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

+ **W.P.(C) 5873/2022**

RATUL PURI

..... Petitioner

Through: Mr. Rajiv Nayyar, Sr. Adv with Mr. Vijay Aggarwal, Mr. Hardik Sharma, Mr. Vaibhav Mishra and Mr. Pankush Goyal, Advocates (M: 8527719711).

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Asheesh Jain, CGSC with Mr. Gaurav Kumar and Ms. Ankita Kedia, Advocates for R-1 to 3 (M: 9811125100).

Mr. Kush Sharma and Mr. Shubhankar, Advocates for Bank of Baroda (M: 9871177024).

Mr. Zoheb Hossain, Sr. Standing Counsel for Revenue and Mr. Sanjeev Menon, Jr. Standing Counsel for Revenue (M: 9999711099).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **05.04.2023**

1. This hearing has been done through hybrid mode.

CM APPL. 13018/2023 (for permission to travel abroad)

2. The present application has been filed by the Petitioner seeking permission to travel for two business meetings and for meeting his daughter in the USA. The itinerary for the travel is set out below:-



Date	Place of Visit	Purpose of Visit
13.04.2023 to 17.04.2023	Lisbon, Portugal	For attending Annual Chapter Retreat, YPO
17.04.2023 to 18.04.2023	Los Angeles & San Francisco in California, USA	Meeting with Mr Himmat Dhaliwal from Liquagen Water Technology
19.04.2023 to 27.04.2023	New York, USA	Meeting with daughter

3. The case of the Petitioner is that he has business meetings which have been fixed in Lisbon, Portugal and in California and New York, USA. His daughter is also studying in the USA. Accordingly, the Petitioner prays for permission to travel in terms of the above itinerary.

4. Ld. Sr. Counsel Mr. Nayar places reliance on two orders passed by the Id. Division Bench of this Court in Order dated 24th March 2023 in ***W.P. (C) 3816/2023*** titled '***R. D. Puri v. Deputy Director of Income Tax (Inv) Unit***' relating to the proceedings under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ('*Black Money Act*') and Order dated 29th March 2023 in ***W.P. (C) 3871/2023*** titled '***R. D. Puri v. Assistant Commissioner of Income Tax Central***' in respect of the assessment being currently carried out by the Income Tax Department. He further submits that the Petitioner is willing to secure or provide security in



terms of the previous orders of this Court, by the companies of the Petitioners which own significant amount of moveable and immovable assets. It is thus prayed that he be permitted to travel abroad.

5. Mr. Zoheb Hossain, Id. Standing Counsel appearing for the Respondents submits that the proceedings under the Black Money Act and the investigation by the Income Tax Department are currently continuing. Various Foreign Tax and Tax Research (FT&TR) notices/references under the Black Money Act have been issued in respect of the Petitioner and information has been sought from several countries in respect of the Petitioner's assets including from USA, Singapore, Germany, UAE, Mauritius and Switzerland. The replies for the same are still awaited by the Respondents. Further, the Income Tax Department has also learnt of various foreign bank accounts which are controlled by the Petitioner. Thus, his travel in terms of the above itinerary, especially to the USA, could jeopardize the investigation.

6. Heard. The Petitioner has been given permission to travel abroad by this Court on three occasions, vide previous orders dated 20th April, 2022, 24th August, 2022 and 14th December, 2022 as modified vide order dated 20th December, 2022.

7. The Court has also been informed of the *Writ Petition (Crl.) 5/2020* titled '*R.D. Puri v. Union of India*' wherein vide order dated 13th January, 2020 passed by the Supreme Court, a direction has been issued that no coercive action shall be taken against the Petitioner.

