IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2929 OF 2016

Godrej Properties Ltd. ....Petitioner

V/s.

Principal Commissioner of
Income Tax-1 and 4 Ors. ....Respondents

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Mr. Jitendra Jain a/w. Mr. Atul Jasani, Advocate for the petitioner.

Mr. Suresh Kumar, Advocate for the respondents.

CORAM :- M.S. SANKLECHA, &

SANDEEP K. SHINDE, JJ.

DATE :- 1ST MARCH, 2018.

P.C. :-

1. At the request of the parties, the petition itself is being disposed off finally at this stage.

2. This petition under Article 226 of the Constitution of India challenges the order dated 26th

September, 2016 passed by the Principal Commissioner of Income Tax. By the impugned order, the petitioner's application for stay of demand consequent to the order of assessment dated 11th March, 2015 for Assessment Year 2012-2015 till the disposal of its Appeal before the Commissioner of Income Tax (Appeals) was rejected.

3. On 19th October, 2016 this petition had come up for admission. At that time, we had noted that the impugned order had directed the petitioners to deposit 15% of the disputed amount in terms of CBIT instructions dated 29th December, 2015 without considering the petitioner's submissions that 100% stay is warranted in respect of the demand raised by the Assessment order dated 11th March, 2015 till the Commissioner of Income Tax (Appeals) disposes off their Appeals. However, as the petitioner's submission was not considered and the respondent was seeking time, an ad-interim order was granted restraining the Revenue from adopting any coercive measures to recover the dues arising from the

assessment order dated 11th March, 2015.

4. We are informed that the hearing of the petitioner's appeal from the assessment order dated 11th March, 2015 in respect of the Assessment Year 2012-13 has already been completed before the Commissioner of Income Tax (Appeals) on 19th February, 2018. This with directions to the petitioners to file the orders for the earlier assessment years on/or before 7th March, 2018.

5. In the above view, without going into the merits of the petitioner's challenge, as the hearing before the Commissioner of Income Tax (Appeals) has already been concluded and the order on the Appeal should be passed in the near future, coupled with the fact that the ad-interim relief is running in favour of the petitioner since 19th October, 2016, it would be in the interest of justice that the respondents are restrained from adopting any coercive proceedings to recover the amounts due consequent to the assessment order dated 11th March, 2015 relating to assessment year 2012-13 till the disposal

of the Appeal by the Commissioner of Income Tax (Appeal).

6. The petition is disposed off in terms of the above directions.

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