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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (C) Nos. 414/2017 & 415/2017

EXPERION DEVELOPERS PRIVATE LIMITED ..... Petitioner
Through Mr. Ajay Vohra, Sr. Advocate with Ms. Kavita Jha, Mr. Vaibhav Kulkarni & Ms. Devika Jain, Advocates.

versus

DEPUTY COMMISSIONER OF INCOME TAX AND ANOTHER ..... Respondents
Through Mr. Asheesh Jain, Sr. Standing Counsel & Mr. Shahrukh Ejaz, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **19.03.2018**

These two writ petitions by Experion Developers Private Limited relate to Assessment Year 2013-14 and 2014-15 and impugn the direction given by the Assessing Officer for special audit under Section 142(2A) of the Income Tax Act, 1961.

2. Notice was issued on the writ petitions vide order dated 17th January, 2017. However, proceedings pursuant to the order under Section 142(2A) of the Act were not stayed. Order dated 26th May, 2017 records that the action, if any, taken in the meanwhile would be subject to the outcome of the present writ petitions.

3. Order dated 17th July, 2017 records that the special audit exercise was completed and the audit report had been submitted to the Assessing Officer. This order had however directed that the assessment proceedings could go on, but no final order would be passed till the next date. The said interim order was confirmed vide order dated 25th September, 2017, while listing the writ petitions for hearing on 19th March, 2018.

4. The aforesaid facts would reveal that special audit in terms of the order passed under Section 142(2A) has been conducted. Report of special audit is before the Assessing Officer.

5. In these circumstances, we would dispose of the present writ petitions permitting the writ petitioner to raise all issues and contentions before the Assessing Officer, including the contention that the 'Percentage Completion Method' adopted by the petitioner is in accordance with law and any deviation from the said method would cause irreparable harm and injustice as assessments for other years relating to income of the project has been declared and accepted. Variation would not be permissible. Similarly, the contention of the petitioner that the Assessing Officer has to independently and objectively apply his mind to the special audit report, would be considered by the Assessing Officer, who would pass a speaking order on the said aspect.

6. The petitioner, if aggrieved, by the assessment order would be entitled to challenge the same in accordance with law. It will be also open to the petitioner to take recourse to appropriate proceedings in respect of Assessment Year 2016-17 in case need arises.

7. We clarify that we have not commented on merits and made any observations, which should prejudice the rights and contentions of the

petitioner and respondents on any aspect. The stay order is accordingly vacated. Recording the above, the writ petition is disposed of, without any order as to costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 19, 2018
VKR