appeal from orders dated 7th February, 2018 would lie, that the Appeals will be disposed off within a period of 4 months from the date of filing of the Appeals by the petitioners.

5. Mr. Mistri, Learned Senior Counsel appearing

for the petitioners, states that, the petitioner would file the two Appeals to the Commissioner of Income Tax (Appeals) from the two orders dated 7th February, 2018 within a period of 2 weeks from today.

6. The impugned orders dated 7th February, 2018 had been stayed by the order of this Court dated 15th February, 2018. Thus, the 30 days period to file an Appeal would not have expired. In any event, in case the petitioners do file Appeals within a period of 2 weeks from today, the Commissioner of Income Tax (Appeals) will entertain the same on merits.

7. In view of the statement made on behalf of the Revenue, Mr. Mistri, the Learned Senior Counsel appearing for the petitioner, on instructions seeks to withdraw the petitions.

8. Accordingly, the petitions are disposed off as withdrawn.

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