

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

W.P.(C) 1631/2006

M/S SUPERIOR EXIM P.LT.D
Through..... Petitioner
Dr. Rakesh Gupta & Mr. Jitendera
Saini, Advocates

versus

COMMISSIONER OF INCOME TAX DEL Respondent
Through Mr. Sanjeev Sabharwal, Advocate**CORAM:****HON'BLE MR. JUSTICE MADAN B. LOKUR**
HON'BLE MR. JUSTICE VIPIN SANGHI**ORDER**
28.07.2006

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The grievance of the Petitioner is against an order dated 23rd September, 2005 passed by the Commissioner of Income Tax under Section 127 of the Income Tax Act, 1961.

By the impugned order, the Commissioner transferred the case mentioned in the order from the Assessing Officer in ITO Ward 9 (4), New Delhi to the Assistant Commissioner of Income Tax, Central Circle, Meerut.

According to the Petitioner he was not given any notice of the transfer nor was he even heard in the matter. These contentions are not disputed by the learned counsel for the Revenue.

We find that a similar issue had arisen in ***M/s Nitin Developers & Construction vs. Commissioner of Income Tax, Delhi*** in W.P (C) No. 20459/2005 decided on 18th May, 2006. In that case also, an order



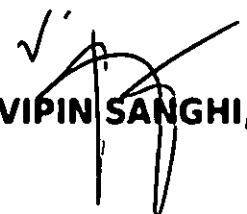
passed under Section 127 of the Income Tax was under challenge and no show cause notice had been given to the Petitioner. This court accordingly allowed the prayer made in that writ petition for quashing the order passed under Section 127 of the Act.

Following the view laid down by this Court in *M/s Nitin Developers & Construction vs. Commissioner of Income Tax*, we also quash and set aside the order dated 23rd September, 2005 passed by the Respondents under Section 127 (2) of the Act.

The writ petition is accordingly allowed.

The Respondents will, however, be at liberty to take appropriate action, if so advised after issuing show cause notice to the petitioner and proceed in accordance with law.


MADAN B. LOKUR, J


VIPIN SANGHI, J

JULY 28, 2006
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