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

+ W.P. (C) 8965/2020 & CM APPL.28937/2020

ALCATEL LUCENT INTERNATIONAL Petitioner

Through: Mr. Kamal Sawhney, Advocate
with Mr. Arun Bhadauria and
Mr. Prashant Meharchandani,
Advocates.

versus

ASSISTANT COMMISSIONER
OF INCOME TAX & ANR.

..... Respondents

Through: Mr. Ruchir Bhatia, Advocate with
Dr. Prabha Kant, Commissioner,
Income Tax.

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Date of Decision: 17th November, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. In the order dated 12th November, 2020, this Court had observed that having perused the papers, it was of the prima facie view that the impugned letter dated 20th October, 2020 is non reasoned and shows non-application of mind to the submissions advanced by the petitioner in its stay application.

3. In pursuance to the aforesaid order, Dr. Prabha Kant, Commissioner, is personally present. He has been asked as to whether there is any other order or file noting wherein he has dealt with the petitioner submission that the disputed demand arises out of an issue which is not merely covered by the petitioner's own case for the earlier years and its group companies' cases but is also an issue well settled by the jurisdictional High Court in petitioner's favour in multiple decisions like ***DIT v. Ericsson A.B., New Delhi. [2011] 16 taxmann.com 371 (Delhi)***, ***DIT v. Nokia Networks OY [2012] 25 taxmann.com 225 (Delhi)*** and ***CIT(IT-2) v. ZTE Corporation (IT Appeal Nos. 904 to 909 of 2016) [2017] 77 taxmann.com 304 (Delhi)***.

4. Mr. Prabha Kant, Commissioner, Income Tax states that he had given three other reasons which have not been communicated to the petitioner vide the impugned letter dated 20th October, 2020. He, however, candidly admits that the issue of law is prima facie covered in petitioner's favour by the decision of this Court.

5. He further states that a Special Leave Petition is pending in the Apex Court against the said decision.

6. As the disputed demand arises out of an issue which is covered in petitioner favour by a decision of a Coordinate Bench of this Court in ***DIT v. Ericsson A.B. (supra)***, this Court grants a stay of the demand of Rupees twenty-nine crores, ninety-three lakhs, six hundred and three arising out of the final assessment order dated 07th February, 2020 for the relevant assessment year 2017-2018 till the disposal of the appeal pending before the CIT (Appeal). The CIT (Appeal) is directed to decide the petitioner's appeal as expeditiously as possible preferably within a

period of twelve weeks.

7. Since the appeal has been directed to be disposed expeditiously, Mr. Kamal Sawhney, learned counsel for petitioner assures and undertakes to this Court that the petitioner shall not seek refund for the Assessment Year 2016-2017 till the disposal of the said appeal.

8. With the aforesaid direction, the present writ petition and pending application stand disposed of.

9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

**NOVEMBER 17, 2020
AS**



सत्यमेव जयते