IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L.) NO. 418 OF 2020

Aditya Birla Private Equity Trust ... Petitioner.

V/s.

The Income Tax Officer, Ward 20(1)(1),
Mumbai & Ors. ... Respondents.

Ms. Priyanka Jain, Advocate a/w. Mr. Atul K. Jasani for the Petitioner.
Mr. Sham Walve, Advocate a/w. Mr. Pritish Chatterjee for the Respondents.

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

DATE : FEBRUARY 14, 2020.

PC :

1 Heard Ms. Priyanka Jain, learned counsel for the Petitioner and Mr. Sham Walve, learned standing counsel Revenue for the Respondents.

2 By filing this Petition under Article 226 of the Constitution of India, Petitioner seeks quashing of the impugned order dated 30.01.2020 passed by the Income Tax Officer, Ward 20(1)(1), Mumbai, granting conditional stay to the demand raised.

3 Shorn of details essential facts may be briefly noted. For the assessment year 2017-18, Income Tax Officer, Ward 20(1)(1), Mumbai / Assessment Officer assessed the Petitioner by his order under section 143 (3) of the Income Tax Act, 1961 (briefly, “the Act” hereinafter) on 27.12.2019, whereby the income of the Petitioner was determined at Rs. 1,64,60,88,900.00 resulting in a demand of Rs. 77,81,15,667.00. Petitioner filed application on 15.01.2020 for stay of the demand raised. By the order dated 30.01.2020 passed under section 220(3) of the Act, the Assessing Officer directed the Petitioner to pay 20% of the demand by way of five instalments as mentioned in the impugned order, pursuant to which recovery of the balance demand would be stayed till 30.09.2020 or to be reconsidered thereafter.

4 On a query by the court, learned counsel for the Petitioner submits that against the aforesaid order of assessment dated 27.12.2019, Petitioner has preferred appeal before Commissioner of Income Tax (Appeals)-32, Mumbai on 15.01.2020.

5 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 first appellate authority i.e. the Commissioner of Income Tax (Appeals) decides the appeal of the Petitioner expeditiously and till such time to keep in abeyance the demand raised in terms of the assessment order dated 27.12.2019.

6 Accordingly, we direct that the appeal filed by the Petitioner be taken on board by the Commissioner of Income Tax (Appeals) and to decide the same within a period of eight weeks from the date of the receipt of an authenticated copy of this order and during the interregnum there shall be stay of the recovery of the demand pursuant to the assessment order dated 27.12.2019.

7 Writ Petition is disposed of in the above terms.

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

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