IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.7397 OF 2024
IN
WRIT PETITION NO.8903 OF 2023

Achal Ramesh Chaurasia .. Applicant

Versus

Deputy Director of Income
Tax (Investigation) and Ors. .. Respondents

Mr.Atul Rajadhyaksha, Senior Advocate a/w Akhilesh Dubey, Vagish Mishra, Amit Dubey, Uttam Dubey, Rajuram Kuleriya, Shubham Sharma, Alex Dsouza, Emad Khan, Sahil Upadhyay, Varad Dubey i/b Law Counsellors, Advocates for the Applicant.

Ms.Swapna Gokhale, Advocate for Respondent Nos.1, 2 and 5.

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

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

DATE : APRIL 04, 2024

P. C.

1. The above Interim Application is filed seeking permission to travel to Dubai, UAE from such date as this Court deems fit till 5th August, 2024, and on such terms and conditions as this Court may impose. 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 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 Applicant-Petitioner has been permitted to travel to Dubai for visiting his wife and child who are currently residing there. He submitted that this apart, the Applicant-Petitioner has a business in Dubai and for which he needs to travel. He submitted that on every occasion when the Applicant-Petitioner has been granted permission to travel he has returned back to India without breaching any of the terms and conditions imposed upon him. He, therefore, prayed that the Applicant-Petitioner be granted permission to travel to Dubai from such dates as this Court may deem fit, till 5th August, 2024.

3. Ms.Gokhale, the learned advocate appearing on behalf of the Income Tax Department submitted that though the assessment proceedings in relation to the Applicant-Petitioner are now completed, his presence would be required before the Income Tax Authorities.

Therefore, the Applicant-Petitioner ought not to be allowed to leave the country, was the submission.

4. In answer to this argument, Mr.Rajadhyaksha pointed out that in the past also the same objection was taken and the Applicant-Petitioner was permitted to travel abroad subject to the Applicant-Petitioner returning to India after 96 hours notice was given to the Applicant-Petitioner to make himself available before the Income Tax Authorities. He submitted that in fact such notice was issued on one occasion and the Applicant-Petitioner did presence himself before the Income Tax Authorities. He, therefore, submitted that if the same condition is imposed, this apprehension of the Income Tax Department is fully redressed.

5. We have heard Mr.Rajadhyaksha as well as Ms.Gokhale. From the record we find that on previous occasions also the Applicant-Petitioner has been allowed to travel to Dubai, UAE. It is also not in dispute that he has returned back to India without breaching any of the terms and conditions that were imposed upon him. Considering these facts and circumstances, we permit the Applicant-Petitioner to travel to

Dubai, UAE from 8th April, 2024 to 5th August, 2024 (To & Fro multiple times) on the following terms and conditions:-

(a) The Applicant-Petitioner shall file an undertaking-cum-affidavit in this Court that he shall intimate the Income Tax Department atleast 48 hours in advance before he undertakes any travel to Dubai. Copy of the said affidavit shall also be filed in the Registry of this Court.

(b) The Applicant-Petitioner shall file an undertaking that he shall return back to India finally on or before 6th August, 2024. In the said undertaking, the Applicant-Petitioner shall also state that he shall not apply for renewal or extension or modification 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 (8th April, 2024 to 5th August, 2024), he shall return back to India within 96 hours of receiving notice requiring his personal 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 that he is traveling any time before 5th August, 2024.

(d) Both 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 6th August, 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 6th August, 2024.

6. Subject to the above conditions, the Look Out Circular issued at the instance of the Income Tax Department-II, Mumbai against the Applicant-Petitioner is suspended upto 6th August, 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. It is further clarified that this suspension is only for the purpose of permitting the Applicant-Petitioner to travel to Dubai, UAE and not to any other destination.

7. The immigration authorities at all ports of departure, including all airports will permit the Applicant-Petitioner passage and permit him 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 accordingly disposed of. 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.]**

Utkarsh