2024:DHC:4241

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

\+ W.P.(C) 11958/2021

SMT MEENU GARG AND ANR. ..... Petitioners

Through: Mr. Divyansh Jain with Mr. Paritosh Jain and Mr. R Madhav Bera, Advocates.

versus

UNION BANK OF INDIA ..... Respondent

Through: Ms. Aditi Chopra, Advocate.

% ***Date of Decision: 17th May, 2024***

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MINI PUSHKARNA, J: (ORAL)

1. The present petition has been filed with prayer for direction to the respondent-bank to remove the Restraint Order from the locker of the petitioners bearing No. 211, and grant access to the petitioners of their lawful assets, kept in the said locker.

2. Learned counsel appearing for the petitioners submits that the petitioners are having a joint locker, as aforesaid, i.e., locker No. 211 with the Branch of the respondent-bank situated at *14-15, F-Block, Connaught Place, New Delhi-110001*. The said bank locker had been under the restraint vide Restrain Order dated 23rd August, 2012 issued by the Assistant Director of Income Tax (Inv) Unit V(2), New Delhi under Section 132(1) of the Income Tax Act, 1961.

3. Learned counsel appearing for the petitioner submits that subsequently by Revocation Order dated 17th October, 2012, the Income Tax Department had already revoked the restraint on the locker of the petitioners. However, it is submitted, that despite the aforesaid revocation letter by the Income Tax Department, the locker is still being kept under restraint by the respondent-bank.

4. It is submitted that a request was made by the petitioners in this regard. However, despite the same, the request of the petitioners, has not been acceded to. Thus, the present petition came to be filed.

5. None appeared for the respondent-bank on the first call. None appears for the respondent-bank even at the pass over stage. It is noted that none had appeared for the respondent-bank even on the last date of hearing. Accordingly, the present matter has been taken up and has been heard.

6. Perusal of the record shows that by its reply, the respondent-bank had stated as under:-

> *"xxx xxx xxx*
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> *3. That the petitioners have committed acts of perjury by stating before the Hon'ble court that the petitioners have approached the deponent/respondent on various occasion. That the petitioners have never approached the deponent/respondent in nine years since the locker bearing no. 211 in the name of the petitioners were restrained by the order of the Income Tax Department under section 132(3) of the Income Tax Act, 1961 dated 23.08.2012 in respect of the issue/s involved.*
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> *4. That the Income Tax Department has never directed deponent/respondent to revoke the restraint order dated 23.08.2012. The petitioners in this matter have annexed the true copy of the letter dated 17.10.2012, thus never have the petitioners shown/provided the official/original revocation order of the Income Tax Department. The deponent/respondent could not verify the authenticity of the revocation order dated 17.10.2012 allegedly issued by the office of the Assistant Director of Income Tax (Inv.).*

5. That the petitioners have not annexed any document stating that the petitioners have ever approached the deponent/respondent regarding the locker bearing no. 211 from 2012 to 2020, therefore, the claim of the petitioners that the petitioners have approached the deponent/respondent in respect of the issues involved is frivolous and vexatious. That not approaching the deponent/respondent, and both the petitioner's inaction towards the locker bearing no. 211 from 2012 to 2020 questions and raise suspicion towards the authenticity of the alleged revocation order/letter dated 17.10.2012 allegedly issued by the office of the Assistant Director of Income Tax (Inv.). That the petitioners could not even provide any documentary proof that the petitioners have provided the said alleged revocation order/letter dated 17.10.2012 between 2012 and 2020.

xxx xxx xxx"

7. Perusal of the aforesaid stand on behalf of respondent/Union Bank of India reveals that it was the objection of the bank that the petitioners had never shown or provided the official/original Revocation Order of the Income Tax Department. Thus, the respondent-bank could not verify the authenticity of the Revocation Order dated 17th October, 2012, which had been allegedly issued by the Office of the Assistant Director of Income Tax (Inv).

8. This Court notes that by order dated 07th October, 2022, statement of learned Standing Counsel for Income Tax has been recorded, wherein, the said Standing Counsel has stated, on instructions, that the Revocation Order dated 17th October, 2012 (wrongly recorded as 17th October, 2022 in the said order), was duly served on the Manager, Union Bank of India. The order dated 07th October, 2022 reads as under:-

"1. Mr. Zoheb Hossain, Standing Counsel for Income Tax, states on instructions that the revocation order issued vide F.No. ADIT(Inv.)/Unit-1(2)-2012-12 dated 17th October, 2022, was duly served on the Manager, Union Bank of India, 14-15, F-block, Connaught Place, New Delhi. Copy of an email thread/communication dated 4th October 2022, which annexes the said revocation order and also bears the proof of receiving, is also enclosed with the communication, and is handed over across the board. The same is taken on record.

2. In light of the above, list for further directions on 19th October, 2022.

3. Counsel for the Petitioner is directed to serve copy of the order passed today on the Manager, Union Bank of India.

4. Presence of Mr. Zoheb Hossain is dispensed with"

9. Reading of the aforesaid order clearly shows that the authenticity of the Revocation Order dated 17th October, 2012, has been verified by the Income Tax Department and the statement on behalf of Income Tax Department has been recorded in categorical terms that the said order of revocation, was duly served upon the Manager, Union Bank of India.

10. This Court also notes that the Revocation Order dated 17th October, 2012, as provided by learned Standing Counsel for the Income Tax Department on 17th October, 2022, was taken on record. The Revocation order dated 17th October, 2012, as issued by the Income Tax Department, reads as under:-

"Office of the
Assistant Director of Income Tax (Inv.),
Unit I(2), Room No. 276, E-2, ARA Centre,
Jhandewalan Extn., New Delhi.

F. No. ADIT (lnv.)/ Unit- 1(2)/2012-13/ Date: 17.10.2012

REVOCATION ORDER

Restraint Order u/s 132(3) of the Income Tax Act, 1961 was passed on 24.08.2012 in the case of Locker No 211, Union Bank of India, 14-15, F Block, Connaught Place, New Delhi in the name of Sh. Pradeep Garg and Smt Meenu Garg. The same are here by revoked on 17/10/2012.

Yours sincerely,

(Vikas Singh)
Asstt. Director of Income Tax (Inv.)
Unit-I(2), New Delhi."

11. The authenticity of the aforesaid Revocation Order dated 17th October, 2012, as issued by the Income Tax Department thereby revoking the Restraint Order on the locker No. 211 maintained with Union Bank of India, *14-15, F-Block, Connaught Place, New Delhi-110001* in the name of Sh. Pradeep Garg and Smt. Meenu Garg, i.e., the petitioners herein, has already been confirmed by the Income Tax Department.

12. Considering the aforesaid, there is no reason or ground for continuation of the restraint over the said locker and not allowing the petitioners to operate the said locker.

13. Accordingly, considering the fact that the Restraint Order with respect to the locker in question has already been revoked by the Income Tax Department, it is directed that the petitioners herein shall be granted access to the aforesaid locker and will be entitled to use their locker, in case there is no other legal impediment, with regard to the same.

14. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MAY 17, 2024
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