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WPO 393 of 2009
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

VIKRAM JHUNJHUNWALA
VERSUS
UNION OF INDIA & OTHERS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 10th December, 2021.

Appearance:
Mr. Gopal Ram Sharma,Adv.
…for the petitioner

Mr. S.N.Dutt,Adv.
Mr. Arunava Ganguly,Adv.
…for respondents.

The Court: Heard learned Advocates appearing for the parties. Case in short as appears to me on perusal of relevant records and submission of learned Advocate for the petitioner is that petitioner claims a refund of Rs. 57 lakhs and odd out of the seized amount which was seized in course of search in Calcutta and Delhi. I am not inclined to grant such relief in this writ petition for the reason that claim of refund in question ownership of which is disputed one. Petitioner claims that this money belongs to him but in the assessment of another person, namely one Mohan Agarwal/respondent no. 5 it has been treated as undisputed money of Respondent No. 5 and in the said assessment order ownership of the disputed money in question which petitioner is claiming for refund in this writ petition is subjudice and the same issue is still pending before the Hon'ble Delhi High Court in an appeal proceeding of Respondent No. 5 being ITA No. 234 of 2011 and has not reached its finality. Though petitioner claims that the same money has been charged to tax in his assessment in Calcutta and there cannot be double taxation on the same amount. I am of the considered opinion that High Court sitting in constitutional writ jurisdiction should not adjudicate or decide title or ownership of any disputed asset or money found in course of a search and seizure and further when the disputed money in question is a subject matter of assessment of a third person here in this case respondent No. 5 and more so when the same is subject matter of pending Appeal before the Hon'ble Delhi High Court.

For the aforesaid reasons, this writ petition being WPO No. 393 of 2009 is dismissed. However, dismissal of this writ petition will not debar the petitioner from making any claim of the aforesaid amount of refund on the basis of final outcome of the appeal proceeding before the Hon'ble Delhi High Court.

(MD. NIZAMUDDIN, J.)

S.Chandra