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

\+ **<u>W.P.(C) 14771/2022</u>**

ANURADHA BAKSHI .....Petitioner

Through: Mr. Giriraj Subramanium, Mr. Akhilesh Talluri, Ms. Veda Singh, Mr. Siddhant Juyal, Mr. Ravi Pathak and Mr. Joy Banerjee, Advocates.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Zubin Singh, Advocate for UOI.
Mr. Vipul Agrawal, Sr. SC with Mr. Gibran Naushad and Ms. Sakashi Shariwal, Jr. Standing Counsel for Revenue.

\+ **<u>W.P.(C) 14976/2022</u>**

MALIKA BAKSHI .....Petitioner

Through: Mr. Giriraj Subramanium, Mr. Akhilesh Talluri, Ms. Veda Singh, Mr. Siddhant Juyal, Mr. Ravi Pathak and Mr. Joy Banerjee, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, Advocates for UOI.
Mr. Induraj Singh Rai, SSC with Mr. Sanjeev Menon, JSC, Mr. Rahul Singh, JSC and Mr. Anmol Jagga, Advocates for Revenue.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **22.08.2024**

1. Since the above-captioned writ petitions arise out of a similar/ identical factual backdrop, the same are being disposed of through a common order. Mrs. Anuradha Bakshi, Petitioner in W.P.(C) 14771/2022, is the mother of Ms. Malika Bakshi, Petitioner in W.P.(C) 14976/2022. Both Petitioners have approached this Court under Article 226 of the Constitution of India, 1950, seeking quashing of the Look Out Circulars opened against them, originating from Respondent No. 2– Deputy Director of Income Tax (Investigation).

2. The Income Tax Department has advanced the following contentions to explain the context underpinning the issuance of the impugned LOCs:

2.1. The foundation for issuing the impugned LOCs is the search and seizure proceedings initiated under Section 132 of the Income Tax Act, 1961[1], which was carried out from 2nd to 5th March, 2021 in the case of Triberg Group of companies and other related concerns.

2.2. Pursuant to various incriminating documents being unearthed from the premises of the Petitioners, Mr. Tarun Bakshi, husband of Mrs. Anuradha Bakshi and father of Ms. Malika Bakshi, admitted in the statement on oath under Section 132(4) of the IT Act that he was the beneficial owner of one Thames Fund Limited (TFL), an entity incorporated in the Bahamas,

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[1] 'the IT Act'

till December, 2018. Thus, it emerged that Mr. Tarun Bakshi as well as his family members, being his son, Mr. Ankit Bakshi, as well as the Petitioners herein, are also the beneficial owners of TFL.

2.3. During the course of search & seizure action, a document reflecting entity named 'Triburg Investments Ltd.' at Plot No. MO 0119, P.O. Box 16939, Jebel Ali Free Zone, Dubai, UAE, was found and seized. The said document is in the form of Inspection Certificate dated 25th January, 2017 containing PO wise details of goods and its value in USD, which is certified and signed by Mrs. Anuradha Bakshi as an authorized signatory for and on behalf of Triburg Investments Ltd. Dubai, UAE. It is submitted that this fact was neither disclosed in the Schedule FA of the Income Tax Return nor admitted in the statement on oath under Section 132 of the IT Act. An FTTR reference has been sent to the UAE Tax Authorities to obtain the details of the Triburg Investment Ltd., Dubai to substantiate the findings observed during the post-search investigation, as the Petitioner has not provided any details of foreign assets in their response to the summons issued by the Directorate of Investigation, in spite of repeated reminders.

2.4. Further, the Petitioners are involved in a cognizable offence in the ongoing investigation proceedings under the Black Money (Undisclosed Foreign Income and Assets) & Imposition of Tax Act, 2015[2]. This is punishable with imprisonment of ten years and a fine.

2.5. In the above background, the LOCs have been issued since the Petitioners being permitted to travel abroad is likely to jeopardize the ongoing investigation as the Petitioners have been quite evasive and non-cooperative thus far. In such circumstances, they are a flight risk, and ought not to be permitted to travel abroad.

3. On a query of the Court, it emerges that presently no proceedings under the Black Money Act have been initiated against the Petitioners. The income tax proceedings which were initiated under Section 132 of the IT Act, stand concluded and the certain demands have been raised, which have in turn been appealed by the Petitioners. The details of such demands, as well as the present status thereof, are mentioned hereunder:

*"**DEMANDS RAISED:***

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AY	Additions	Demand as per Demand Notice	Demand Paid
2015-16	Rs. 5,06,150	Rs. 3,47,605	Rs. 70,000
2016-17	Rs. 2,20,920	Rs. 1,74,527	Rs. 35,000
2017-18	Rs. 19,63,006	Rs. 30,34,957	Rs, 6,07,000
2021-22	Rs. 6,14,29,748	Rs. 1,85,96,676	Rs. 40,00,000

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AY	Additions (in Rs.)	Demand as per Demand Notice (in Rs.)	Demand Paid (in Rs.)
2021-22	9,31,96,472	2,21,49,255	44,30,000

