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

\+ W.P. (C) 3438/2020

M/S NOKIA SOLUTIONS AND
NETWORKS INDIA PVT. LTD. ..... Petitioner
Through: Mr. Deepak Chopra, Advocate with Mr. Ankul Goyal and Mr. Abhimanyu Chopra, Advocates.

versus

ASSISTANT COMMISSIONER
OF INCOME TAX AND ANR. ..... Respondents
Through: Mr. Ruchir Bhatia, Advocate with Castro Jayaprakash (ACIT) for Income Tax

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R
% **10.06.2020**

CM Appl. 12190/2020 (Exemption)

Allowed, subject to all just exceptions.

W.P. (C) 3438/2020 & CM Appl. 12189/2020

The petition has been listed before this Bench by the Registry in view of the urgency expressed therein.

The same has been heard by way of video conferencing.

Petitioner challenges the order dated 19th February, 2020 passed by the first respondent requiring the petitioner to pay twenty per cent of the disputed tax amount.

Learned counsel for the petitioner states that ninety-four per cent of the amount demanded emanates from the issues which have already been decided in favour of the petitioner by appellate forums in the petitioner's own case for previous assessment years and five per cent of the demand is subject matter of rectification application filed by the petitioner under Section 154 of the Income Tax Act, 1961 which has not been disposed of as on date.

He also submits that the impugned order is not only unreasoned but is violative of the guidelines laid down by the CBDT. He further states that while considering the petitioner's application the first respondent could not have passed an order requiring the petitioner to deposit twenty per cent of tax demanded and then refer the matter to the second respondent. He submits that the first respondent had to choose either of the two options i.e. either pass an order himself or refer the matter to the Commissioner of Income Tax.

Per contra, Mr. Ruchir Bhatia, learned counsel for respondents, on instructions of ACIT, states that on 04th June, 2020, the Assessing Officer has referred the stay application to Principal Commissioner of Income Tax-6, Delhi for consideration. He states, on instructions, that the impugned order dated 19th February, 2020 shall not be acted upon till the Principal Commissioner of Income Tax-6, Delhi, decides the petitioner's stay application.

The statements/undertakings given by Mr. Ruchir Bhatia, learned counsel on instructions, are accepted by this Court and the respondents are held bound by the same.

Keeping in view the aforesaid statements/undertakings, the present writ petition and application are disposed of with a direction to the Principal Commissioner of Income Tax-6, Delhi, to decide the stay application within two months. It is clarified that till the said application is decided by the Principal Commissioner of Income Tax-6, Delhi, no coercive action shall be taken against the petitioner on the basis of the impugned order dated 19^{th} February, 2020.

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

JUNE 10, 2020

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