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

\+ W.P.(C) 5642/2014 & CM 13971/2014 & 3672/2015

V AKAMULLA CHANDRASHEKHAR & ORS ..... Petitioners

Through : Mr Kirti Uppal, Sr Advocate with Mr L. M. Aasthana, Mr Siddhant Aasthana and Mr Sidharth Chopra

versus

COMMISSIONER OF INCOME TAX & ANR ..... Respondents

Through : Ms Suruchi Aggarwal

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% 19.03.2015

This writ petition is directed against the decision of the Commissioner of Income Tax under Section 127 of the Income Tax Act, 1961 whereby the petitioner's case has been transferred to the Deputy Commissioner of Income Tax, Central Circle, Chandigarh under the charge of the Commissioner of Income Tax, (Central), Gurgaon. We have examined the contents of notice dated 09.01.2014 under Section 127(2) (a) of the said Act. From the said notice as also the impugned order dated 22.07.2014, it is evident that the case of the petitioner was consolidated with that of Mr Virbhadra Singh and his family members and was centralized at Chandigarh under the charge of the Commissioner of Income Tax (Central) Gurgaon. Mr Virbhadra Singh and other members of his family had challenged the said consolidation/transfer order before the High Court of Himachal Pradesh by way of WP(C) 5457/2014 and other connected matters. The said High Court has pronounced judgments in those matters on

18.12.2014 whereby the orders passed by the Commissioner of Income Tax under Section 127 have been set aside on the ground that the principles of natural justice had not been followed. The operative part of the order reads as under:

> "42. In the present case, it cannot be disputed that respondent had the jurisdiction to decide the case, but omitted to confront the assessees with the material in his possession and proceeded to pass impugned order which was founded on grounds at variance from the one in the show-cause notices which however, does not affect the ab-initio, jurisdiction enjoyed by the respondent in respect of the proceedings.
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> 43. Therefore, bearing in mind the aforesaid exposition of law, the impugned order passed by the respondent though is not sustainable, however, it will be open for the respondent to commence the proceedings afresh which needless to say shall be strictly in accordance with the law. It also needs to be clarified that since we have not made any observation on the relative merits of the case(s), therefore, in the event of fresh show-cause notice(s) being issued, it shall be open to the petitioner(s) to raise all questions of fact and law including those raised before this Court.
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> 44. In view of the aforesaid discussion, the impugned order(s) dated 14.07.2014 is quashed and set aside and the petitions are disposed of as aforesaid, leaving the parties to bear their own costs. Pending application(s), if any, also stands disposed of. The Registry is directed to place a copy of this judgment on the files of connected matters."

In view of the fact that the order in respect of Mr Virbhadra Singh has been set aside, the order in respect of the present petitioner will also have to be set aside. Liberty is, however, granted to the respondents to initiate further steps under Section 127 in case the circumstances mentioned in the judgment of the Himachal High Court with regard to the fresh proceedings pertaining to Mr Virbhadra Singh arise. It is obvious that if such steps are taken, they shall be in accordance with law.

The writ petition stands allowed to the aforesaid extent.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MARCH 19, 2015
SR