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

WRIT PETITION NO. 1685 OF 2022

BT Global Communications India Pvt. Ltd. … Petitioner

V/s.

Income Tax Officer, Income Tax Ward
1(3)(2), Mumbai ... Respondent

Mr. Ajay Vohra, Senior Advocate a/w. Ms. Merlin Fernandes a/w. Mr. Himanshu Agarwal a/w. Mr. Shlok Parekh i/b. Vaish Associates for the Petitioner
Ms. S.V. Bharucha for the Respondent

CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.

DATE : 14 JUNE 2022

P.C. **:-**

Heard the learned Counsel for the parties.

2. The Petitioner had filed this Petition seeking a direction to keep the proceedings initiated by the Respondent by the notice dated 24 March 2021 under Section 201(1)/201(1A) of the Income Tax Act, 1961, in abeyance pending the adjudication by the Authority for Advance Rulings in respect of the concerned non-resident Recipient/Payee for determination of tax liability in India.

During the pendency of Petition, the Respondent proceeded to pass an order on 31 March 2021 under Section 201 of the Act. This order is challenged by amending the Petition.

3. The learned Counsel for the Respondent points out that as against the order passed under Section 201 of the Act, the Petitioner has a remedy of Appeal. The learned Senior Advocate for the Petitioner states that though there is a remedy of Appeal, the relief sought for by the Petitioner of keeping the proceedings in abeyance may not be considered by the Appellate Authority. According to us, if a remedy of statutory Appeal is available, it is not necessary to keep this Writ Petition pending on the file of this Court. As regard the apprehension raised by the learned Counsel for the Petitioner, that contingency has not yet arisen. Considering this position, we find that it would be appropriate that the ad-interim order granted by this Court in this Petition is continued for some time to enable the Petitioner to approach the Appellate Authority leaving it open to the Appellate Authority to consider the continuation of interim order or otherwise.

4. Accordingly, the Writ Petition is disposed of as above with liberty to the Petitioner to file an appeal as against the impugned order. Ad-interim order operating in the Petition is continued for a period of six weeks. All contentions of the parties

are kept open. In case the interim order is not continued by the Appellate Authority, the Petitioner will have its remedy open.

5. The Writ Petition is accordingly disposed of.

6. We have no doubt that in case the issue of delay arises, the Appellate Authority will take into consideration that the Writ Petition was pending before this Court since 31 March 2021.

N.R. BORKAR, J. ***NITIN JAMDAR, J.***