IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.14174 of 2014 (O&M)
Date of decision:13.05.2015

Faisal Tanveer

....Petitioner

Versus

Union of India & others

......Respondents

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mrs.Savita Bhandari, Advocate, for the petitioner.

Mr.Rajesh Sethi, Advocate, for respondents No.2 to 4.

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G.S.Sandhawalia J.

CM No.4183 of 2015

Application for placing on record Annexures R-2/A, R-2/B and R-2/C, is allowed, subject to just exceptions. Office to tag the same at appropriate place.

CWP No.14174 of 2014

1. The present writ petition has been filed for directing the respondents to finalize and release the reward money of the petitioner, who is an alleged informer of the search proceedings in the matter of Jai Singh Thakur & Sons, Poanta Sahib, District Sirmour, Himachal Pradesh.

2. The case of the petitioner is that he is a resident of District Shimla, Himachal Pradesh and had furnished information with regard to tax default/undisclosed income assets of a firm named M/s Jai Singh Thakur & Sons (hereinafter referred to as the 'assessee'). The said assessee had been manufacturing marble chips for the past 25 years and pursuant to the information received, raids were conducted and the petitioner was given interim reward of

₹80,000/- on 25.04.2005. In order to recover the balance reward amount, he had filed a Civil Suit dated 28.09.2005 before the Court of Civil Judge (Sr.Divn.), Shimla, which had been decided on 29.09.2009 (Annexure P1) and it had been held that the suit was premature, apart from the failure of the petitioner to serve the notice under Section 80 CPC and also since the amount imposing tax penalty upon the defaulting assessee had not become final.

3. The petitioner, thereafter, had come to know that vide an order dated 29.12.2011, a final settlement of ₹2.25 crores had been arrived between the Department and the said assessee. Representations had been made and reminders had been issued in September, 2012, May, 2013 and October, 2013 but to no avail and eventually, the present writ petition was filed. Accordingly, it was pleaded that the petitioner had put his life into risk and as per the guidelines, he was liable to get the balance amount and the same could not be withheld.

4. In the reply filed on behalf of respondents No.2 to 4, plea taken was that the judgment and decree had attained finality and the writ petition was not maintainable. The information given by the petitioner was general in nature and as per the guidelines dated 30.11.1993 (Annexure R1), since no specific details like unaccounted bank accounts, lockers, investments and property had been given, therefore, the information was found not to be useful and was not utilized by the Department during the search initiated on 16.05.2002. The information merely pertained to under-filing of sales and undisclosed property of the firm of the assessee and the Department had the knowledge as a search was conducted in the case of M/s Thakur Sohan Singh on 03.05.2001. It was admitted that the interim reward of ₹80,000/- had been given and that a sum of ₹2,35,000/- had been given to the petitioner in the case of M/s Thakur Sohan Singh on 20.05.2004. It was submitted that the Deputy Director of Income Tax (Inv.) Shimla had submitted his report after associating the other officers and not

recommended the claim of the petitioner regarding the grant of final award. There was an absolute discretion of the authorities to grant reward and the petitioner had no right to dispute the correctness of the award in any Court of law.

5. Counsel for the petitioner has, accordingly, submitted that the petitioner was legally entitled for the amount due and submitted that as per Clause 13.1 of the guidelines, he was entitled to a reward upto 10% of the amount, subject to the ceiling of ₹5 lacs, which was also liable to be waived, in suitable cases, after obtaining the approval of the Full Board.

6. Counsel for respondents No.2 to 4, on the other hand, submitted that as per the defence taken, the petitioner, being informer, was not entitled for any reward as search and seizure was carried out after making discreet enquiry by the Inspectors of the Department.

7. After hearing counsel for the parties, we are of the opinion that it is a fit case whereby the petitioner is entitled for the said relief, as per Clause 13.1 of the guidelines titled as *'Guidance for Grant Of Rewards To Informants, 1993'* issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes. The said clause provides that the authority competent to grant reward may grant the same to the extent of 10% of the extra income tax, wealth tax, gift tax and estate duty, levied and actually realised. A ceiling of ₹5 lacs has been fixed with the proviso that the same would go upto 10% of the extra tax actually realised, which was liable to be waived in suitable cases, after getting approval of the Full Board. Clause 13.1 of the guidelines reads as under:

> "Amount of Reward
> The Authority Competent to grant reward may grant reward not exceeding 10% (Ten percent) of the extra income-tax, wealth-tax, gift-tax and estate duty levied and actually realised, but subject to a

ceiling of Rs. 5,00,000/- (Rupees Five lacs only) if the aforesaid taxes are directly attributable to the information, including documents, supplied by the informant.

Provided that the aforesaid monetary limit of Rs. 5,00,000/- subject to however the ceiling limit of 10% of the extra income-tax, wealth-tax, gift-tax, estate duty levied and actually realised can be waived in suitable cases after obtaining the approval of the full Board.

