IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17358 OF 2023
IN
WRIT PETITION (L) NO. 8903 OF 2023

Achal Ramesh Chaurasia .. Applicant

Versus

Deputy Director of Income Tax & Ors .. Respondents

Mr. Atul Rajadhyaksha, Senior Advocate a/w Akhilesh Dubey, Vagish Mishra, Amit Dubey, Varad Dubey, Emod Khan & Shubham Sharma i/b Law Counsellors, *Advocates for the Applicant.*

Ms. Swapna Gokhale, *Advocate for Respondent-IT department.*

Mr. D.P. Singh, *Advocate for Respondent Nos. 3 & 4.*

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : DECEMBER 01, 2023

P. C.

1. This Interim Application is filed by the Applicant-Petitioner seeking permission to travel to Dubai, UAE from such date as this Court deems fit till 31st March 2024 on such terms and conditions which this Court may deem to fit. This Interim Application is necessitated because a Look Out Circular has been issued against the Applicant-Petitioner at the instance of the Income Tax Department and which circular is also challenged in the in the above Writ Petition.

2. Mr. Rajadhyaksha, the learned Senior Counsel appearing on behalf of the Applicant/Petitioner, submitted that in the past as well, the above Applicant/Petitioner has been permitted to travel to Dubai for visiting his wife and child and who are currently staying in the Dubai, UAE. He submitted that the Applicant/Petitioner has returned back to India without breaching any of the terms and conditions imposed upon him. He, therefore, submitted that the Applicant/Petitioner be granted permission to travel to Dubai to visit his wife and new born child from any date this Court may deem to fit till 31st March 2024.

3. Ms. Gokhale, the learned Advocate appearing on behalf of the Income Tax Department submitted that assessment proceedings in relation to the Applicant/Petitioner are going on and his presence would be required before the Income Tax authorities for the purposes of the said assessment. Therefore, the Applicant/Petitioner ought not to be allowed to leave the country, was the submission.

4. In answer to this argument, Mr. Rajadhyaksha, the learned Senior Counsel appearing on behalf of the Applicant/Petitioner, submitted that if the Income Tax Authorities give a notice of 96 hours to the Petitioner, he will return back to India for the purpose of attending the assessment proceedings and thereafter go back to Dubai. Mr. Rajadhyaksha, submitted that once this undertaking is given to the Court, the apprehension expressed by the Income Tax Department is adequately redressed.

5. We have heard Mr. Rajadhyaksha as well as Ms. Gokhale. From the record we find that on a previous occasion also the Applicant/Petitioner has been allowed to travel abroad. Infact he was permitted to visit his wife from 25th August 2023 to 25th November 2023 by an order dated 24th August 2023. Considering these facts and circumstances, we permit the Applicant/Petitioner to travel to Dubai from 4th December 2023 to 31st March 2024 on a following terms and conditions.

(a) The Applicant/Petitioner shall file an undertaking in this Court setting out his detailed itinerary with his contact details and address/s in Dubai. In the said undertaking the Applicant/Petitioner shall also state that he shall return back to India on or before 31st March 2024.

(b) The Applicant/Petitioner shall also file another undertaking not to apply for renewal or extension of this order until he returns back to India.

(c) The Applicant/Petitioner shall also file an undertaking that in the event the Income Tax Department requires his presence during this period (4th December 2023 to 31st March 2024), he shall return back to India within 96 hours of receiving notice requiring in his presence before the Income Tax Department. It is clarified that once he attends before the Income Tax Department, he would be permitted to go back to Dubai under this very order and would not require a fresh permission provided his travel is any time before 31st March 2024.

(d) The aforesaid undertakings shall be served on the advocates for the Income Tax Department before the date of departure.

(e) Within 1 week of returning to India, namely, within 1 week from 1st April, 2024 the Applicant/Petitioner shall file an affidavit setting out the expenses incurred by him during the above travel and the source/s of income used for funding the said expenses. This affidavit shall also be served on the Advocates for the Income Tax Department within 1 week from 1st April, 2024.

6. Subject to above conditions, the Look Out Circular issued at the instance of the Income Tax Department-II, Mumbai against the Applicant/Petitioner is suspended upto 1st April, 2024. It is clarified that this order does not apply to any other Look Out Circular and/or restraint order, if any, issued by any other Authority/ Agency/Court/Bank.

7. The immigration authorities at all ports of departure, including all airports, will permit the Applicant passage and permit the Applicant to take his flights out of the country irrespective of whether the Income Tax Department-II, Mumbai have notified them or not and irrespective of whether this suspension is noted in the immigration authorities' systems or otherwise.

8. The immigration authorities will not insist upon a certified copy of this order but will act on presentation of an authenticated or digitally signed copy of this order.

9. The Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.] **[B. P. COLABAWALLA, J.]**

Ashwini Vallakati