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

\+ W.P.(C) 7733/2017, C.M. APPL.31939/2017

RKD FINANCE SERVICES LTD. ..... Petitioner

Through : Sh. Salil Kapoor and Ms. Ananya Kapoor, Advocates.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX-VII AND ORS. ..... Respondents

Through : Sh. Sanjay Kumar and Sh. Asheesh Jain, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **23.07.2018**

The petitioner seeks a direction to the respondents/Income Tax authorities to accept the amounts in instalments pursuant to the *Direct Tax Dispute Resolution Scheme, 2016* [hereafter "the 2016 Scheme"], whereby, the applicant was facilitated by the option of depositing 25% of the penalty adjudicated – after filing of a form opting to do so and in such event, consequential payment of 25% and the remaining 50% at specified intervals.

The facts are that the petitioner applied on 29.12.2016 during the validity of the 2016 Scheme but was unable to deposit the entire 25% prescribed within the 30 days' stipulated period. It deposited ₹8 lakhs and sought for extension. On the refusal of the Income Tax authorities to comply with its request, it approached the Court.

During the pendency of these proceedings, the Revenue was directed to not to initiate any proceedings against the petitioner subject to its depositing the entire 25% amount, including the balance amounts. Apparently, it has complied with that condition. A plain reading of the 2016 Scheme would show that the processing of the request and acceptance of the offer, as it were, were dependent upon compliance with its terms in totality – which meant that 25% admitted amount had to be deposited during the 30 days' stipulated period. Though it was urged on behalf of the petitioner that there is no bar preventing the Commissioner or the concerned appropriate authority from extending the time, this Court is unable to agree with that argument. The 2016 Scheme by itself is by way of a special dispensation and in one sense, contractual one. Once an application is moved, it amounts to acceptance of the terms, which required the applicant to deposit the amounts within the stipulated time. In these circumstances, a direction of the kind sought by the petitioner cannot be granted.

This Court, at the same time, is of the opinion that since the interim orders enured in favor of the petitioner and facilitated deposit of the admitted amount – though beyond the stipulated period, it would be in the interest of justice that if it wishes to avail the remedy against the penalty, it should be free to do so. In case, it approaches the Tribunal with an appeal within two weeks from today, the merits of the appeal would be gone into without insistence on the question of limitation. Also, the amounts deposited shall be considered as pre-deposit amounts.

The rights and contentions of the parties are reserved. The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 23, 2018/ajk