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

\+ W.P.(C) 1844/2008

SHRI VIRENDRA KUMAR JAIN .....Petitioner

Through: Mr. Shailendra Bhardwaj and Mrs. Aroma S. Bhardwaj, Advocates.

versus

THE COMMISSIONER OF SALES TAX DEPARTMENT & ORS. .....Respondents

Through: Mr. Anubhav Gupta, Panel Counsel for GNCTD.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

O R D E R

% **23.09.2025**

1. This hearing has been done through hybrid mode.

2. The present petition under Article 226 of the Constitution of India seeks the following prayers:

> "a) Issue an appropriate writ, order or direction in the nature of mandamus thereby directing the respondents 1 to 3 to provide information to the petitioner with regard to assessment of sales tax of M/s. D.C.M. Ltd. Kanchanjunga Building, 18, Barakhamba Road, New Delhi for the period 1986-87, 1987-88, 1988-89 and 1989-90; and
> b) pass such other and further order which may be deemed fit and proper in the facts and circumstances of the case"

3. The grievance of the petitioner is that his late father, Sh. O.C. Jain had provided information to the department with regard to the invasion of sales tax by M/s DCM Ltd. and on the basis of the said information, an additional

demand of Rs. 44 Crores was raised against M/s DCM Ltd. It is the case of the petitioner that the Delhi Administration *vide* a Notification No. F.3/77/69/Fin.(C) dated 28.12.1970 had provided that an informant is entitled to a reward of up to 10% of the tax realized on the basis of the information provided to the Department. It is submitted that the petitioner's father, late Sh. O.C. Jain, on the basis of his claim of providing the information as pointed out hereinabove, had filed a Civil Suit bearing no. 2154/1995 before this Court, for rendition of accounts, *inter alia,* praying therein to determine the reward amount payable to him for the services rendered by him. During the pendency of the aforesaid suit, the petitioner's father passed away on 08.01.2004 and the petitioner herein was impleaded as legal heir in the said suit.

4. The aforesaid suit was dismissed by a Learned Single Judge of this Court *vide* order dated 19.12.2006 on the ground that the notified scheme envisages realisation of the evaded tax before an informant would be given any reward and till that day, no realisation had been effected by the concerned Sales Tax Authorities. It was further observed, in the aforesaid order, that the cause of action would accrue under the said scheme, once the tax was realised by the department and the realisation then, could be linked to the special information provided by the informant.

5. The petitioner, thereafter, filed an application dated 16.04.2007, registered as ID No. 263, under the Right to Information Act, 2005 (**"RTI Act"**) before the competent authority *i.e.* respondent No. 3, seeking information with regard to the assessment of sales tax of M/s DCM Ltd. for periods, 1986-87, 1987-88, 1988-89 and 1989-90. It is submitted that the aforesaid information was sought to support the claim of the petitioner's late

father that the department had raised an additional demand of Rs. 44 Crores against M/s DCM Ltd.

6. By way of the aforesaid application, the petitioner sought for the following information: -

> "i. Information with regard to assessment of sales tax of M/s. DCM limited Kanchanjunga Building, 18, Barakhambha Road, New Delhi for the period 1986-87, 1987-88 and 1989-90.
>
> ii. The amount of additional demands raised for each individual?
>
> iii. The amount of additional tax assessed for each individual year by the Sales Tax Department. The amount of additional tax deposited/realized for each individual year?
>
> iv. Whether any appeal has been filed by the said company against the additional assessment by the Sales Tax Department for each individual year?"

7. *Vide* order dated 15.05.2007, the Additional Commissioner III and Public Information Officer informed the petitioner that his application dated 16.04.2007 cannot be entertained, as the information sought could not disclosed to him as disclosure of same is prohibited under Section 98 of the Delhi Value Added Tax Act, 2004 (**"DVAT"**) and Section 8(1)(d) of the RTI Act.

