* IN THE HIGH COURT OF DELHI AT NEW DELHI

% **Judgment reserved on : 04 April 2025**
Judgment pronounced on: 17 April 2025

\+ CONT. CAS (C) 994/2024

RACHANA SRIVASTAVA ..... Petitioner
Through: Petitioner in person.

versus

SH. PRASENJIT SINGH ..... Respondent
Through: Mr. Shlok Chandra, Sr. SC with Ms. Naincy Jain, Jr. SC with Ms. Madhavi Shukla, Jr. SC for Income Tax Department.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

1. The present contempt petition, filed on behalf of the petitioner, was disposed of *vide* order dated 02.07.2024, whereby the respondent was directed to conclude the relevant enquiry with regard to certain alleged irregular, manipulated, and fraudulent transactions carried out by the estranged husband of the petitioner using her PAN[1] Card. It was claimed by the petitioner that she was not the beneficiary of certain transactions reflected in the ITR[2] for the Assessment Year 2022-n 2023, which were rather the earnings of her husband.

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2. The present application has been filed on behalf of the respondent/Department of Income Tax seeking modification of the

[1] Permanent Account Number
[2] Income Tax Return

order dated 02.07.2024, whereby this Court, in paragraph No. (5), had observed as follows: -

> "5. In view of the above, the present petition is disposed of with the direction that the respondent shall conclude the relevant enquiry/investigation within eight weeks from today. On completion thereof, the petitioner be duly supplied with the report of the outcome of such enquiry/investigation."

3. The learned counsel for the respondent submits that the Income Tax Department has conducted the investigation in a time-bound manner pursuant to the petitioner's Tax Evasion Petition. It is emphasized that as per established procedures, the Department performs various statutory functions, including assessment and investigation proceedings. The findings of any inquiry conducted by the Investigation Directorate are forwarded to the concerned Assessing Officer, who evaluates them on merit; and during the assessment process, the assessee is afforded an opportunity to present submissions and supporting evidence.

4. It is further submitted that the outcome of the assessment, including the assessed income, is duly communicated to the assessee through an assessment or penalty order. However, reports of the Investigation Directorate are internal documents and are not shared with the taxpayers. In view of this, the respondent respectfully prays for a modification of the order dated 02.07.2024, limiting disclosure to the petitioner only to the outcome of the inquiry, in accordance with established legal procedures.

5. The learned counsel for the respondent submits that the findings of the inquiry conducted in response to the Tax Evasion Petition[3] filed by petitioner, which do not take any adverse view against the petitioner, are being duly communicated to her. However, as per departmental practice, the full investigation report is not shared with the petitioner. It is further submitted that while the findings of the inquiry have been disclosed to the petitioner, a copy of the complete investigation report cannot be provided. It was urged that if required, the official inquiry report may be submitted to this Court in a sealed cover for its perusal, and the same may be perused by her as well but it is insisted that a copy of the report cannot be provided. It is also pertinent to note that even this Court, in its order dated 02.07.2024, did not direct the sharing of the investigation report with the petitioner.

6. The learned counsel for the respondent submits that, as per Rule 11 of the Income Tax Informants Rewards Scheme, 2018[4], the CBDT[5] and Income Tax Department are barred from providing updates on received information or subsequent actions. Disclosure is prohibited except under Section 138 of the Income Tax Act, 1961[6], and the Directorates General of Income Tax (Investigation) are exempt from disclosure obligations under the Right to Information Act, 2005. Further, Section 138 of the Act restricts disclosure of assessee-related information, permitting it only if the competent authority deems it in

[3] TEP
[4] 2018 Scheme
[5] Central Board of Direct Taxes
[6] The Act

public interest. Such a decision is final and not subject to judicial review.

7. *Per contra*, the petitioner submits that during the hearing on 02.07.2024, no objection was raised by the respondent with regard to supply of a copy of the report to her. The petitioner asserts that seeking disclosure of the report does not infringe upon any third-party rights, as it pertains neither to his spouse nor to any other entity. Since the report is a public document, it cannot be classified as third-party information, and the petitioner is well within her legal rights to obtain it. Furthermore, as the investigation has been concluded and the report has already been presented to this Court in a sealed cover, its disclosure remains a solemn responsibility of the Income Tax Department, given that it originates from performance of public action and constitutes a public document. In support of her contention, the petitioner relies on a decision by the Central Information Commission **Juhi Jadli v. CBDT**[7], wherein it was held that "*a wife cannot be treated as a 3rd party in strict sense of term, so long as the marriage subsists*".

8. The learned counsel for the respondent controverts the petitioner's reliance on ***Juhi Jadli (Supra)*** and submits that the reliance on the decision is misplaced, as the case pertained to the disclosure of Income Tax Returns, which are distinct from investigation reports. The present matter concerns an inquiry report, which, as per departmental practice, is not shared with the complainant. Furthermore, the petitioner's reliance on past judgment

is inapplicable, as they predate 2018 Scheme and do not address the statutory restrictions under Section 138 of the Act and Section 24 of the Right to Information Act, 2005.

