IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1745 OF 2017

Hemant N. Gandhi .. Petitioner

v/s.

The Union of India & Ors. .. Respondents

Mr. Vaibhav Ugle for the petitioner
Mr. Suresh Kumar for respondent nos. 2 and 3

CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA J.J.

DATED : 15th DECEMBER, 2017.

P.C.

1. This petition under Article 226 of the Constitution of India seeks a direction to respondent no.2 – the Commissioner of Income Tax and respondent no.3 – the Director General of Income Tax (Investigation) to act as per the guidelines dated 26th August, 2015 issued by the Ministry of Finance. In terms of the above guidelines, it is submitted that respondents are obliged to release the proportionate Award on the basis of income tax collected on account of information supplied by the petitioner.

2. Mr. Ugle, learned Counsel appearing for the petitioner invites our attention to the Instruction no.7/2015 which provides that :-

> *"3. **Reward Amount :***
> *(i) Individuals will be eligible for reward based on the tax collected as a result of any administrative or judicial action resulting from the information provided. The quantum of tax collected will be determined only after all assessments have become final and no appeal/revision/other litigation is pending."*

3. He further states that he has not received the amount in terms of the aforesaid instruction dated 26th August, 2015 and that he has only received Rs.1.69 lakhs. The only reason why the petitioner seeks more amount is that during the search one of the parties had admitted an undisclosed income to the extent of Rs.1.80 Crores.

4. As against the above, the Revenue has filed an affidavit-in-reply of Mr. Pushpinder S. Puniha, Principal Director of Income Tax (Investigation) dated 24th July, 2017. The affidavit points out that the dispute between the Revenue and the persons in respect of whom the petitioner had provided information was finally resolved by the order of the Settlement Commission. Therefore, the additional income attributable to the information provided by the petitioner was computed and the reward of Rs.1.69 lakhs was paid. Mr. Suresh Kumar, learned Counsel for the Revenue also invited our attention to the declaration filed by the petitioner at the time when he gave the

necessary information in respect of the persons that the documents / information furnished by him would not *ipso facto* lead any vested right to the award.

5. We note that mere fact that during the course of search, a party may have volunteered additional income will not by itself determine the reward. In terms of the guidelines, the Reward is on the tax collected after the assessment has become final i.e. on determination of the final Authority under the Act. The amount disclosed at the time of search may not necessarily be the amount finally determined in assessment / appellate proceedings under the Act. It is on the amount as finally determined in the final order under the Act and to the extent the income is attributable to his information that the quantification of the reward will be determined. This determination of the reward due to the petitioner is a factual determination. In the present facts, it is not shown to the perverse.

6. Further, the petitioner while giving the information to the Revenue, had also filed a declaration that he would claim no right to a reward. Thus, on the basis of the above, the petitioner cannot claim reward as a matter of right. In fact, the Apex Court in ***D.G. DRI Vs.***

Amitlal Mehta 220 ELT 9, has held that the informer to the Revenue department has no vested right to claim a reward. At the highest, it can be regarded as an ex-gratia payment.

7. In the above view, we see no reason to exercise our extra-ordinary jurisdiction under Article 226 of the Constitution of India in favour of the petitioner.

8. Accordingly, petition is dismissed. No order as to costs.

(RIYAZ I. CHAGLA, J.) **(M.S. SANKLECHA, J.)**