IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 6657 of 2018 (O&M)
Date of Decision: 26.03.2018

M/s Cosmas Research Lab Ltd. …..Petitioner

versus

Principal Commissioner of Income Tax-3, Ludhiana and anr.

…..Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN, JUDGE**

Present : Mrs. Radhika Suri, Senior Advocate with
Mr. M.S.Kanda, Advocate, for the petitioner(s).

Mr. Rajesh Katoch, Advocate, for the respondents.

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S.J.VAZIFDAR, CHIEF JUSTICE

The petitioner is aggrieved by the order of the Tax Recovery Officer requiring it to deposit 30% of the demand and granting a stay in respect of the balance 70% till disposal of the appeal before the Commissioner of Income Tax (Appeals).

2. Mrs. Suri, the learned senior counsel appearing on behalf of the petitioner states that the stay against the recovery ought to have been granted on deposit of only 15% of the total demand in view of a circular dated 29.02.2016. Mr. Katoch, the learned counsel appearing on behalf of the respondents states that the amount has been increased to 20% by a circular dated 31.07.2017. The respondents' contention is that the subsequent circular dated 31.07.2017 has no retrospective effect. The petitioner's appeal was filed prior to the circular dated 31.07.2017.

3. The petitioner claims to have deposited 16% of the total demand to date and is ready and willing to deposit an additional amount to ensure 20% of the demand stands deposited.

4. The impugned order dated 19.02.2018 does not furnish any reason whatsoever for demanding 30% which is in excess of the amount stipulated even in the subsequent circular dated 31.07.2017. The circular provides that the amount in excess of the percentage whether 15% or 20% can be demanded only if the Assessing Officer is of the view that the nature of the addition resulting in the disputed demand is such that deposit of a higher amount is warranted.

5. In the circumstances, the petition is disposed of by the following order:-

The petitioner shall be entitled to operate the bank accounts which have been attached upon depositing 20% of the total demand with the respondents. Further, the bank accounts which have been attached shall be permitted to be operated subject to a balance being always retained to the extent of 10% of the total demand. This order regarding the balance in the accounts shall be subject to the fresh orders to be passed by the Tax Recovery Officer regarding the quantum of deposit after hearing the petitioner. In the event of the balance being retained, as aforesaid, the other attachments would also stand released.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

26.03.2018
ravinder

Whether speaking/reasoned	√ Yes/No
Whether reportable	Yes/No√