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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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\+ **W.P.(C) 4342/2015**

SURAJ MANDAL ..... Petitioner

Through: Ms Prem Lata Bansal, Senior Advocate with Mr R. A. Bansal and Mr Pratiksha Sharma, Advocates.

versus

CIT, DELHI-XI & ORS. ..... Respondents

Through: Mr Zoheb Hossain, Junior Standing Counsel for Mr Dileep Shivpuri, Senior Standing Counsel for the Revenue/Income Tax Department.
Mr Sanjeev Bhandari, Special Public Prosecutor for CBI with Mr Manoj Bhandari, Advocate for Respondent No.5.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **12.02.2016**

1. Despite opportunities already given on the previous hearing, no reply has been filed by the Respondents till date to this petition.

2. The background to the present petition is that notice under Section 158BC read with Section 132 was issued on 7th January 1997 in the case of Jharkhand Mukti Morcha (JMM) for the block assessment period 1st April, 1986 to 26th April, 1997. The block assessment was also made in the cases

of Simon Marandi, Shiboo Soren, Shailender Mehto, and Suraj Mandal, the Petitioner herein. The Assessing Officer (AO) made additions pursuant to the block assessment. The orders of the AO were challenged before the Income Tax Appellate Tribunal which by an order dated 2nd September, 2011 allowed the appeals essentially on the ground that there was no incriminating material found during the course of the search on the basis of which it could be said that there was undisclosed income which could be made the subject matter of the block assessment and that the additions, if any, could be made only in the regular assessment.

3. Aggrieved by the above order, the Revenue preferred appeals to this Court. As far as the Petitioner here was concerned, the Revenue's appeal was ITA No.137/2012. The said appeals including the appeal in the case of the Petitioner herein were disposed of by this Court by a common judgment dated 11th November, 2014 where by the Court remanded the matter to the ITAT for examining the issues on merits. It is stated that the said appeals are pending before the ITAT and will not be taken up for final hearing.

4. As far as the petition is concerned, the Petitioner states that on 27th February 2015 he moved the Income Tax Officer (ITO) Ward 53 (5) for the

release of the seized assets and not getting a response he has approached this Court.

5. The Petitioner states that the assets belonging to him and his family members valued at Rs. 184.78 lakhs have been seized. The details of these assets have been set out in Annexure N to the writ petition. The case of the Petitioner is that he has not been provided with the lists of assets that have been seized by the Department. His case is that the Department cannot possibly retain assets exceeding the demand raised against the Petitioner by the AO under the block assessment and that such excess assets seized should be released to him. Another prayer is that in the interim the liquid assets of the Petitioner and his family members in the form of Fixed Deposit Receipts (FDRs), Indira Vikas Patras (IVPs), Kisan Vikas Patras (KVPs) and Short Term Deposit Receipts (STDRs) be kept renewed from the dates of their respective maturity so that no loss is caused.

6. As far as the prayer that the Respondent should give details of the seized assets to the Petitioner, there should be no difficulty in the Respondent acceding to that request. It is, accordingly, directed that not later than two weeks from today, the Respondent will furnish to the Petitioner the details of

the seized assets of the Petitioner and his family members.

7. The second prayer concerns renewal of the FDRs, KVPs, etc. which have been seized. At the previous hearing of this case on 9th October, 2015, counsel for the Respondent had been asked to obtain instructions in that regard. Mr Zoheb Hossain, learned counsel appearing for the Respondent/Revenue Department states that if a direction in this regard is issued by the Court, the Department will abide by it. It is accordingly directed that the FDRs, IVPs, KVPs and STDRs standing in the name of the Petitioner and his family members which have been seized by the Respondents shall be renewed by the Department not later than four weeks from today. The Department will let the Petitioner know not later than two weeks from today whether he or his family members need to complete any formalities for that purpose.

8. As regards the further prayers regarding release of the assets that have been seized which are in excess of the demands raised in the block assessment order, in light of the observations made by the Court order dated 11th November 2014, an appropriate order in that regard can only be passed by the ITAT on the conclusion of the hearing of the appeals pending before

it. The Petitioner is permitted to make submissions in that regard in the pending appeal before the ITAT which will be dealt with by the ITAT in accordance with law.

9. Considering that the appeals have not yet been heard by the ITAT pursuant to the order of the remand passed by this Court, the ITAT is requested to take up the appeals for hearing within a period of two months from today and dispose them of within a period of six months thereafter.

10. The writ petition is disposed of with the above directions.

S.MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 12, 2016
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