27.06.2023.
PB
Sl. No.9.

WPA 12748 of 2023

Giridhari Lal Goenka
Vs
Principal Commissioner of Income Tax, Central, Kolkata-2, & Ors.

Mr. Avra Mazumder,
Ms. Alisha Das,
Mr. Suman Bhowmik,
Mr. Samrat Das.
... For the Petitioner.
Mr. Tilak Mitra.
........for the respondent.

Heard learned advocates appearing for the parties.

The issue raised by the petitioner in this writ petition arises from an order of transfer of the petitioner's file by order dated 29th November, 2022, under Section 127 of the Income Tax Act, 1961, transferring the income tax file of the petitioner from Kolkata to Lucknow. This is the second round of litigation. On earlier occasion, petitioner had filed a writ petition being WPA 2852 of 2023 which was disposed of by order dated 13th March, 2023 by directing the authority concerned to furnish the relevant documents to the petitioner indicating the basis of taking such decision of transfer of petitioner's file and also to provide personal opportunity of hearing to the petitioner. In compliance of the aforesaid earlier order of this Court, the Assessing Officer has passed the impugned order dated 3rd May, 2023 being Annexure P-14 to the writ petition.

I have heard Mr. Mazumder, learned advocate appearing for the petitioner and perused the aforesaid impugned order containing the reasons in detail passed after considering the objection of the petitioner and giving opportunity of hearing to the petitioner and by providing relevant materials to the petitioner in compliance of the earlier order of this Court. Petitioner challenges the aforesaid impugned order dated 3rd May, 2023 by contending that the materials supplied to him is not sufficient and enough and only his own statement on oath has been supplied. I find that the aforesaid impugned order has been passed in compliance of the earlier order of this Court by furnishing the material which was relevant, according to the department and by providing opportunity of personal hearing and passing detailed and reasoned order. This is not a case that the impugned order has been passed in violation of principle of natural justice or the same is non-speaking or the same is without jurisdiction. The writ court in exercise of its constitutional writ jurisdiction cannot act as an assessing authority or investigating authority or reappreciate any piece of evidence and substitute the findings of the authority with its own finding. It is not a case that the impugned order of transfer of the petitioner's file has been passed without having any material detail or any connection. It is based on investigation proceeding and the order of transfer is for coordinated investigation proceeding. Particularly, I have taken the conclusion of the aforesaid impugned order which is recorded hereinbelow:-

"In view of the foregoing discussion, it is observed that Girdhari Lal Goenka Group of cases are involved in floating various companies for providing accommodation entries out of which one M/s. Karni Shelter Pvt. Ltd. is now acquired by Shri Rahul Bhasin (Vivek Goenka was one of the directors in past), one of the sub group covered during the search, whose cases were also centralized at Lucknow. It also reveals from the foregoing discussion that on the basis of incriminating documents, wherein, there appears some fund transfer to various persons/entities, Shri Goenka has voluntarily disclosed Rs.5.00 Cr. On account of unaccounted commission income, may involve entities with jurisdiction at Lucknow. It is also seen that Shri Goenka himself has admitted that there are business or otherwise nexus of the Goenka Group of cases with persons/entities based at Lucknow.

Hence, these constitute sufficient reason for transfer of PAN jurisdiction in the case of the assessee, Shri Girdhari Lal Goenka from Central Circle, Kolkata to Central Circle, Lucknow and the statement under oath in respect of Shri Girdhari Lal Goenka recorded u/s 132(4) of the I.T. Act totally justifies the basis of transfer of PAN jurisdiction in the case of petitioner/ assessee from Eentral Circle, Kolkata to Central Circle, Lucknow for coordinated investigation and meaningful assessment."

Considering the facts and circumstances of the case as appears from record and in view of the discussions made above, this writ petition being WPA 12748 of 2023 is dismissed.

(Md. Nizamuddin, J.)