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

\+ W.P.(C) 1910/2020, CM APPL. 6665-66/2020

PRASHANT KUMAR SINHA ..... Petitioner

Through: Mr. Arvind K. Sharma, Advocate

versus

UNION OF INDIA AND ORS ..... Respondents

Through: Mr. Ravi Prakash, CGSC with Mr.Himanshu Pathak and Mr.Farman Alli, Advocates for R-1.
Mr. Mridul Jain, SPP for CBI.

CORAM:
HON'BLE MR. JUSTICE A. K. CHAWLA

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

% 19.02.2020

By the instant writ petition, the petitioner prays as follows:-

> *(a) issue Writ of Certiorari whereby quashing the order dated 15.11.2019 bearing No. F.No.C-14011/14/2018-AdV/10154 issued by Under Secretary, Ministry of Finance, Govt. of India, Dept. of Revenue, Central Board of Indirect Taxes and Customs being contrary to Officer Memorandum OM No. 11.012/17/2013-Estt (A) dated 03.07.2015 and judgment of Hon'ble Supreme Court in Civil Appeal No. 1912/2015 dated 16.02.2015 in the matter of Ajay Kumar Choudhary vs. Union of India;*
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> *(b) issue a Writ of Mandamus, whereby directing the Respondent No.3 to complete the proceedings / enquiry / investigation in FIR No. 05(A)/2018-B dated 17.04.2018;*

> *(c) issue a Writ of Mandamus or other appropriate Writ to the Respondent No. 3 whereby defreezing of Bank Accounts and other financial instruments including LIC, MFs, NSCs etc. being violative of Article 14 & 21 of the Constitution of India.*

A perusal of the forgoing prayers would show that while the petitioner is predominantly aggrieved of the his suspension being not revoked, the other reliefs are for expediting the investigation in case FIR No. 05(A)/2018-B dated 17.04.2018, which, as per the copy of the FIR annexed to the petition, under Section 13(2) read with Section 13(1)(e) of the PC Act., and, the possible freezing of his bank accounts etc. thereunder.

As far as prayer (a) is concerned, Mr. Sharma, learned counsel for the petitioner strenuously contends that the suspension beyond the initial period of 90 days cannot be extended in the absence of any charge-sheet having been filed, placing reliance on '***Ajay Kumar Choudhary vs. Union of India***' *2015 (7) SCC 291*. As regards the other two reliefs, in his submissions, since the subject matter is inter-connected, the writ petition even for the other reliefs is entertainable by this Court.

Mr. Ravi Prakash, learned CGSC on his part however contends that the instant writ petition is not maintainable on any count. Firstly, in his submissions, the relief sought should be agitated by the petitioner before Central Administrative Tribunal (CAT) inasmuch he is an officer of Indian Revenue Services and therefore, the jurisdiction of CAT is invited, more so, when no apparent perversity is pointed out. In support of such contention, Mr. Prakash draws attention of this Court to the observations made by the Division Bench of this Court in '***Govt. of NCT of Delhi vs. Rishi Anand***'

W.P.(C) 8134/2017 decided on 13.09.2017, which considered the scope of the judgment in Ajay Kumar Choudhary's case (supra) and in paras 19 and 20 observed, as follows:-

> "19. *The decision of the Supreme Court in Ajay Kumar Choudhary (supra) itself shows that there cannot be a hard and fast rule in this regard. If that were so, the Supreme Court would have quashed the suspension of Ajay Kumar Choudhary. However, in view of the fact that the charge memo had been issued to Ajay Kumar Choudhary – though after nearly three years of his initial suspension, the Supreme Court held that the directions issued by it would not be relevant to his case.*
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> 20. *From a reading of the decision in Ajay Kumar Choudhary (supra) and Rule 10 of the CCS (CCA) Rules, it emerges that the government is obliged to record its reasons for extension of the suspension which, if assailed, would be open to judicial scrutiny – not as in an appeal, but on ground available in law for judicial review of administrative action.*"

Though, as pointed out by Mr. Sharma in the case of Ajay Kumar Choudhary's case (supra) the charge-sheet was stated to have been filed, the observations made by the Division Bench are very clear that the prerogative of a Government in a particular case for extending the suspension was not completely shut. In view thereof, the contention made by Mr. Sharma seeking invocation of the writ jurisdiction by this Court is not sound or justifiable in the given facts and circumstances. In other words, this Court does not find it to be a fit case to invoke its extra-ordinary jurisdiction.

As for the other reliefs, it would suffice to observe, these relate to the criminal proceedings and the petitioner can have recourse to appropriate criminal proceedings as may be available under law.

In view of the foregoing, petition is rejected. Liberty is however reserved to the petitioner to take such recourse(s) as may be available under law for any of the reliefs prayed for.

Petition stands disposed of accordingly. Pending application also stand disposed of.

A. K. CHAWLA, J

FEBRUARY 19, 2020
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