8. Insofar as the present Look-out Circular ('LOC') issued by Respondent No. 2- Bureau of Immigration, at the behest of Income Tax Department against the Petitioner is concerned, the same has been issued in



view of the proceedings under the Black Money Act. In respect of the said proceedings, the Petitioner has filed **W.P. (C) 3816/2023** titled '**R. D. Puri v. Deputy Director of Income Tax (Inv) Unit**' wherein the Petitioner has challenged the show cause notice dated 22nd February, 2021 and also the constitutional validity of Section 72(c) of the Black Money Act. In the said proceedings, the following order has been passed by the Ld. Division Bench, on 24th March, 2023:-

"1. At the outset, learned Senior Counsel appearing for the Petitioner has informed this Court that, in an identical matter i.e. W.P.(C) 217/2022 titled as Mr. Mohit Jain vs. Dy Director of Income tax INV & Ors., a Coordinate Bench of this Court has passed an Interim Order dated 06.01.2022 which reads as under: "The hearing has been done by way of video conferencing.

Present writ petition has been filed challenging the order dated 8th December, 2021 passed by the Respondents under Section 10 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 [for short 'Black Money Act'], read with impugned demand notice dated 8th December, 2021 and impugned penalty notice dated 7th December, 2021. Petitioner also seeks to challenge the first proviso to Section 3(1) and Section 72(c) of the Black Money Act as being arbitrary, unreasonable & violative of the Petitioner's rights under Articles 14, 19 & 20 of the Constitution of India.

Learned counsel for the Petitioner states that impugned assessment order which has been passed under the provision of Black Money Act is flawed. He states that the present petition raises issues concerning wrongful assumption of jurisdiction by the Assessing Officer under the Black Money Act and the violation of the principles of natural justice.

He points out that in a number of similar matters,



being W.P.(C) Nos. 1503, 1692,1693, 5012, 5007, 5170, 5294, 5559, 5561 of 2021, while issuing notices interim orders have also been passed.

Issue notice

Mr. Ajit Sharma, Advocate for Revenue and Mr. Ravi Prakash, Advocate for Respondent No.2 accept notices. Mr. Sharma, learned counsel for the Revenue states that as the assessment order has already been passed, the petitioner should be directed to file an appeal. However, keeping in view the fact that number of similar writ petitions have been entertained by Coordinate Benches, this Court directs the respondents to file their counter affidavits before the next date of hearing.

List on 13th January, 2022 along with other connected matters.

Till further orders, there shall be a stay of the operation of the impugned assessment order.”

2. The Petitioner before this Court has challenged the Show Cause Notice dated 22.02.2021 as well as constitutional validity of Section 72 (c) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

3. A Coordinate Bench of this Court has already passed an Interim Order in an identical matter, and therefore, in order to maintain parity, it is ordered that Petitioner may participate in the Assessment Proceedings pursuant to the notice issued under Section 8 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. However, till the next date of hearing, no final Order of assessment be passed in the matter.

4. Learned Counsel appearing for Income Tax Department prays for and is granted two weeks' time to seek instructions in the matter.

5. List on 27.04.2023.”

9. In the proceedings against notices dated 29th and 30th September



2021 passed under Section 153C of the Income Tax Act, 1961, vide order dated 29th March, the following order has been passed by the Id. Division Bench:-

- “2. *We have heard the matter briefly.*
3. *Mr Zoheb Hossain, senior standing counsel, who appears on behalf of the respondents/revenue, says that he will need to obtain instructions in the matter.*
4. *Accordingly, list the matter on 04.05.2023.*
5. *In order not to put the respondents/revenue in a legal logjam concerning the expiry of limitation for carrying out assessment, for the moment, the reassessment proceedings are stayed.*
6. *We make it clear that it this not an expression of our view on the merits of the matter.”*

10. Vide order dated 14th December 2022, the Petitioner had placed on record details of his shareholding in 15 companies, including Indian Hydro Electric Power Private Limited and Cobol Technologies Private Limited (*‘the said companies’*). Vide order dated 17th March 2023, it was directed that the affidavits on behalf of the said companies, whose properties are being offered as securities, be handed over to Id. Counsel for the Respondents in order to enable them to make verifications.

11. Today, the two affidavits dated 18th March 2023 on behalf of Indian Hydro Electric Power Private Limited and Cobol Technologies Private Limited have been placed on record, which are duly sworn by one Mr. Rakesh Tiwari, the director of the said companies. In terms of the said required affidavits, the following undertaking has been given on behalf of the said two companies:-

- “3. *As certified by a Chartered Accountant in his certificate dated 16 March 2023, “the value of immovable properties (Gross Block) in Indian Hydro*



Electric Power Private Limited and Cobol Technologies Private Limited and their subsidiaries as per last audited financial (i.e. financial year ended 31st March 2022) is INR 787.66 Crore.” The said CA certificate dated 16th March 2023 is annexed herewith as Annexure-A1.

