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

\+ W.P.(C) 12050/2016, CM APPL. 47633/2016 (Exemption)

PAWAN KUMAR AGRAWAL

..... Petitioner

Through: Mr. Rakesh Tiku, Sr. Adv. with Mr. Avanish Chaurasia and Mr. Sandeep Kumar, Advs.

versus

DY. DIRECTOR OF INCOME TAX (INV)-II GURGAON & ORS.

..... Respondent

Through: Mr. P. Roychaudhuri, Sr. Standing Counsel with Mr. Jitender Singh, DDIT (Inv.), Gurgaon.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 22.12.2016

The petitioner is aggrieved by an order of attachment of his account with RBL Bank, issued by the Deputy Director of Income Tax (Inv.)-II. The petitioner contends that the direction to the bank authorities to freeze the petitioner’s account issued on 09.12.2016 is fully without authority of law as it is not a searched party. It is also contended that the petitioner was issued a notice to produce its books of accounts only on 15.12.2016 whereas in the present case, a direction to freeze the petitioner’s account was issued on 9th

December, 2016. The learned counsel for the petitioner relies upon Section 132 of the Income Tax Act, 1961 ('the Act') and states that the provision applies only in the case of a searched party.

In answer to the notice, Mr. Jitender Singh, Dy. Director of Income Tax (Inv.)-II is appearing along with Senior Standing Counsel for the department. It is submitted that during the course of investigation, the concerned officer is empowered under Section 132(3) of the Act to issue directions by way of an attachment which has been done. It is also contended that the searched party i.e. Shri Atul Tyagi's documents and materials reveal that the petitioner is the beneficiary of a few accommodation entries and that as a consequence, the attachment order is warranted.

The entire text of Section 132 of the Act – including Sections 132(2) & 132(3) suggest that the direction by way of an attachment or taking other steps or seizing property or other material can be given only in relation to the searched person. In the circumstances, clearly a direction to the concerned bank to freeze the petitioner's bank account is not warranted in law. At the same time, during the course of submission, it was stated by the concerned officer that obtaining necessary direction for considering action under Section 281B of the Act or to recourse to other such power is a time consuming matter.

In view of the above submissions made, this Court hereby directs the respondent to consider passing of an appropriate order in accordance with law. For this purpose, having regard to the facts and circumstances of the case, if warranted, the concerned Director General (Investigation) shall look into the matter at his earliest convenience, and ensure that appropriate orders are made within the next five working days. This shall be without prejudice to the rights and contentions of the petitioner in respect of the proceedings, if any, that may be initiated on a future date. Subject to these directions, the impugned attachment order dated 09.12.2016 shall stand vacated at the end of the working hours on 29th December, 2016.

The writ petition is disposed off in the above terms.

Dasti, under the signature of the Court Master.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 22, 2016/acm