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

\+ W.P.(C) 1862/2024

DIRECT NEWS PRIVATE LIMITED ..... Petitioner

Through: Mr. Pradeep Singh Rawat and Mr. Vikramaditya Bhaskar, Advs.

versus

THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE 7-1 AND ORS ..... Respondents

Through: Mr. Kunal S, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **08.02.2024**

CM APPL. 7755/2024 (Ex.)

1. Allowed, subject to all just exceptions.

2. The application is disposed of.

W.P.(C) 1862/2024

1. The solitary grievance which is raised in the present writ petition is with respect to the manner in which the application under Section 220(6) of the Income Tax Act, 1961 ["**Act**"] has come to be treated. As is ex facie evident, the respondent no.1 has proceeded on the assumption that the assessee is invariably and without exception liable to pre-deposit 20% of the outstanding demand.

2. The aforesaid view is premised on a reading of OM No. 404/72/93-ITCC dated 31 July 2017 issued by the Central Board of Direct Taxes ["**CBDT**"] with respect to Instruction No. 1914 dated 21 March 1996 and which the respondents appear to read as mandating a

pre-deposit of 20% of the outstanding demand before the powers conferred by Section 220(6) of the Act could be exercised.

3. The aforesaid view will clearly not sustain in light of the judgment rendered by the Supreme Court in **Commissioner of Income Tax vs. LG Electronics India (P) Ltd.** [(2018) 18 SCC 447]. While dealing with the aforesaid issue the Supreme Court has held as under:-

> "**2.** Having heard Shri Vikramjit Banerjee, learned ASG appearing on behalf of the appellant, and giving credence to the fact that he has argued before us that the administrative circular will not operate as a fetter on the Commissioner since it is a quasi-judicial authority, we only need to clarify that in all cases like the present, it will be open to the authorities, on the facts of individual cases, to grant deposit orders of a lesser amount than 20%, pending appeal."

4. In view of the above and the fact that the legal position is conceded, we allow the instant writ petition and set aside the impugned order dated 27 December 2023. The matter shall consequently stand remitted to the first respondent to consider the application for stay afresh bearing in mind the observations appearing hereinabove. All rights and contentions of respective parties are kept open.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 8, 2024/neha