Tikam

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 587 OF 2025

Protractive in and out Advertising
Private Ltd. …Petitioner

Versus

The Principal Commissioner of Income Tax,
Mumbai -2 and Ors. …Respondents

Mr. Mihir Naniwadekar a/w. Ruturaj H. Gurjar for the Petitioner.

Mr. N.C. Mohanty, for the Respondent.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 4 March 2025

PC:-

1. Heard learned counsel for the parties.

2. This petition challenges an order dated 27 February 2023 made under section 127(2) of the Income-tax Act, 1961 ("the IT Act), transferring the petitioner's case from the jurisdictional officer in Mumbai to his counterpart in New Delhi.

3. Mr Naniwadekar, learned counsel for the Petitioner, fairly placed on record an order of this Court dated 7 January 2025 disposing of Writ Petition No. 2277 of 2023, and the

same is the order of the Hon'ble Supreme Court dated 3 February 2025 dismissing the SLP against the said order. However, he submitted that in Writ Petition No. 2277 of 2023 the contention about there being no agreement between officers of equal rank was neither raised nor decided.

4. Mr.Naniwadekar submitted that the records in the present case show some agreement between the Chief Commissioner and the Principal Commissioner who are officers of unequal ranks. He submitted that an agreement between officers of equal rank is a condition precedent for exercising of power under section 127(2) of the IT Act. He further submitted that mere absence of disagreement between the officers of coordinate rank is not equivalent to an agreement as contemplated under section 127(2) of the IT Act. In support of this contention, he relied upon ***Herambh Shelke v. ML Karmarkar*** [1]and ***Noorul Islam Educational Trust v. Commissioner of Income-tax-I***[2]***.***

5. Mr. Mohanty, learned counsel for the Respondents contended that the issue raised in the petition is squarely covered by the judgment and order dated 7 January 2025 in ***Writ Petition No. 2277 of 2023 [Laxminath Investment & Management Consultants Pvt. Ltd. vs. Principal Commissioner of Income Tax-4 & Ors.]***. He submitted that even in the present case, there was an agreement between two Principal Commissioners and the two Chief Commissioners. He submitted that there is no cogent ground to distinguish the order dated 7 January 2025, the SLP against which is now

1 **[2018] 96 taxmann.com 308 (Bom).**
2 **[2016] 76 taxmann.com 144 (SC).**

already dismissed. In this order, we have held that consolidation of all matters was a must, and there is no legal infirmity in the impugned order.

6. The rival contentions now fall for our determination.

7. Upon considering the rival contentions and the material on record, we are satisfied that no case is made to distinguish our order dated 7 January 2025 in the case of ***Laxminath Investment & Management Consultants Pvt. Ltd. (supra.).*** The reasoning in the ***Laxminath Investment & Management Consultants Pvt. Ltd. (supra.),*** including in particular the observations in paragraphs 15 to 20, would clearly apply, and based upon the same, no relief can be granted to the petitioner in the present case. Incidentally, even the decision in ***Noorul Islam Educational Trust (supra.)*** was considered and distinguished. Such reasoning applies equally in the present case as well.

8. Here, the records show that the proposal for transfer was first received from the PCIT, Central -II, New Delhi, on 7 October 2022. Based on such a proposal, a show cause notice was issued by the PCIT, Mumbai, on 24 January 2023. After that, as discussed in our order dated 7 January 2025, there were consultations followed by agreement even between the Chief Commissioners. Thus, records substantially bear out that there were agreements between the Principal Commissioners *inter se* and the Chief Commissioners *inter se.* The other requirements of section 127(2) were also complied with.

9. Besides, in this case, we cannot lose sight of the fact that centralisation was deemed essential in matters belonging to the Pacific Group or in matters where parties had nexus with the evasion carried out by the Pacific Group, resulting in considerable loss of revenue to the Exchequer. Therefore, consolidation was necessary on merits, and transfers were ordered with a view to such consolidation. By attempting to elevate the plea now raised to the status of the jurisdictional bar, we are not persuaded to exercise our extraordinary jurisdiction under Article 226 and stall or interfere with the transfer.

10. Apart from the fact that the jurisdictional parameters have been complied with in this case, we must add that our extraordinary and discretionary jurisdiction under Article 226 is generally not exercised merely upon making out of some legal points. Such jurisdiction is to be exercised only to promote justice. If justice is a by-product or even an erroneous exercise, it is not necessary that in every case, the writ court must interfere. Reliefs under Article 226 of the Constitution are essentially *ex-debito justitiae*.

11. This is a matter where this Court, after examining the consolidation process of which this case is but one of the matters, dismissed Writ Petition No. 2277 of 2023. The Hon'ble Supreme Court also rejected the Special Leave Petition against the said order. Besides, the SLP draft is not produced before us to see whether the ground was raised to challenge the judgment now sought to be distinguished. Therefore, based on the distinction now sought to be made, it

would not be appropriate to take a different view. In any event, even factually, we see little merit in the raised contention.

12. For all the above reasons, we dismiss this petition without any costs order.

(Jitendra Jain, J) **(M.S. Sonak, J)**