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

WRIT PETITION NO. 44 OF 2018

Anchor Electricals Pvt. Ltd. .. Petitioner
v/s.
Asstt. Commissioner of Income Tax,
Central Circle 7(2), Mumbai & Ors. .. Respondents

Mr. Jehangir Mistri, Senior Counsel a/w Mr. Atul Jasani for the petitioner
Mr. Tejveer Singh for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.
DATED : 27th APRIL, 2018.

P.C.

1. This petition under Article 226 of the Constitution of India challenges; (a) the Notice dated 29th March, 2017 issued under Section 148 of the Income Tax Act,1961 (the Act) seeking to reopen the assessment for Assessment Year 2012-13; and (b) Order dated 1st November, 2017 passed by the respondent no.2 – the Deputy Commissioner of Income Tax rejecting the petitioner's objections to the reasons in support of the impugned Notice dated 29th March, 2017.

2. After the matter was heard for sometime, it is an agreed position between the parties that the order disposing of the objections dated 1st November, 2017 be set aside and the petitioner's objections be restored to the Assessing Officer for fresh consideration and disposal in

accordance with law. The petitioners are at liberty to file additional submissions / objections to the reasons in support of the impugned Notice dated 29th March, 2017. Mr. Mistri, learned Senior Counsel appearing for the petitioner, on instructions, states that the fresh objections would be filed within a period of two weeks from today.

3. Mr. Tejveer Singh, learned Counsel for the Revenue, on instructions, states that the Assessing Officer will dispose of the objections within a period of 4 weeks from the filing of the further objections by the petitioners.

4. In the above view, the order dated 1st November, 2017 disposing of the petitioner's objections is by consent set aside.

5. The time to complete the assessment consequent to the reopening of the Notice would have expired on 31st December, 2017. However, in view of an ad-interim stay granted on 15th December, 2017 by this Court, the time to complete the assessment stood extended. The ad-interim stay continues to operate till today. Taking into account time of 6 weeks as pointed hereinabove for filing further objections and disposing of the objections and a further period of 4 weeks before the Assessing Officer can act upon the order

disposing of the objections, if adverse to the petitioners, reopening notice dated 29th March, 2017 is stayed for a further period of 10 weeks from today.

6. Needless to state the jurisdiction to refer the petitioners' case to a Transfer Pricing Officer would only arise on the Assessing Officer disposing of the objections of the petitioners' adverse to it.

7. The Petition is disposed of in the above terms.

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