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

\+ W.P.(C) 10920/2019

LALIT KUMAR CHHALLANI

..... Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Advocate with Mr. Vijay K. Singh and Ms.Kanishka Prasad, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondent

Through: Mr. Jitesh Vikram Srivastava, Advocate for respondent No. 1. Ms. Vibhooti Malhotra, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **17.10.2019**

C.M. No. 45146/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 10920/2019 and C.M. No. 45145/2019

Though a serious objection to the territorial jurisdiction of this Court has been raised by learned counsel for the respondent, who appears on advance notice, we are not examining the said issue, at this stage, in view of the order that we propose to pass.

The petitioner has preferred this petition to assail the summons dated 18.04.2019 issued to the petitioner by the Assistant Director of Income Tax (Inv.)-Unit 5(2), New Delhi under Section 131 of the Income Tax Act, 1961. The petitioner has been directed to appear in response to the said summons for the purpose of recording his personal deposition and to furnish the computation of income for assessment year 2013-14 to assessment year 2018-19 and the petitioner's proprietorships and companies, wherein he is a director and partnership firms, wherein he is a partner. He has also been called upon to furnish details of all immovable properties held as on 31.03.2019.

The petitioner, who is assessed by the tax authorities at Chennai for a long time was subjected to search at Indore on 07.04.2019 under Section 132 of the Act. Post that search, the aforesaid summons has been issued to the petitioner. The search has been carried out by the investigative wing of the Income Tax Department at Delhi. Post that search, the impugned summons has been issued to the petitioner.

Mr. Nandrajog submits that the petitioner challenged the jurisdiction of the ADIT (Inv.) to issue the said summons on 20.04.2019 by claiming that the petitioner is not assessed at Delhi. He submits that having realized that the Income Tax Authorities at Delhi do not have jurisdiction qua the petitioner, notice has been issued to the petitioner under Section 127 of the Income Tax Act – proposing to transfer the PAN of the petitioner from ITO NCW 5 (2) to DCIT/ ACIT, Central circle 18, New Delhi vide notice dated 03.09.2019. He submits that the petitioner has objected to the said proposed transfer and the said aspect is still pending consideration.

The exercise undertaken by the department through its investigative wing is different from the assessment process which is undertaken by a different wing of the department. So far as investigation is concerned, on a plain reading of Section 131(1) and 131(1A), it is clear to us that the Assistant Director of Income Tax, (Inv.)-Unit 5(2), New Delhi was competent to issue the summons to the petitioner in pursuance of the search undertaken at the premises of the petitioner on 07.04.2019 by the same investigating wing.

There is nothing to suggest that the same investigating wing at New Delhi would undertake the assessment proceedings. In view of the aforesaid, we find no merit in this petition and is, accordingly, dismissed.

Mr. Nandrajog submits that the petitioner reserves his rights to challenge the search and seizure on several other grounds, which have not been urged in this petition. We make it clear that we have not examined any other ground for challenging of the search and seizure by the investigating wing of the Income Tax Department at New Delhi.

VIPIN SANGHI, J

SANJEEV NARULA, J

OCTOBER 17, 2019
N.Khanna