IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1301 OF 2024
IN
WRIT PETITION NO. 9313 OF 2023

Aarti Ramesh Chaurasia .. Applicant

Versus

Deputy Director Of Income Tax & Ors. .. Respondents

Senior Advocate Mr. Atul Rajadhyaksha a/w Akhilesh Dubey, Vagish Mishra, Amit Dubey, Uttam Dubey, Varad Dubey & Alex Dsouza i/b Law Counsellors *for the Applicant.*

Adv. Sapana Gokhale *for the Respondent Nos. 1 & 2.*

Adv. Rajlaxmi Punjabi i/b Niyati Masurkar *for Respondent Nos 4 & 5.*

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

DATE :FEBRUARY 07, 2024

P. C.

1. The above Writ Petition is filed by the Applicant/Petitioner challenging the Look Out Circular issued at the instance of the 1st Respondent-Deputy Director of Income Tax.

2. The above Interim Application is filed by the Applicant/Petitioner seeking permission of this Court to travel to Dubai for the purposes of business as well as for visiting her son, daughter in law, and her grand daughter who reside in Dubai. It is for this reason that the Applicant/Petitioner seeks permission to travel to Dubai from 10th February, 2024 to 31st March, 2024.

3. Ms. Gokhale, the learned advocate appearing on behalf of the Income Tax Department, submitted that the assessment proceedings in relations to the Applicant/Petitioner are on going and she would be required to be present before the Income Tax Authorities for the purpose of the said assessment. Therefore, the Applicant/Petitioner ought not to be allowed to leave the country.

4. In answer to this argument, Mr. Rajadhykasha, 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 Applicant/Petitioner, she will return back to India for the purposes of attending the assessment proceedings and thereafter go back to Dubai. Mr. Rajadhykasha submitted that once this is the undertaking given to the Court, the apprehension expressed by the Income Tax Department is adequately redressed.

5. We have heard Mr. Rajadhykasha, the learned senior counsel appearing on behalf of the Applicant/Petitioner, as well as Ms. Gokhale appearing for the Income Tax Department. From the record we find that on a previous occasion also the Applicant/ Petitioner has been allowed to travel abroad. Further, as of now no criminal proceedings are either initiated or pending against the Applicant/Petitioner. Further, when she was allowed to travel abroad, she has returned back to India without breaching any of the conditions imposed upon here.

6. Considering these circumstances, we permit the Applicant/Petitioner to travel to Dubai from 10th February, 2024 to 31st March, 2024 on the following terms and conditions: -

(a) The Applicant/Petitioner shall file an affidavit setting out the detailed itinerary with her contact details and addresses overseas.

(b) The Petitioner shall also file an undertaking to return to India on or before 31st March, 2024. The said undertaking shall also state that the Applicant/Petitioner shall not apply for renewal or extension of this Order until she returns to this country.

(c) The Applicant/Petitioner shall also file an undertaking that in the event the Income Tax Department requires her presence during this period (10^{th} February, 2024 to 31^{st} March, 2024) she shall return back to India within 96 hours of receiving notice requiring her presence before the Income Tax Department.

(d) It is clarified that once she attends before the Income Tax Department, she would be permitted to go back to Dubai under this very order and would not require a fresh permission provided her travel is any time prior to 31^{st} March, 2024.

(e) Copies of all above undertakings shall be served upon the advocate for the Income Tax Department, before departure.

7. Subject to these conditions, the LOC issued at the instance of Income Tax Department against the Applicant/Petitioner shall stand suspended until 31^{st} March, 2024. It is clarified that this order does not suspend any other look out circular or restraint order, if issued by any other agency/ authority/ bank/Court.

8. The immigration authorities at all ports of departure, including all airports, will permit the Petitioner passage and allow her to take her flights out of the country irrespective of whether the Income Tax Department has notified them or not and irrespective of whether this suspension is noted in the immigration authorities' systems or otherwise.

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

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

11. 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.]**