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

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\+ **W.P.(C) 8293/2019**

U.K. PAINTS (OVERSEAS) LIMITED ..... Petitioner

Through: Mr Ajay Vohra, Senior Advocate with Ms Kavita Jha, Mr Anant Mann and Mr Vdit Naresh, Advocates.

versus

PR. COMMISSIONER OF INCOME TAX, & ANR ..... Respondents

Through: Mr Ruchir Bhatia, Senior Standing Counsel for the Revenue.

\+ **W.P.(C) 8294/2019**

BJN HOLDINGS (BD) LTD. ..... Petitioner

Through: Mr Ajay Vohra, Senior Advocate with Ms Kavita Jha, Mr Anant Mann and Mr Vdit Naresh, Advocates.

versus

PR. COMMISSIONER OF INCOME TAX & ANR. ..... Respondents

Through: Mr Ruchir Bhatia, Senior Standing Counsel for the Revenue.

\+ **W.P.(C) 8299/2019**

BJN HOLDINGS (I) LTD.[WRONGLY TREATED AS SUCCESSOR IN INTEREST OF BJN HOLDINGS LTD.] ..... Petitioner

Through: Mr Ajay Vohra, Senior Advocate with Ms Kavita Jha, Mr Anant Mann and Mr Vdit Naresh, Advocates.

versus

PR. COMMISSIONER OF INCIME TAX & ANR. ..... Respondents

Through: Mr Ruchir Bhatia, Senior Standing Counsel for the Revenue.

\+ **W.P.(C) 8300/2019**

BJN HOLDINGS (I) LTD ..... Petitioner

Through: Mr Ajay Vohra, Senior Advocate

with Ms Kavita Jha, Mr Anant Mann and Mr Vdit Naresh, Advocates.

versus

PR. COMMISSIONER OF INCOME TAX & ANR ..... Respondents

Through: Mr Ruchir Bhatia, Senior Standing Counsel for the Revenue.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

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

% **31.07.2019**

<u>CM 34355/2019 (exemption) in W.P.(C) 8293/2019</u>

<u>CM 34357/2019 (exemption) in W.P.(C) 8294/2019</u>

<u>CM 34378/2019 (exemption) in W.P.(C) 8299/2019</u>

<u>CM 34381/2019 (exemption) in W.P.(C) 8300/2019</u>

1. Allowed, subject to all just exceptions.

<u>W.P.(C) 8293/2019 & CM 34354/2019 (stay)</u>

<u>W.P.(C) 8294/2019 & CM 34356/2019 (stay)</u>

<u>W.P.(C) 8299/2019 & CM 34377/2019 (stay)</u>

<u>W.P.(C) 8300/2019 & CM 34380/2019 (stay)</u>

2.The common issue raised in all these petitions is the correctness of the order passed on 4th July, 2019 by the Principal Commissioner of Income Tax (Central-1), New Delhi ('PCIT') in the proceedings under Section 220 (6) of the Income Tax Act, 1961 ('Act') directing that the Petitioners who all belong to one group of companies, shall pay Rs.30 crores, (i.e. Rs. 40 crores minus Rs.10 crores already paid) in instalments as stated in paragraph 4 (ii) of the impugned order pending disposal of their appeals pending before the Commissioner of Income Tax (Appeals) ['CIT(A)'] against the assessment orders for AYs 2006-07 to 2012-13.

3. This Court has heard at length the submissions of Mr Ajay Vohra, learned Senior Counsel for the Assessee / Petitioner, who has presented in a tabular form the summary of the issues involved and the demands raised against each of the Petitioners in terms of the assessment orders. The Court has also examined Instruction No. 1914 dated 2nd February, 1993 issued by the Central Board of Direct Taxes ('CBDT') to guide the CIT seized of an application under Section 220 (6) of the Act.

4. The Court finds that in terms of the total demand, the outstanding demand that sum has been asked to be deposited by the Petitioners works out to approximately 14% thereof.

5. Mr Vohra submits that in respect of some of the Petitioners, the demand for some of the AYs is plainly unsustainable in law when viewed in light of the settled legal position explained by this Court in several decisions. He points to the fact none of the Petitioners was resident in India in terms of Section 6 (3) of the Act, as it stood at the relevant time and therefore, the assessments are unsustainable in law. He also raises an issue concerning the validity of the assessment proceedings under Section 153A read with Section 153C of the Act.

6. The Court does not propose to enter into the merits of the above submissions in these proceedings, particularly since they are pending

consideration in the Petitioners' appeals before the CIT (A). As far as the issue regarding the *prima facie* case in favour of the Petitioners is concerned, the Court notes that by the impugned order, the PCIT has not mechanically required the Petitioners to pay 20% of the total demand, but has used the discretion, and passed a reasoned order, determining the amount payable at around 14% of the total demand. Having considered the submissions in light of the documents placed on record, and without expressing any opinion whatsoever on the merits of the above contentions on behalf of the Petitioners, the Court is of the view that the impugned order cannot said to be unreasonable warranting interference by this Court.

7. It is made clear that it will be open to the Petitioners to urge all the contentions raised in these petitions before the CIT (A) in accordance with law and those contentions will be decided uninfluenced by any of the observations made by this Court in the present order.

8. The petitions are accordingly dismissed in the above terms with only one modification to the impugned order by directing that the instalment which is due in terms thereof on 25th July, 2019 is permitted to be paid by the Petitioners on or before 5th August, 2019. The pending applications are also disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 31, 2019
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