8. Subsequently, the petitioner filed an appeal dated 25.05.2007, bearing Appeal no. 25/RTI/CTT/2007, before the First Appellate Authority *i.e.* respondent no. 2, under Section 19 of the RTI Act. The Petitioner by way of the said appeal, challenged the aforesaid order dated 15.05.2007 on the ground that the information sought did not fall within the restrictions contained in the aforesaid provisions of law. The said appeal was dismissed *vide* order dated

20.06.2007 on the ground that the supply of information as requested by the petitioner was of commercial confidence and that the disclosure of the same would not serve any public interest.

9. Thereafter, the petitioner preferred a second appeal dated 04.07.2007, bearing no. CIC/AT/A/2007/00865, before the Second Appellate Authority i.e. respondent no. 1, under Section 19(3) of the RTI Act. The Petitioner preferred the said appeal, on the ground that the First Appellate Authority had committed an error in not appreciating that the information sought by the petitioner did not fall within the restrictions of the provisions mentioned hereinabove and further, that the supply of said information would not amount to information relating to commercial confidence, as it was on the basis of the information provided by the petitioner's father an additional demand of Rs. 44 Crores was raised against M/s DCM Ltd. However, the second appeal was dismissed *vide* order dated 06.10.2007 by the learned Central Information Commission.

10. *Per contra*, the counter affidavit dated 12.09.2008 filed on behalf of the respondents, it is reiterated that the information sought by the petitioner could not be provided in view of the aforementioned provision. It is a categorical stand of the respondents that the petitioner's father neither provided any worthwhile/ concrete information which resulted in any additional tax being levied by the department nor did the said information lead to any detection of evasion of a tax, whatsoever. Similarly, in the additional affidavit dated 03.02.2011, filed on behalf of the respondents, it is recorded as under: -

> "4. That for the four years the original assessment orders were passed on the basis of books of accounts and the returns filed by the assessee. In all the cases, Appellate Authority remanded the matter on

various grounds, like in some cases the missing statutory forms were made available before the Appellate Authority and therefore, was remanded to the assessing authority to reconsider the same. The Appellate Authority rejected the contention that this bifurcation of the company into four companies under the directions of the High Court amounts to sale of the company. In all the four years, remanded orders were also passed by the Assessing Authority keeping in mind the decision of the Appellate Authority. It is submitted that whatever the tax demand has been raised under the Central Act and the Local Act for the assessment years 1986-87 to 1989-90 stood paid by the assessee even before the remanded assessment was finalized. It is submitted that there is no extra ordinary demand of sales tax from the assessee in these years. These are the normal demands as per the business of the assessee.

5. That no extra tax has been recovered from the assessee which could attribute on the basis of an information given by the petitioner's father.

6. That since petitioner's father had filed a suit for recovery in the High Court which ultimately was dismissed. The matter was placed before a Committee of senior officers of Commissioner Sales Tax, Additional Secretary (Finance), Vigilance Officer and Assessment Officer of Ward 07 to look into the provisions of scheme, the complaints and whether the demand or assessment is on the basis of any information given by the petitioner's father. The Committee after going through the complaints and the orders of bifurcation passed by the High Court came to the conclusion that the assessment order clearly revealed dealer was assessed in the normal manner based upon the documents furnished by dealer during the course of the assessment. It also came to the conclusion that assessment was made on the basis of sales version as disclosed in the sales statement of the assessee itself. There is no material while assessing the dealer by the Assessing Authority which might have been recovered with the assistance of the complainant and form the basis of assessment. These were all routine assessment which was made on the material supplied by the assessee through his books of accounts only and, therefore, committee clearly came to the conclusion that there is no clear nexus between the information proportionately furnished by Shri Jain and additional tax demand during the assessment. Copy of the report is annexed as **Annexure R-2**."