9. Additionally, Rule 12 of the 2018 Scheme provides an alternative remedy, allowing the petitioner to approach the Principal Director of Income Tax (Investigation) for grievance redressal, further negating her claim for disclosure of the investigation report.

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10. The present application has been filed by the petitioner to bring certain facts on record and seek appropriate directions from this Hon'ble Court. The petitioner submits that during the course of these proceedings, she has received multiple emails and messages from the Income Tax Department directing her to file an updated return for the Assessment Year 2022-23.

11. It is further submitted that the petitioner has diligently filed her Income Tax Returns since updating her credentials on the Income Tax web portal on 10.02.2022. In support of her compliance, she has placed on record her ITR for AY 2023-24 as *Annexure P-20* in *W.P. 1613/2024* and for AY 2024-25 as *Annexure P-9* in *Cont. Case (C) No. 994/2024.*

12. The petitioner reiterates that she has expressly stated in her pleadings that the transactions reflected in her Income Tax Return for the Financial Year 2021-22 (Assessment Year 2022-23) were not undertaken by her. She has consistently requested the Income Tax Department to investigate the same. It is a matter of record that until

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[7] File No:CIC/RM/A/2012/000038/LS

09.02.2022, the petitioner's PAN card was being used by her spouse, and the credentials associated with the Income Tax web portal—namely, the email ID sanjaysrivastava684@gmail.com, mobile number 9873498684, and HDFC bank accounts ending in A990 and 5660—were linked to him. Given that the petitioner has been unemployed since August 1997, the income reflected therein belongs to her spouse.

13. The petitioner further asserts that she is not the beneficiary of transactions amounting to ₹3.74 crore in sales and ₹65 lakh in mutual fund purchases and other financial instruments. She maintains that she has never engaged in such financial transactions.

14. The petitioner submits that, in light of the provisions of Section 64(1)(ii) of the Act, the income reflected in her ITR for Assessment Year 2022-23 should be clubbed with the income of her spouse. The said provision states that if a spouse receives remuneration—such as salary, fees, or commissions—from a business in which the other spouse has a substantial interest, the income shall be clubbed in the hands of the individual whose income is higher before such clubbing.

15. It is claimed that since the petitioner has been unemployed since August 1997 and has no independent source of income, the transactions in question, which have been attributed to her PAN, ought to be assessed in the hands of her spouse in accordance with the statutory framework.

ANALYSIS AND DECISION

16. Having heard the learned counsels for the parties and on perusal of the record, and particularly having gone through the investigation

carried out by the respondent in terms of its report dated 29.08.2024 placed on the record, I find that the application moved on behalf of the respondent/Department of Income Tax for modification of order dated 02.07.2024 is misconceived and bereft of any merits.

17. **First things first,** there is nothing confidential about the report dated 29.08.2024, a bare perusal of which would show that, pursuant to directions of this Court, notices under Section 133(6) of the Income Tax Act, 1961 were issued to various banks seeking the bank statements of the petitioner as well as her husband, including the companies in which he happens to be a Director/Shareholder. Further, summons under Section 131(1A) of the Income Tax Act, 1961 were also issued to her husband, Mr. Sanjay Srivastava, for furnishing of relevant details and for his personal deposition. In response to the notices, both petitioner and her husband appeared before the concerned authority. The findings are to the effect that no case of tax evasion on the part of Mr. Sanjay Srivastava was found upon examining the ITRs for the assessment years 2018 to 2022-23.

18. Insofar as the petitioner is concerned, although the ITRs filed up to the assessment year 2021-22 mentioned the contact details and email address of her husband, it was found that the same were linked with the Aadhar Card of the petitioner, and the OTP[8] for re-verification of the ITRs had been sent to the personal mobile number of the petitioner. It is also noted in the report dated 29.08.2024 that the ITRs of the petitioner up to the assessment year 2021-22 had been filed by her Chartered Accountant, Mr. Ajay Aggarwal, presumably

based on the information supplied by her as well as her husband. No ITR for the assessment year 2022-23 has been filed by the petitioner. As regards the assessment year 2023-24, the contact details of the petitioner, namely her mobile number and email address, are mentioned in the ITR.

19. The aforesaid facts do not constitute any matters that could be said to be confidential or disclosure of which would prejudice the respondent/Department of Income Tax in any manner.

20. Accordingly, CM APPL No. 50565/2024 is hereby dismissed. The respondent/Department of Income Tax is directed to supply a copy of the report dated 29.08.2024 to the petitioner within two weeks from today, failing which, the petitioner shall be at liberty to avail a certified copy of the same from this Court.

21. Insofar as CM APPL.14100/2025 is concerned, the same does not call for any orders. The issues raised therein are beyond the scope and purport of the contempt petition filed by the petitioner. The petitioner shall, however, be at liberty to seek an appropriate remedy, if any, in accordance with law. The present application bearing CM APPL. 14100/2025 also stands dismissed.

DHARMESH SHARMA, J.

APRIL 17, 2025
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[8] One Time Password

Signature Not Verified
Digitally Signed By:PRAMOD KUMAR VATS
Signing Date:17.04.2025 16:54:23