IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1520 OF 2020

M/s. Om Developers ... Petitioner.

V/s.

DCIT- 28 (2), Mumbai & Anr. ... Respondents.

Mr. Manoj Harit, Advocate i/by Manoj Harit & Co. for the Petitioner.
Mr. A. R. Malhotra, Advocate for the Respondents.

CORAM : UJJAL BHUYAN AND MILIND N. JADHAV,JJ.

DATE : FEBRUARY 14, 2020.

PC :

1 Heard Mr. Manoj Harit, learned counsel for the Petitioner and Mr.A.R.Malhotra, learned standing counsel Revenue for the Respondents.

2 This Petition under Articles 226/227 of the Constitution of India has been filed by the Petitioner against order dated 07.02.2020 passed by Income Tax Appellate Tribunal, "C" Bench, Mumbai (briefly, "the Tribunal", hereinafter) in S.A. No. 53/Mum/2020, arising out of I.T.A. No. 1837/Mum/2018.

3 By the impugned order dated 07.02.2020, the prayer for stay of demand made by the Petitioner pending adjudication of the related appeal, has been rejected by the Tribunal.

4 Be it stated that the Petitioner has preferred I.T.A. No. 1837 of 2018 for assessment year 2008-09 against the order passed by Assessing Officer as affirmed by the first appellate authority i.e. Commissioner of Income Tax (Appeals). It appears from the materials placed on record that Petitioner has filed a stay application before the Assessing Officer for staying recovery of the demand. During pendency of the stay application, Assessing Officer started taking steps for recovery of the dues; at this stage, Petitioner filed stay application before the Tribunal which was registered as S.A.No. 488/MUM/ 2019. By order dated 17.01.2020, Tribunal stayed recovery of the outstanding demand till the disposal of the stay application by the Assessing Officer or till disposal of the appeal (hearing of which was fixed on 21.01.2020 and thereafter on 10.02.2020) whichever was earlier.

5 It is submitted that the stay application was rejected by the Assessing Officer on 28.01.2020 following which fresh stay application was filed by the

Petitioner before the Tribunal which was registered as S.A.No.53/Mum/2020. By the impugned order dated 07.02.2020, Tribunal declined to grant stay and dismissed the stay application.

6 Hence, the Writ Petition.

7 After hearing learned counsel for the parties and on due consideration, we are of the view that it would be in the interest of justice if the appeal filed by the Petitioner is decided expeditiously by the Tribunal and till such time, the stay granted on 17.01.2020 should be continued. This is more so because the appeal is of the year 2018 relating to the assessment year 2008-09 and was fixed for hearing on 21.01.2020 and thereafter on 10.02.2020.

8 Accordingly, we direct that I.T.A. No. 1837/ Mum/2018 be finally heard and decided by the Tribunal within a period of six weeks from the date of receipt of an authenticated copy of this order and during the interregnum there shall be stay of the recovery of outstanding demand for the assessment year 2008-09.

9 This disposes of the Writ Petition.

(MILIND N. JADHAV, J.) (UJJAL BHUYAN, J.)

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