



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

% **Judgment reserved on: 29 April 2024**
Judgment pronounced on: 08 May 2024

+ W.P.(C) 735/2024

M/S POOJA TRADING CO. Petitioner

Through: Mr. Pranay Jain and Mr. Karan
Singh, Advs.

versus

DEPUTY DIRECTOR OF INCOME TAX (INV) & ANR.

.... Respondents

Through: Mr. Sanjay Kumar, SSC along
with Ms. Easha Kadian, JSC.
Ms. Chetna Bhalla & Mr. Kartik
Bhalla, Advs. for ICICI Bank
Ltd.

+ W.P.(C) 1026/2024

M/S RAMA TRADING CO. Petitioner

Through: Mr. Pranay Jain and Mr. Karan
Singh, Advs.

versus

DEPUTY DIRECTOR OF INCOME TAX (INV) & ANR.

.... Respondents

Through: Mr. Indruj Rai, SSC, Mr.
Sanjeev Menon and Mr. Rahul
Singh, JSCs.



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Ms. Chetna Bhalla & Mr. Kartik
Bhalla, Advs. for ICICI Bank
Ltd.

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

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J.

1. The petitioners seek directions to de-freeze the bank accounts and to set aside the letter dated 30.04.2023 issued by the respondents. Since an identical question of law is involved, hence, these petitions are being decided by a common judgment. For the sake of brevity, the facts are being extracted from W.P. (C) No. 1026/2024.

2. Mr. Pranay Jain, learned counsel for the petitioners, submitted that *vide* letter dated 30.04.2023, while calling for information under Section 133(6) of the Income Tax Act 1961 [“Act”], the bank accounts of the petitioners were unjustifiably frozen. According to him, as per the mandate of Section 132(8-A) of the Act, the freezing of bank accounts ceases to have effect after the expiry of a period of sixty days. He, therefore, submitted that since the maximum period for which the bank accounts could have been frozen had already expired on 30.06.2023, there is no reason to proscribe the petitioners to operate the bank accounts under consideration.

3. He further submitted that no subsequent letter or order has been passed to extend the freezing of the account and therefore, the action of



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the respondents is completely whimsical and arbitrary. He placed reliance on the order of the High Court of Karnataka in the case of **M/S Amnesty International India Private Limited v. Union of India & Ors.** [W.P. No. 56621/2018] to substantiate his arguments.

4. *Per contra*, Mr. Sanjay Kumar, learned counsel appearing on behalf of the respondents submitted that a search and seizure operation dated 28.04.2023 under Section 132(1) of the Act was conducted in the case of Humming Bird Advertising Private Limited, Jai Prakash Singhal and others. During the aforesaid operation, it was found that several persons/entities were involved in hawala transactions through bogus RTGS and cryptocurrencies. It was contended that pursuant to the said search and seizure operation and on the basis of certain suspicious transactions, the accounts of the petitioners were debit frozen to avoid leakage of revenue.

5. While drawing our attention to the reply filed by the respondents, learned counsel submitted that *vide* summons dated 18.08.2023 under Section 131(1A) of the Act, the petitioners were asked to explain the nature of their transactions with the bank accounts under consideration, however, no response has been received from the petitioners till date. He, therefore, contended that the accounts of the petitioners have been lawfully frozen owing to the urgency during the course of the search. He also submitted that since the case of the petitioners has been sent for assessment to the concerned Assessing Officer [“AO”], the AO should be allowed to consider the aspect of defreezing the bank accounts after the completion of the scrutiny assessment.



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6. We have heard the learned counsels appearing for the parties and perused the record.

7. The limited aspect which needs our consideration is whether the action of the respondents in freezing the accounts of the petitioners beyond a period of sixty days is sustainable under the provisions of the Act?

8. For the sake of clarity, Sections 132(3) and 132(8-A) of the Act are reproduced as under:-

“(3) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1).

[(8-A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order:]”

9. Undisputedly, a plain reading of sub-section (8-A) to Section 132 of the Act would unambiguously signify that in the instant case, the order of freezing the bank accounts could not remain in force for a period exceeding sixty days from the date of the order. Admittedly, the said period of sixty days had already expired before the filing of the present petitions and no subsequent order appears to have been passed for extending the freezing of accounts. Since the order in question was



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issued on 30.04.2023, the rigour period stood concluded by 30.06.2023, therefore, the perpetuation of freezing of the bank accounts is completely unsustainable and *dehors* the provisions of the Act.

10. The aforesaid legal position was noticed by us on the very first date of hearing. We, however, directed the Revenue to obtain instructions with respect to the issue under consideration. On the following date of hearing i.e., on 28.02.2024, a further three weeks' time was granted to the Revenue to file a reply. Subsequently, when the matter was taken up for hearing on 01.04.2024, the following observations were made:-

“1. Pursuant to the last order passed, Mr. Kumar, learned counsel appearing for the respondents on instructions apprises us that the Assessing Officer [“AO”] appears to have received a report from the Investigation Wing and has been advised to take appropriate action under Sections 147 and 148 of the Income Tax Act, 1961 [“Act”].

2. We note that the bank account in question had been frozen way back on 30 April 2023. The report of the Investigation Department is stated to have been uploaded on the portal on 01 March 2024. The AO is yet to initiate any action referable to Section 147 and which may have enabled him to seek recourse to Section 281B of the Act. In that view of the matter, prima facie we find no justification for the continued freeze of the bank account.

3. Let the writ petitions be put down for final disposal on 05.04.2024.

4. The respondents may file a reply, if so chosen and advised, on or before the next date.”

11. It is thus seen that despite being extended reasonable indulgence to explain the tenability of the impugned action, the Revenue has failed to tender any justification, much less a cogent explanation which could sustain such action.



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12. In view of the aforesaid, since the letter dated 30.04.2023 has already lived out its life and ceases to have any significance by virtue of operation of law, the same is hereby declared to be unenforceable beyond a period of sixty days from its issuance. Consequently, the writ petitions are allowed with a direction to immediately defreeze the concerned bank accounts of the petitioners.

13. The writ petitions are disposed of with the aforesaid direction, alongwith pending applications, if any.

PURUSHAINDRA KUMAR KAURAV, J.

YASHWANT VARMA, J.

MAY 08, 2024/p