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% 24.10.2008

Present: Mr C.S. Aggarwal, Sr Advocate with Mr Prakash Kumar
for the Petitioners.
Mr R.D. Jolly for the Respondent.

+ CM APPL Nos. 14691/2008, 14694/2008, 14700/2008,
14702/2008, 14704/2008, 14706/2008, 14708/2008 & 14710/2008

Allowed subject to all just exceptions.

+ WP (C) No. 7600/2008 & CM No.14690/2008,
WP (C) No. 7602/2008 & CM No.14693/2008,
WP (C) No. 7605/2008 & CM No.14699/2008,
WP (C) No. 7606/2008 & CM No.14701/2008,
WP (C) No. 7607/2008 & CM No.14703/2008,
WP (C) No. 7608/2008 & CM No.14705/2008,
WP (C) No. 7609/2008 & CM No.14707/2008 &
WP (C) No. 7610/2008 & CM No.14709/2008.

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These writ petitions arise out of the common order dated 13.10.2008 passed by the Deputy Commissioner of Income-tax, Central Circle-13, New Delhi purportedly under Section 281-B of the Income-tax Act, 1961 (hereinafter referred to as 'the said Act'). By virtue of the said order, various movable and immovable properties said to belong to the petitioners have been put under provisional attachments for a period of six months. In the order, it is indicated that assessments under Section 153-A of the said Act for



the assessment years 2000-01 to 2006-07 are pending. It is further indicated that a perusal of the information gathered in the case reveals that a huge demand is likely to be created after completion of the assessments for which the last date is 31.12.2008.

2. The learned counsel for the petitioners contended that the proceedings under Section 153-A of the said Act are itself time barred and this objection had been taken before the Assessing Officer, but the Assessing Officer has not adjudicated upon the issue. Apart from this, the learned counsel for the petitioners submits that in respect of four assessees, namely, ALM Exports, ALM Infotech City Pvt. Ltd, ALM Global Finlease Limited and Rendezvous Commercial Mall Private Limited, no search was conducted and, therefore, the proceedings under Section 153-A itself cannot be said to be pending in law.

3. The learned counsel for the petitioners, however, submitted that the interest of the revenue must be protected and towards this end he has instructions to state that the immovable properties mentioned at S. Nos. 2, 3, 4 and 5 of the impugned order shall not be transferred or alienated. Furthermore, no third party interest would



be created in those properties nor would the assesseees / petitioners part with possession in respect thereof either in whole or in part. No charge shall also be created on the said properties. Insofar as the properties mentioned at S.No. 1 is concerned, the learned counsel for the petitioners submits that it does not belong to any of the petitioners. Consequently, we are not required to pass any orders in respect of the property mentioned at S.No.1. Insofar as the other properties at S.Nos. 2, 3, 4 and 5 are concerned, the petitioners shall file undertakings in accord with the statements given above within a week. The petitioners shall also give an undertaking that all the bank accounts mentioned at S.Nos. 1 to 16 shall be operated only for the purposes of running the business of the petitioners. They shall keep full and complete record of all the transactions and the bank accounts shall not be utilized for any other purpose except for the purposes of ordinary course of business.

4. The impugned order is modified to the aforesaid extent and the directions given herein shall operate till 10 days after the passing of the assessment order.

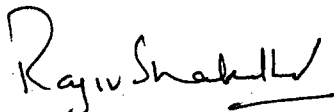


With these directions, these writ petitions stand disposed of. It is obvious that the provisional attachment order operates only in respect of the assesseees and their shares in the movable and immovable assets indicated in the impugned order.

All the interim applications also stand disposed of.

Dasti under the signatures of the Court Master.


BADAR DURREZ AHMED, J


RAJIV SHAKDHER, J

October 24, 2008

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