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

\+ W.P.(C) 7623/2017 & CM 31553/2017

BSC C&C JOINT VENTURE ..... Petitioner
Through : Mr. M. S. Syali, Sr. Adv. with Mr. Mayank Nagi, Mr. Tarun Singh, Mr. Vikrant A. Maheshwari, Advs.

versus

JOINT COMMISSIONER OF INCOME TAX, RANGE - 63, NEW DELHI ..... Respondent
Through : Mr. Zoheb Hossain, Sr. Standing Counsel

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

O R D E R

% 05.02.2018

M/s. BSC C&C Joint Venture has filed the present writ petition under Articles 226 and 227 of the Constitution of India with the following prayers:-

> "a) *A Writ of Certiorari or Writ, Order or Direction in the nature of Certiorari, or any other appropriate Writ, Order or Direction under Article 226 / 227 of the Constitution of India quashing the Final Assessment Order dated 03.08.2017 passed by the AO for Assessment Year 2014-15.*
>
> *b) A Writ of Prohibition or Writ, order or direction in the nature of Prohibition, or any other appropriate Writ, order of direction under Article 226/227 of the Constitution of India directing status quo on the impugned Order dated 03.08.2017; and the Demand*

Notice and Notice of Penalty dated 03.08.2017; and for restraining the Respondent from giving effect to the same during the pendency of the present Writ.

c) To pass ad-interim orders in terms of prayer (a) and (b);

d) To pass such further or .other relief as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

During the course of hearing, on a suggestion made, counsel for the respondent, on instructions from Mr. Amrit Lal, Joint Commissioner of Income Tax who is present in Court, has stated that the order dated 03.08.2017 may be treated as draft assessment order and the procedure under Section 144C can be followed.

Counsel for the respondent, however, states that the petitioner should not raise objection of limitation and the period during which the writ petition had remained pending from 26.08.2017 till today should be excluded for the purpose of passing of the assessment order after following the procedure under Section 144C.

Learned senior counsel for the petitioner, on instructions, states that the statement made by the counsel for the respondent is acceptable.

In view of the statement made on behalf of the petitioner and the respondents, we pass the following order:-

(i) Order dated 03.08.2017 would be treated as draft assessment order.

(ii) The demand notice etc. sent along with the assessing order would be accordingly treated as withdrawn.

(iii) The procedure under Section 144C would be applicable and followed. The petitioner/assessee would within 30 days from today file his acceptance to the variation made by the Assessing Officer or file objections in terms of sub-Section 2 of Section 144C of the Act.

(iv) The period during which the writ petition has remained pending, that is, from 26.08.2017 till 05.02.2018 will be excluded and will not be counted for the purpose of limitation.

Writ petition is disposed of with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 05, 2018
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