N.B. In cases where tax is being paid by the assessee in instalments after the assessments becoming final, the authority competent to grant reward may consider disbursement of reward in instalment.

Explanation:

The monetary ceiling of Rs. 5,00,000/- (Rupees five lakhs only) referred to in para 13.1 shall apply with reference to a group of cases and not in respect of the individual assessees of the group."

8. In the present case, it is not disputed that the assessee was conducting mining operations in a remote area in Himachal Pradesh. The search and seizure was carried out in a remote area in District Sirmour, Himachal Pradesh. The petitioner had approached the then Deputy Director (Inv.) Shimla, namely, Shri M.P.Singh in September, 2000, regarding the ownership of the limestone mines in Sataun area. The search took place on the basis of the investigation, thus, carried out upon the assessee, apart from others, who are owning the limestone mines. It has also been noticed by the authorities in the correspondence dated 20.02.2007 (Annexure R-2/C) addressed by the said Officer that Kamroh was one of the richest villages of India, in view of the mining activities but the collection of tax was almost nil before the search was conducted and not even ₹10,000/- was being collected as income tax. The said area was never on the radar of the Department because of the remoteness of the area and no other official had visited that area before the search took place. However, a caveat was added that the information given was not specific regarding bank accounts and lockers, which was done at a subsequent stage.

9. It is further apparent that in pursuance of the search, the said

assessee admitted the income of ₹1,40,00,000/- before the Income Tax Settlement Commissioner (for short, the 'ITSC') and paid tax of ₹83,80,000/-. However, finally the ITSC, in the cases of the group, assessed the income at ₹2,25,00,000/- on the basis of the under-filing of the sales and undisclosed properties. Thus, the said order had been given effect to by the Assessing Officer and the taxes due had also been collected on the said income. This would be clear from the perusal of the communication dated 31.01.2014 (Annexure R2). The relevant part reads as under:

> "2.2. M/s Jai Singh Thakur & Sons, a partnership firm and its partners Sh. S.S.Thakur, Smt. Indu Thakur and SH. Mayank Thakur filed their applications before ITSC on 24.12.2002. The main issue before ITSC was inflation of extraction expenses, loading/unloading expenses, transportation expenses etc. along with out of books compensation paid to the land owners. The ITSC has settled these cases at an total income of Rs. 2,25,00,000/-. Details of which are as under-

Name of applicant	Income Returned (A)	Income offered before ITSC (B)	Income Decided by ITSC (C)	Total Income (D=A+C)
Sh. S.S.Thakur	0	28,50,000	45,77,642	45,77,642
M/s Jai Singh Thakur	0	1,06,50,000	1,74,22,358	1,74,22,358
Sh. Mayank Thakur	0	3,00,000	3,00,000	3,00,000
Smt. Indu Thakur	0	2,00,000	2,00,000	2,00,000
Total:	0	1,40,00,000	2,25,00,000	2,25,00,000

> The A.O. has since given effect to the order of ITSC and collected due taxes.
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> 3. An interim reward amounting to Rs. 80,000/- was granted to Sh. Faisal Tanveer in this case on 24.04.2005 and now the informant is pleading for final reward in the case."

10. It is also not disputed that in the suit filed, the defence taken by the respondents, at that point of time, was that the income tax assets of the assessee had not yet attained finality and proceedings on this behalf had been pending before the ITSC and the suit was premature. It is, in such circumstances, the plea

that Section 80 notice had not been served was also accepted and it was also admitted that a sum of ₹80,000/- had been paid way back on 25.04.2005. A period of more than a decade has passed since the petitioner was granted the initial amount and a perusal of the case would go on to show that the petitioner has been running from pillar to post, for the benefit which had been wrongly denied to him, without any justification.

11. In such circumstances, the respondents cannot be permitted to take a summersault and now, submit that on the basis of lack of specific information, the petitioner was not entitled for the reward money, as has been laid down in the guidelines, as noticed above. The purpose of the guidelines cannot be frustrated by taking such a narrow view. Rather, apart from the sum of ₹5 lacs which the petitioner is entitled to after adjusting the sum of ₹80,000/- already received, this Court is of the opinion that keeping in view the benefits which have accrued to the Department in view of the information received, as noticed in the communication above, it would be a fit case whereby the competent authority, is liable to consider whether reward money upto the ceiling of 10% of the tax levied, can be granted.

12. Accordingly, the present writ petition is allowed. Respondent No.2 shall ensure that the balance amount of ₹5 lacs, after adjusting a sum of ₹80,000/- already received, is paid to the petitioner, within a period of 2 months from today. Regarding the balance claim of 10%, as per the proviso, the case will be forwarded to the competent authority and decision would be taken on the said case, within a period of 3 months, thereafter and the same be communicated to the petitioner.

(S.J.Vazifdar)
Acting Chief Justice

(G.S.Sandhawalia)
Judge

13.05.2015
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