WPA 28421 OF 2023

04.01.2024
Sl no. 2
Ct no. 2
P.M.

Singhal Enterprises Private Limited
- Vs -
Union of India & Ors.

Mr. Abhratosh Majumdar, Sr. Adv,
Mr. Pratyush Jhunjhunwala,
Ms. Sreetapa Sinha,
Mr. Kausheyo Roy
... for the petitioner
Mr. Prithu Dudhoria
... for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order of transfer of petitioner's income tax file from Kolkata to Raipur under Section 127 of the Income Tax Act, 1961 and the basis of such transfer is search and seizure conducted at Raipur and Kolkata where incriminating documents according to the department were found against the petitioner and for the purpose of coordinating investigation transfer of petitioner's file is necessary.

On reading of the provisions of Section 127 of the Income Tax Act, 1961, it appears that the formalities which are required to be observed by the Income Tax authority for transfer of an assessee's file from one place to another place is that it must record the reason for transfer and to give opportunity of hearing to the assessee under Section 127(2) of the Act.

On perusal of record annexed to the writ petition I find that the aforesaid formalities have been complied with by the Income Tax authority in this case. From the record annexed to the writ petition itself it appears that enough reasons has been given as to why the transferring of the file of the petitioner from Kolkata to Raipur is necessary in this case.

This is not a case where an order has been passed by an authority without having jurisdiction or is contrary to any specific provision of law or there is violation of principle of natural justice. I find that the impugned order of transfer contains elaborate reason based on materials available to the department and this writ Court cannot act as an appellate authority and scrutinise those reasonings and findings and substitute the same with its own. In addition, the department has also submitted written instruction through their counsel which have been perused by me and on perusal of the same I am of the view that this is not a case which requires interference with the impugned order of transfer in exercise of constitutional writ jurisdiction of this Court.

Accordingly this writ petition being WPA 28421 of 2023 is dismissed.

Documents filed by the department may be kept with the record.

(Md. Nizamuddin, J.)