[2] "Black Money Act"

STATUS OF PROCEEDINGS:

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Nature of Proceeding	Present Status
Assessment order under s. 153A for FY 2014-15	Appeal filed by Petitioner
Assessment order under s. 153A for FY 2015-16	Appeal filed by Petitioner
Assessment order under s. 153A for FY 2016-17	Appeal filed by Petitioner
Order under s. 143(3) for FY 2020-21	Appeal filed by Petitioner
Order under s. 271D for FY 2020-21	Appeal filed by Petitioner
Proceedings for revision under s. 263 for FY 2014-15 to FY 2020-21	Proceedings pending

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Nature of Proceeding	Present Status
Order dated 31.03.2023 under s. 143(3) of the Income Tax Act, 1961	Appeal filed by Petitioner
Order dated 27.03.2024 under s. 271D (for alleged violation of s. 269SS) of the Income Tax Act, 1961	Appeal filed by Petitioner
Order dated 27.03.2024 under s. 271DA (for alleged violation of 269ST) of the Income Tax Act, 1961	Appeal filed by Petitioner

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4. In any event, presently, the immovable assets of the Petitioners have been provisionally attached under Section 281B of the IT Act. The details of the attached properties are delineated as follows:

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"a. Agricultural land - Khasra No. 30/12 (4-8), 18/1(3- 16), Village Paprawat, Najafgarh, New Delhi - 110043

b. Agricultural Land - Khasra No. 554, 557/2, 554, Village Sultanpur, Tehsil Mehrauli, Sultanpur, New Delhi - 110030

c. Flat (79.11% share) MG1618A, DLF Magnolias, Golf Course Road, Gurgaon, Haryana – 122009"

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"a. MG1125, the Magnolias, DLF Phase V, Guragon, Haryana – 122009

b. No 28, Khasra 1/2 Khewat No. 13, Khataunidochi, Kasauli, Solan, Himachal Pradesh – 173204."

5. The Court has considered the facts and contentions raised. There are presently no criminal proceedings under the Black Money Act which have been initiated against the Petitioners. The income tax proceedings, as noted above, have also culminated and the matters are now pending challenge in appeal. Further, it is pertinent to note that both the Petitioners have been permitted to travel abroad on several occasions by this Court, and on each occasion, the Petitioners have complied with all the conditions imposed by the Court and duly returned back to the country. In these circumstances, in the opinion of the Court, the element of flight risk is also substantially reduced.

6. The impugned LOCs have been active since the year 2021, ostensibly

to monitor their international travel and prevent them from fleeing the country. The idea behind issuing an LOC is to restrict a person from travelling beyond the jurisdiction of domestic Indian authorities, in case there are reasonable and cogent grounds to believe that such a person has committed a serious transgression and is a flight risk. However, there is no material placed before the Court to demonstrate that criminal proceedings have been initiated against the Petitioners that could suggest any intention to abscond. Given these circumstances, the continued enforcement of the LOCs based solely on ongoing proceedings against Mr. Tarun Bakshi and Mr. Ankit Bakshi is untenable. Such indefinite restrictions on the Petitioners' movement infringe upon their fundamental right to travel abroad, which has been recognised and protected under Article 21 of the Constitution of India, 1950, as observed in the landmark judgments of ***'Maneka Gandhi v. Union of India'***[3] and ***'Satwant Singh Sawhney v. D. Ramarathnam, Assistant Passport Officer and Ors.'***[4] This infringement is all the more amplified in cases where there have been no restrictions imposed on the freedom of persons to travel abroad by any court or other adjudicatory forum, but rather, such right is curbed unilaterally at the instance of an executive institution with the sole intention of recovering dues.

7. Additionally, it must be noted that the Petitioners have volunteered that they are willing to abide by the conditions imposed through the interim orders till such time that the proceedings under the Black Money Act against Mr. Tarun Bakshi and Ankit Bakshi are concluded.

8. In light of the above background and discussion, the impugned LOCs

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[3] (1978) 1 SCC 248
[4] AIR 1967 SC 1836

opened at the behest of Respondent No. 2 against the Petitioners – Mrs. Anuradha Bakshi and Ms. Malika Bakshi – stand quashed.

9. However, as agreed by the Petitioners, their travel abroad shall continue to be subject to the conditions imposed in the interim orders. Thus, it is directed that until such date that the proceedings against Mr. Tarun Bakshi and Mr. Ankit Bakshi under the Black Money Act are ongoing, the following directions shall apply:

9.1. Mrs. Anuradha Bakshi shall be permitted to travel abroad subject to compliance with the conditions as set out in order dated 3rd October, 2023 in W.P.(C) 14771/2022.

9.2. Ms. Malika Bakshi shall be permitted to travel abroad subject to compliance with the conditions set out in order dated 16th July, 2024 in W.P.(C) 14976/2022.

10. With the above directions, the present petitions are disposed of along with pending applications, if any.

SANJEEV NARULA, J

AUGUST 22, 2024

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