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

% *Date of decision: 17.09.2019*

\+ W.P.(C) 1179/2015

KUSUM BHATT ..... Petitioner

Through Mr.Ayush Gupta and Mr.Daman Popli, Advs.

versus

CENTRAL INFORMATION COMMISSIONER (CIC) & ORS ..... Respondents

Through Mr.Ruchir Bhati, Sr. Standing Counsel for Income Tax.

Mr.Sanjiv Kr.Saxena, Mr.R.Mishra, Mr.M.K. Tiwari and Mr.Abhishek Rana, Advs. for R-4

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. This writ petition is filed by the petitioner seeking quashing of the order dated 04.06.2014 passed by respondent No.1/Central Information Commission whereby the appeal filed by the petitioner was dismissed and the information sought was denied.

2. The case of the petitioner is that one Sh. Prakash Nautiyal has filed a complaint under Section 138 of the Negotiable Instrument Act, 1881 against the petitioner which is said to be pending in the District Court in Kanpur. In the said complaint Sh.Prakash Nautiyal has sought recovery of money from the petitioner stating that a loan of Rs. 15 lakhs in cash was advanced by Sh.Nautiyal to the petitioner. Based on this, a complaint was filed by the

petitioner to respondent No. 3 about the tax evasion by Mr.Prakash Nautiyal. Subsequently, another letter dated 10.06.2011 was also sent to the respondent stating that Mr.Prakash Nautiyal in his statement before the said court has stated on oath that he had given a loan of Rs.15 lakhs to the petitioner along with another loan of Rs.75 lakhs. Based on the above, the petitioner filed an RTI Application dated 26.06.2013 where he sought the following:-

> "i) Whether the said complaint is still pending or has been disposed?
>
> ii) The details and status of the action taken by your department in respect of the complaint?"

3. In reply to the aforesaid application, the concerned Department on 11.07.2013 denied the information stating that same cannot be furnished as it relates to a third party.

4. First appeal was filed by the petitioner on 04.08.2013. This appeal was also dismissed. Hence, the second appeal.

5. A perusal of the impugned order would show that the Central Information Commission relied upon the judgment of the Supreme Court in the case of ***Girish Ramchandra Deshpande vs. CIC, (2013) 1 SCC 212*** to dismiss the case of the petitioner. The Supreme Court in the said case held that the income tax returns and related documents are personal information and hence, are exempted from disclosure under Section 8(1)(j) of the RTI Act. The appeal was accordingly dismissed.

6. On 08.04.2019, this court had noted the submission of the learned standing counsel for respondents No. 2 and 3 who sought some time to take instructions. Learned counsel for respondents No. 2 and 3 has today stated

that the complaint received of the petitioner has been disposed of. He further states that no further instructions can be given in this regard.

7. I have heard learned counsel for the parties.

8. Learned counsel for the respondents has reiterated that firstly, respondent No. 2/Joint Director, Income Tax is exempted from RTI Act, 2005 in view of Section 24 of the said Act read with Second Schedule. He also relies upon the judgment of this court in the case of ***Central Board of Direct Taxes vs. Satya Narain Shukla, 2018 SCCOnLine Del. 7303***. He also relies upon Section 8(1)(j) of the RTI Act and the judgment of a Coordinate Bench of this court in the case of ***Naresh Trehan vs. Rakesh Kumar Gupta, 216 (2015) DLT 156*** to plead his case.

9. Learned counsel for the petitioner emphasises that he is not seeking any detail of the income tax records of Sh.Nautiyal. He only wants to know whether the respondent have taken any steps pursuant to the complaint of the petitioner.

10. Section 24 of the RTI Act reads as follows:-

> "24. Act not to apply to certain organizations.—
>
> (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:
>
> Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:
>
> Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the

> information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in Section 7, such information shall be provided within forty-five days from the date of the receipt of request.
>
> (2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.
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> ……

11. Entry 16 of the Second Schedule reads as follows:-

> "16. Directorate General of Income-tax (Investigation)."

12. In view of the above, it is clear that the Additional Director, Income Tax (Investigation) to whom the original application under the RTI Act was addressed to is exempted from the provisions of the income tax. This is also clear from the judgment of this court in the case ***Central Board of Direct Taxes vs. Satya Narain Shukla(supra)*** where this court held as follows:-

> "18. A plain reading of Section 24(1) of the Act indicates that the provisions of the Act would not be applicable to Intelligence and Security Organizations as specified in the Second Schedule. Further, any information received from such organizations falls under the exclusionary clause of Section 24(1) of the Act. CBDT is not one of the offices, public organizations which are specified under the Second Schedule; but, the Directorate General of Income Tax (Investigation) is. Thus, any information received from the Directorate General of Income Tax (Investigation) by any Public Authority would also fall within the exclusionary provisions of Section 24(1) of the Act. Indisputably, the information sought for by the respondent emanates from the Directorate General of Income Tax (Investigations) (various DGs who have called upon to submit a comprehensive report of verification). Thus, CBDT would be justified in denying such

information to the respondent."

13. Though the above is sufficient to deny the necessary information sought by the petitioner, I may also note Section 8 (1) (j) of the RTI Act which reads as follows:-

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"**Section 8. Exemption from disclosure of information.-(1)** Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen.-

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(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:
Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

14. A Coordinate Bench of this court in ***Naresh Trehan vs. Rakesh Kumar Gupta(supra)*** relying upon the judgment of the Supreme Court in the case of ***Girish Ramchandra Deshpande vs. CIC, (2013) 1 SCC 212*** noted as follows:-

"18. The question whether the information provided by an individual in his income tax returns is exempt from disclosure under Section 8(1)(j) of the Act is no longer res integra in view of the decision of the Supreme Court in Girish Ramchandra Deshpande v. Central Information Commr.: (2013) 1 SCC 212. The relevant extract of the said judgment is quoted below:

"11. The petitioner herein sought for copies of all memos, show-cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from banks and other financial institutions. Further, he has also sought for the details of gifts stated to have been accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is: whether the abovementioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.

12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show-cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI

Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.

14. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act."

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23. In my view, the aforesaid reasoning would also be applicable to the expression "personal" used in Section 8(1)(j) of the Act. The expression 'individual' must be construed in an expansive sense and would include a body of individuals. The said exemption would be available even to unincorporated entities as also private, closely held undertaking which are in substance alter egos of their shareholders. However, the expression individual cannot be used as a synonym for the expression 'person'. Under the General Clauses Act, 1897 a person is defined to "include any company or association or body of individuals, whether incorporated or not". Thus, whereas a person would include an individual as well as incorporated entities and artificial persons, the expression 'individual' cannot be interpreted to include such entities. The context in which, the expression "personal information" is used would also exclude it application to large widely held corporations. While, confidential information of a corporation is exempt from disclosure under Section 8(1)(d) of the Act, there is no scope to exclude other information relating to such corporations under Section 8(1)(j) of the Act as the concept of a personal information cannot in ordinary language be understood to mean information pertaining to a public corporation."

15. It is manifest that what the petitioner is seeking essentially pertains to the details of personal tax record of Sh.Nautiyal. Though, learned counsel

for the petitioner in a very innocuous manner stated that he only seeks to know the steps taken by the respondent pursuant to the complaint but this plea, in my opinion, is an indirect attempt to try to seek personal information from the respondent regarding tax records of Sh.Nautiyal. This detail the petitioner cannot get. There is no infirmity in the impugned order.

16. There is no merit in the present petition. The same is dismissed. Pending applications, if any, also stand dismissed.

JAYANT NATH, J

SEPTEMBER 17, 2019
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