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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 6178/2024

C L PRODUCTS INDIA LTD ..... Petitioner

Through: Mr. Jitesh Talwani, Mr. Sahil Mahajan & Ms. Anjali, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI- 1 & ORS. ....Respondents

Through: Mr. Debesh Panda, SSC with Ms. Zehra Khan, Mr. A. Shankar, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

<u>O R D E R</u>

% **02.05.2024**

<u>CM APPL 25693/2024 (Exemption)</u>

Allowed, subject to all just exceptions.

The application stands disposed of.

<u>W.P.(C) 6178/2024 & CM APPL 25692/2024 (Stay)</u>

1. This writ petition has been preferred assailing the impugned order dated 06 February 2024, in terms of which the respondents invoking Section 127 of the Income Tax Act, 1961 [“**Act**”] have centralized the assessment of the petitioner. The record would reflect that in an earlier round of litigation, the petitioner had approached this Court by way of W.P.(C) 4703/2022 assailing the attempt to centralize and transfer the assessment proceedings to Deputy Commissioner/ Additional Commissioner of Income Tax -Central Circle, Jammu.

2. The Court, while considering the aforesaid challenge had in

terms of its order dated 26 July 2023 disposed of the writ petition holding as under:-

"**<u>CM No.24126/2023</u>**

1. This is an application filed on behalf of respondent no.2/revenue. Notice in said application was issued on 10.05.2023.

3. Mr Jitesh Talwani, who appears on behalf of the nonapplicant/petitioner, says that he has instructions not to file a reply to the application and thus, accedes to the prayer made therein, so long as the assessment proceedings pending before the concerned officer do not proceed further.

4. The substantive prayers made in the above-captioned application read as follows:

> "A. Permit the Applicant/Respondent No.2 to give the Petitioner reasonable opportunity of being heard and pass an order, if necessary, u/s 127 of the Act, in accordance with law.
>
> B. Dispose the Present Writ Petition with appropriate directions."

5. As per the averments made in the application, the assessment proceedings are, presently, conducted by DC/ACIT-Central Circle, Jammu.

5.1 Mr Talwani, however, says that the petitioner has received notices from an authority located in Srinagar as well.

6. Be that as it may, the petitioner had instituted the writ action to lay a challenge to the order dated 01.01.2021 passed under Section 127 of the Income Tax Act, 1961 [in short, "Act"]. This order was passed by the PCIT01, New Delhi.

6.1 Via this order, the petitioner's cases were transferred from ITO Ward 5(1), New Delhi to DC/ACIT-Central Circle, Jammu.

7. This court, via an interim order dated 31.05.2022, stayed the operation of the impugned order dated 01.01.2021.

<u>8. The record shows that, between the time when the impugned order was passed, i.e., 01.01.2021 and interim order of this court dated 31.05.2022, the DC/ACIT-Central Circle, Jammu had issued notices under Section 153C of the Act to the petitioner for Assessment Year (AY) 2014-15 to AY 2019-20.</u>

<u>9. The principal grievance of the petitioner is that the impugned order was passed without according hearing to the petitioner. Evidently, via this application, respondent no.2/revenue accepts the position that there was a breach of principles of natural</u>

justice.

10. Accordingly, the impugned order dated 01.01.2021 is set aside.

11. Respondent no.2/revenue is directed to grant opportunity of hearing to the petitioner and/or its authorized representative, and thereafter, if deemed necessary, pass an appropriate order under Section 127 of the Act as per law.

12. Pending the decision, the concerned authority with whom the petitioner's cases are pending, whether located in Jammu or Srinagar, will maintain status quo.

13. Needless to add, respondent no.2/revenue will pass a speaking order; a copy of which will be furnished to the petitioner.

14. The application is disposed of, in the aforesaid terms.

W.P.(C) 4703/2022, CM Nos.14070/2022 & 15266/2023 ***[Applications filed on behalf of the petitioner seeking interim relief]***

15. In view of the order passed in CM No.24126/2023, nothing survives in the writ action, since the impugned order has been set aside at the behest of respondent no.2/revenue.

16. The writ petition is disposed of, in terms of the order passed in CM No.24126/2023.

17. Consequently, pending interlocutory applications shall stand closed.

18. Interim order dated 31.05.2022 shall stand vacated.

19. Given the fact, we have directed that status quo will be maintained, limitation shall stop running as of today till a decision is rendered by respondent no.2/revenue.

20. Parties will act based on the digitally signed copy of the order."

3. It is pursuant to the aforesaid remit that the respondents took up the matter for consideration again. As we read the impugned order of 06 February 2024, it appears that the principal ground on which the assessment proceedings are sought to be centralized at Jammu emanates from a search which was undertaken in respect of the Simula group of companies on 27 June 2019. The respondents have essentially taken into consideration substantial financial transactions which are alleged to have been undertaken between the petitioner and

one M/s Paradise Avenue. The case of M/s Paradise Avenue has already been centralised.

4. Dealing with the connect of M/s Paradise Avenue and the imperative need to centralize assessments, the respondents have taken into consideration the note of the Deputy Commissioner of Income Tax, Central Circle, Jammu, wherein the following comments were provided:-

> "**6.** In response thereto, the Deputy Commissioner of Income Tax, Central Circle, Jammu submitted the rebuttal/ comments vide letter F.No. DCIT/CC/JMU/2023-24/891 dated 15.01.2024, which is duly forwarded by the ITO(Hq)(Tech) O/O the PCIT (Central), Ludhiana vide letter F. No. Pr CIT(C)/Ldh/Tech/Cent-49/2023-24/ 8402 dated 22.01.2024 received in this office through email dated 23.01.2024 as follows:
>
> > "in this regard, the objection filed by the assessee is not acceptable as mentioned in the seize material in Annexure <u>A-1/27.06.2019 page no. 16, the assessee company i.e. C.L. Products (India) Ltd. had actually received Rs. 148.79 lacs in his bank account no. 605620110000233 maintained with Bank of India, Branch Rohini, Delhi on 23.04.2014 from the M/s Paradise Avenue bearing account no. 50200004589841 maintained with HDFC Bank</u>.
> >
> > <u>Therefore, as per CBDT instruction dated 25.04.2014, it is stated that non search cases connected with the search cases where findings of the search have material bearing and needs of coordinated investigation/ interest of revenue requires such cases to be assessed in the central charge. Further, complex cases of substantial revenue implication requiring in depth investigation required to be centralized and above mentioned case is an example of such case. There has been substantial financial transaction with M/s Paradise Avenue therefore, for an effective assessment the jurisdiction must be transferred to DCIT, Central Circle, Jammu where cases related to M/s paradise Avenue have already been centralized. The entry in the seized material at page no. 30 & 36 are significant and important for holistic understanding and effective assessment</u>"

5. The aforesaid extract would establish the existence of at least a prima facie connection between the petitioner and M/s Paradise Avenue. In view of the aforesaid, we find no justification to interfere

with the order impugned bearing in mind the imperatives of a coordinated and in depth investigation which are alluded to by the respondents.

6. Insofar as the submission of learned counsel for the writ petitioner of the transaction between the petitioner and M/s Paradise Avenue having been misconstrued and in fact pertaining to certain business transactions which had been undertaken between the former and its sister concern, we only note that these are all issues of fact which would in any case have to be established in the course of assessment.

7. Consequently, and for the aforesaid reasons, the writ petition fails and shall stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 2, 2024/neha