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

\+ W.P.(C) 7387/2017 & CM No.30547/2017

VATIKA HOTELS PRIVATE LIMITED ..... Petitioner
Through: Mr. Prakash Kumar, Advocate

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE - 26(1), NEW DELHI ..... Respondent
Through: Mr. Ruchir Bhatia, Advocate

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

<u>O R D E R</u>

% **01.02.2018**

This writ petition had come up for hearing on 25.8.2017. On the said date, an interim order was passed directing that assessment proceedings may go on, but no final assessment order would be passed.

It is pointed out that, notwithstanding the interim order, the assessment order has been passed, albeit no addition has been made.

Learned counsel for the respondent states that there was an understanding between the Assessing Officer and the petitioner that the assessment order may be passed, in case no additions were to be made. Learned counsel for the petitioner is unable to make any statement, as he has not been given specific instructions in this regard.

Learned counsel for the petitioner states that he has been asked to withdraw the present writ petition. Learned counsel for the petitioner, however, points out that counter-affidavit has also been filed by the respondent, notwithstanding the passing of the assessment order, in which no addition has been made. Counter-affidavit is, however, not on record.

We are perplexed and surprised why and how in view of the retrain order dated 25.8.2017, assessment order has been passed. At best, the respondent should have withdrawn the notice under Sections 147/148 of the Income Tax Act, 1961, thereby accepting the prayer.

We may have proceeded further in the matter, but refrain from doing so, as learned counsel for the petitioner has stated that he does not want to press the writ petition and the same may be dismissed as withdrawn.

We also fail to understand why counter-affidavit was required to be filed, when the assessment order making no addition has been passed. A copy of the counter-affidavit has been shown. The said counter-affidavit does not mention that assessment has to be passed, but no addition has been made.

The writ petition is dismissed as not pressed and withdrawn. CM No.30547/2017 is also dismissed as not pressed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 01, 2018
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