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WPA 25970 of 2022

Shree Ramdoot Rollers Private Limited & Anr.
Vs
The Assistant Commissioner of Income Tax, Central Circle 4(4), Kolkata & Ors.

Mr. J.P. Khaitan, Ld. Sr. Adv.,
Mr. S. Bagaria,
Mr. Rites Goel
... For the Petitioners.
Mr. S. Roy Chowdhury
... For the Respondents.

Affidavit-of-service filed in court be kept with the record.

Heard Mr. Khaitan, learned senior Advocate appearing for the petitioners and Mr. Roy Chowdhury, learned Advocate appearing for the respondents.

Petitioners have filed this writ petition being aggrieved by the impugned order of rejection of the petitioners' application dated 15th November, 2022 under Section 220(6) of the Income Tax Act, 1961 to treat the assessees/petitioners as not in default.

I have perused the aforesaid impugned order by which application has been rejected by the Assessing Officer solely on the ground that mere filing of the appeal is no ground for stay of any demand which is a well settled principle of law that mere filing of appeal does not make an order of stay automatically but at the same time I find that in the application made by the petitioners, under Section 220(6) of the Act petitioners have taken several points which have not been considered and discussed in the impugned order of rejection. At the same time Commissioner of Income Tax (Appeals) is also empowered under the statute to grant interim relief in addition to granting the final relief in the appeal and in view of this remedy being available to the petitioners, this writ petition being WPA 25970 of 2022 is disposed of by granting liberty to the petitioners to make appropriate application for stay of the demand in question before the CIT(Appeals) concerned within a week from date and if such application is made before the CIT(Appeals) concerned, the same shall be considered by him in accordance with law and by passing a reasoned and speaking order after giving an opportunity of hearing to the petitioners or its authorised representative within two weeks from the date of receipt of such application for stay of the demand arising out of the assessment year in question relating to the assessment year 2021-2022.

The Assessing Officer shall not take any coercive action for recovery of the demand in question for a period of five weeks from date or till the order is passed by the CIT(Appeals) on the application for stay to be filed by the petitioners.

It is recorded that if the petitioners fail to file the application for stay before the CIT (Appeals) concerned within the time stipulated herein, this order will not have any force.

Needles to mention that CIT(Appeals) concerned shall make all endeavour to dispose of the pending appeal in question expeditiously.

(Md. Nizamuddin, J.)