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

\+ W.P.(C) 14172/2022, CM APPL. 43307/2022

SARWAR RAZA .....Petitioner

Through: Mr. Sarwar Raza, Adv. (petitioner in person)
Mr. Nabil Raza ad Mr. Shreya Kumar, Advs.

versus

DEPUTY DIRECTOR OF INCOME TAX INVESTIGATION & ORS. .....Respondents

Through: Mr. Indruj Singh Rai, SSC, Mr. Sanjeev Menon and Mr. Rahul Singh, JSCs and Mr. Gaurav Kumar, Adv.
Mr. Raj Kuma Yadav and Ms. Preeti Gothwal, Advs. for UOI

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\+ W.P.(C) 12976/2024, CM APPL. 54092/2024

SARWAR RAZA .....Petitioner

Through: Mr. Sarwar Raza, Adv. (petitioner in person)
Mr. Nabil Raza ad Mr. Shreya Kumar, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX & ORS. .....Respondents

Through: Mr. Siddhartha Sinha, SSC and Ms. Easha Gurung, JSC
Mr. Raj Kuma Yadav and Ms. Preeti Gothwal, Advs.
Mr. Sahaj Garg, SPC for R-5/UOI

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

<u>O R D E R</u>

% 03.02.2026

1. Both these writ petitions are interlinked, hence, being taken up for consideration together.

2. The first writ petition being W.P.(C) No. 14172/2022 has been filed by the petitioner impugning the search proceeding itself, which has been conducted by the Deputy Director of Income Tax (Inv.), Faridabad (DDIT) from 29.06.2022 to 30.06.2022, the last warrant of authorization was issued by Additional Director of Income Tax (Inv.) Faridabad on 17.08.2022 under Section 132 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*). The basic plank of questioning the search proceedings is that the respondent-DDIT did not have any prior information to form an opinion that there is likelihood of escaped income or creation of assets by the petitioner.

3. The second writ petition being W.P.(C) No. 12976/2024 essentially challenges the proceedings under Section 127 of the Act of 1961 and their culmination vide order dated 19.02.2024, whereby the petitioner's assessment was first transferred to Deputy Commissioner of Income Tax, Central Circle-1, Faridabad and then to Deputy Commissioner of Income Tax, Central Circle-2, Faridabad vide order dated 27.02.2024.

4. The petitioner who is a practising lawyer of this Court, at the outset submitted that the petitioner is having a Permanent Account Number (PAN) is a regular assessee and his assessment is being done by the respondent-Assessing Officer, Ward 52(1), New Delhi (AO).

5. He submitted that a search operation was conducted under Section 132

of the Act of 1961 at the premise of Pavel Garg and Others on 29.06.2022 in furtherance whereof a survey was initially conducted at petitioner's premises and a summon under Section 131 of the Act of 1961 of even date was issued to the petitioner, whereafter the same was converted to a search under Section 132 of the Act of 1961.

6. He submitted that though, the same was without application of mind but was perhaps initiated because of a flat, which the petitioner had purchased at E-13, First Floor, Kalindi Colony, New Delhi–110065.

7. Be that as it may, the other facts are not relevant, considering the order which we propose to pass in both these writ petitions.

8. Much water has flown down the river, as the search was conducted in the year 2022, whereafter the order of transfer of jurisdiction was passed by PCIT, Delhi-12 on 19.02.2024 from petitioner's AO to DCIT, Central Circle-1, Faridabad followed by a subsequent transfer order from DCIT, Central Circle-1, Faridabad to DCIT, Central Circle-2, Faridabad vide order dated 27.02.2024 passed by the PCIT(Central), Gurgaon. It is noteworthy that in the meantime, assessment order has been passed by the ACIT, Faridabad first and the petitioner has preferred an appeal which is pending before the Appellate Authority-Commissioner of Income Tax (Appeals), Gurugram.

9. Although, the grounds which have been raised by the petitioner in relation to the correctness and proprietary of the order dated 19.02.2024 that the PCIT, Delhi-12 has not recorded any reason so as to conform to the provisions of Section 127 of the Act of 1961 are having substance, but since an order has been passed, against which an appeal has been filed before the Appellate Authority, we do not propose to enter into the same. Because even if petitioner's writ petition is allowed, the matter will have to be remanded

back to the PCIT, Delhi-12 for passing fresh order and the matter will be restored back to the petitioner's regular assessing authority(AO) at Ward 52(1), New Delhi.

10. On Court's above observation, the petitioner submitted that rather than undergoing the rigmarole of assessment proceedings altogether given the fact that the petitioner, a lawyer has to spend time & energy, he would prefer that appropriate direction be issued to the Appellate Authority to decide the appeal which is pending before the CIT(A), Gurugram and till the appeal is decided, the recovery proceedings pursuant to the re-assessment orders dated 31.03.2024 for two Assessment Years (AYs) 2020-21 and 2022-23 which have been passed during the period interregnum, be stayed.

11. Learned Counsel for the respondents though, opposed the petition on merit but considering that we are inclined to dispose of the matter in the manner stated above, he submitted that the respondents do not mind if a direction is issued to the Appellate Authority to decide the appeal on priority basis.

12. Having regard to the facts and circumstances of the case and the manner in which the petitioner's case has been transferred and the re-assessment orders have been passed so also the fact that the petitioner has always co-operated with the assessing authority/Department and even during the search and seizure proceedings, we deem it appropriate to direct the Appellate Authority to decide petitioner's above referred two appeals within a period of six months from today. Until the disposal of the appeals, no coercive action shall be taken against the petitioner for recovery of the outstanding demand. The petitioner shall not be required to deposit 10% of the demand, as has been ordered by the CIT(A), Gurugram.

13. Both these writ petitions stand disposed of accordingly.

14. Pending applications are also disposed of.

15. Needless to state that we have not made any observation about the merit of the assessment order/re-assessment orders, which shall be independently examined by the AO.

DINESH MEHTA, J.

VINOD KUMAR, J.

FEBRUARY 3, 2026/*ss*