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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P. (C) 3018/2016**

SAMIR CHHABRA & ANR. ..... Petitioners
Through: Mr. Rajesh Mahana and Mr. Manu K. Giri, Advocates with Petitioner No.1 in person.

versus

PRINCIPAL/CHIEF COMMISSIONER OF INCOME TAX & ORS. ..... Respondents
Through: Mr. Ashok K. Manchanda, Senior Standing counsel.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **05.04.2016**

CM No. 12736/2016 (for exemption)

1. Exemption allowed subject to all just exceptions.

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2. The two Petitioners before the Court are the son and wife respectively of late Shri S.K. Chhabra in whose premises a search and seizure operation was undertaken by the Income Tax Department ('Department') way back on 7th August 1997. During the course of the search, the officers of the Department seized shares/debentures certificates, the details of which were listed out in the two *panchnamas* prepared on that day.

3. The search and seizure proceedings ended in an assessment order being passed on 10th/14th January 2000. During the course of these proceedings Mr. S.K. Chhabra expired and his legal heirs carried the matter in appeal before the Income Tax Appellate Tribunal ('ITAT') which allowed their appeal by an order dated 20th April 2007. The further appeal filed by the Revenue against the said judgment of the ITAT was dismissed by this Court on 15th May 2008.

4. Thereafter several letters and reminders were sent to the Department by the Petitioners for return of the seized documents. A letter was issued on 27th March 2008 by the Income Tax Officer, Ward-23(1) calling upon them to furnish a number of documents including the death certificate pertaining to their late father and a succession certificate issued by the Court.

5. The stand of the Petitioners has been that they were not required to produce any succession certificate and that the other legal heir viz., the sister of Petitioner No.1 had no objection to the documents being returned to the Petitioners.

6. Earlier, the Petitioners filed Writ Petition (C) No. 7333 of 2015 in this Court for a direction to the Department to return the seized documents including the share certificates. On 3rd November 2015, a Division Bench of this Court passed the following order disposing of the said writ petition:

> "On the previous occasion, that is, on 06.10.2015 we had passed the following order:
>
> > 'Once again, a request has been made on behalf of the respondents to take instructions with regard to the return of the petitioners' share certificates. This

> is a final opportunity. If instructions are not obtained, we may be constrained to direct the return of the shares forthwith.
>
> Renotify on 03.11.2015.'
>
> The learned counsel appearing on behalf of the respondents states that he has no instructions. As a result, we direct that the Share Certificates, as also all other seized documents/articles which have not yet been returned to the petitioners, be returned to the petitioners within four weeks.
>
> The writ petition stands disposed of."

7. Thereafter when the above order was not being complied with, the Petitioners filed a contempt petition being CCP No. 29 of 2016 in this Court. On 12th January 2016, an order was passed directing the Department to file a short affidavit regarding the status of compliance with the aforementioned order dated 3rd November 2015. It is stated that the above contempt petition is still pending and no affidavit as of date has been filed by the Department in the said contempt petition.

8. In the circumstances, the present writ petition has been filed essentially with two prayers: One for a direction to the Department to pay the Petitioners "current value of Shares/Debentures Certificates, valuables and documents, seized during search and seizure operation conducted on 7th August 1997" and the other for an award of adequate compensation by way of litigation charges and for mental agony etc.

9. Mr. Ashok K. Manchanda, learned Senior Standing counsel for the

Department, states that on account of the shifting of the jurisdiction of the original Assessee to different wards, it has become difficult for the Department to trace the seized material. He, nevertheless, states that the Department has in its possession the details of the share certificates/debenture certificates that were seized and that the Department is willing to provide them to Petitioner No.1 all those details within a period of four weeks from today. He further states that the Department will extend its full cooperation by furnishing the necessary clarifications wherever required to enable the Petitioners to apply to the concerned companies for issuance of duplicate share certificates/debenture certificates etc.

10. In view of the above statement, it will be open to the Petitioners to approach the concerned companies that have issued the share certificates/debenture certificates etc. for issuance of the duplicates thereof and as and when the Petitioners seek an NOC/clarification from the Department the latter will provide it without unnecessary delay. At this stage the Court does not consider it necessary to issue any further directions.

11. The writ petition is disposed of in the above terms but with no order as to costs.

S. MURALIDHAR, J

VIBHU BAKHRU, J

APRIL 05, 2016/dn