11. Heard learned counsels for the parties and perused the record.

12. The first appeal filed on behalf of the petitioner was dismissed *vide* an order dated 20.06.2007 by learned First Appellate Authority under RTI Act by observing as under: -

> "7. The appeal was finally heard by the appellate authority on 06.06.07 in presence of Shri Virendra Kumar Jain, the appellant. After hearing the appellant and going through the material available on record, including the reply of M/s DCM Ltd., who have objected to the supply of the said information to Sh. Virendra Kumar Jain, it is observed that the above mentioned information as requested by the appellant does not in any way serve any larger public interest and the information available with Department of Trade & Taxes is of commercial confidence in nature in terms of section 98 of Delhi Value Added Tax Act, 2004 and the disclosure of this information has no relationship to any public activity or interest. The section 98 (1) of Delhi Value Added Tax Act, 2004 is reproduced as under:
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> ***"98. Returns, etc., to be confidential.- (1) All particulars contained in any statement, made, return furnished or accounts or documents produced in accordance with this Act, or In any record of evidence given in the course of any proceedings under this Act, other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof."***
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> Section 8.(1)(d) and 8.(1)(j) of RTI Act, 2005 which also prohibits the disclosure of information under certain circumstances are reproduced below:-
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> ***8.(1)(d) "Information including commercial confidence, trade secrets or Intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority Is satisfied that larger public interest warrants the disclosure of such Information;"***
> ***8.(1)(j) "Information which relates to personal information the***

disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:"

> **<u>Decision:</u>**
> 8. Accordingly, I am of the considered view that supply of information as requested by the appellant is of commercial confidence and disclosure of this information will not serve any public interest whatsoever. Thus, the decision of PIO is not disturbed. The appeal is, therefore, dismissed. If unsatisfied, the appellant may appeal to the Commission within 90 days from the date of this order at:
> "Central Information Commission, Department of Personal & Training, Block No.4, 5th floor, Old JNU Campus, New Mehrauli Road, New Delhi-11 0067"

13. Subsequently, the second appeal was also disposed of *vide* order date 06.10.2007, by observing as under: -

> "3. The type of information requested by the appellant is covered by the ratio of the Commission's decisions in income tax matters in the case of *Mrs. Shobha R. Arora Vs. Income Tax, Mumbai: Appeal No. CIC/MA/A/2006/0 0220; Decision No. 1191/C(A)/2006: Date of Decision : 14.7.2006 and Ms. Neeru Bajaj Vs. Income Tax; Appeal Nos.CIC/AT/A/2006/00644 & CIC/AT/A/2006/00646; Date of Decision 21.2.2007*."

14. This Court has also examined the information sought by the petitioner and the relevant provisions as pointed out hereinabove. Learned counsel for the petitioner has submitted that the case of the petitioner would be covered under **Section 98 (3)(d) of the DVAT**, which reads as under: -

"**98. Returns, etc. to be confidential:**

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(3)(d) of any such particulars to a civil court in any suit or proceeding to which the Government or any Value Added Tax authority is a party and which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorising any Value Added Tax authority to exercise any powers thereunder;"

15. A bare perusal of the aforesaid provision would show that the exception is with regard to certain proceedings pending before the Civil Court to which the Government or any Value Added Tax Authority is a party. In the present case, there was no direction from any Court to provide the information as sought by the petitioner. In these circumstances, this Court finds no reason to interfere with the orders passed by the Appellate Authorities. It is further noted that the department has taken a categorical stand that there was no realisation of any evaded tax on the basis of the information given by the petitioner's late father. Moreover, the information as sought in the present petition, as pointed out hereinabove has already been adjudicated upon by the concerned Authorities under RTI Act holding that the same cannot be supplied to the petitioner in view of the provisions of Section 98 of the DVAT and Section 8(1)(d) of the RTI Act.

16. In these circumstances, the present petition is dismissed and disposed of.

17. Needless to state that the petitioner is always at liberty to take recourse to any other appropriate remedies, if any, available or permissible in law.

18. Pending application(s), if any, also stands disposed of.

19. Order be uploaded on the website of this Court *forthwith.*

AMIT SHARMA, J

SEPTEMBER 23, 2025*/bsr/sg*