10. *Since Mr. Puri is undertaking the aforesaid travels at the instance, request and on behalf of the Company and the HP Group and to further the business interests and prospects of the Company and the HP Group, the Company deems it fit to make the following undertaking on his behalf in the following terms, in lieu of the aforesaid undertaking on his behalf qua his shareholding in different companies as recorded in the aforesaid orders dated 14 December 2022 and 20 December 2022 passed by this Hon'ble Court:*

(i) the Company undertakes not to alienate or dispose of or create any third-party rights in relation to any of its assets (except in the usual course of business), including its shareholding in HPPL during the period of Mr. Puri's travel and until his return on 28 April 2023;

(ii) the Company further undertakes to act as guarantee on behalf of Mr. Puri in the unlikely and unimaginable event that Mr. Puri chooses not to return to India and is thereafter declared absconder.”

12. The Court also notices from the chart handed over by Mr. Zoheb Hossain, Id. Standing Counsel, that the Petitioner has continuously appeared before the Income Tax Authorities and his statements have also been recorded from time to time. He however, expresses certain concerns in respect of travel to countries from where FT&TR references *qua* the Petitioner, is still pending i.e. in the present case USA. He submits that the Petitioner ought not to interfere in any manner in the said FT&TR reference



proceedings and dispose of any assets in the said countries, where the FT&TR references are pending.

13. It is further submitted by Mr. Hossein, that in respect of the father of the Petitioner, late Mr. Deepak Puri, a tax demand of Rs.62,80,86,700/- has been generated by the Income Tax Department.

14. Bearing in mind the overall facts and circumstances of this case and the cooperation which has been extended by the Petitioner from time to time in terms of participation in the investigation and the two ld. Division Bench orders as extracted above, and keeping in mind that the Court has vide three previous orders wherein granted the permission to travel abroad, the Court grants permission to the Petitioner to travel abroad in terms of the itinerary recorded above, subject to the following conditions:-

- i) The Petitioner shall travel abroad from 11th April, 2023 to 27th April, 2023 to Lisbon, Portugal as also California, USA and New York, USA in terms of the itinerary recorded above for the purposes as stated in the said itinerary.
- ii) The undertakings given on behalf of the two companies are accepted, and it is directed that *status quo* shall be maintained in respect of all the moveable/immovable properties of the said companies including, with respect to the title and possession.
- iii) The Petitioner shall furnish the copies of the documents relating to any immovable properties, valued at more than Rs.50 crores with the Registrar General of this Court. The said immovable property could be owned, either by the Petitioner or by any of the said companies. If there is any charge on the said property, the details of the same shall be provided in an affidavit to the Registrar General and



to all the Respondents.

iv) In addition, a fresh security for a sum of Rs.5 crore shall also be furnished to the Registrar General, in the form of a FDR.

v) The shareholdings of the Petitioner in the companies as recorded in paragraph 7 of the order dated 14th December, 2022 shall be maintained.

vi) Undertakings shall be furnished by the Petitioner to the Registrar General of this Court, to the following effect:

a. No third-party rights would be created in respect of the said property during the period of the Petitioner's travel abroad;

b. The travel itinerary handed over to the Court shall be adhered to;

c. The Petitioner shall return to India, not later than 30th April 2023.

vii) For the said period of travel, the Petitioner shall give the details of any telephone number which is active and used by him, and operational at all times, to the Registrar General of this Court;

viii) The Petitioner shall drop a pin on the Google Maps application to indicate his location to the concerned Investigating Officer;

ix) The Petitioner shall deposit the Passport of his wife with the Registrar General.

x) The Petitioner shall not, during the period of travel to the USA, interfere in any of the proceedings relating to the FT&TR references, which are pending with the respective authorities of the said countries.



xi) The Petitioner shall not alienate any moveable or immovable assets belonging to him or related to him or his businesses in any foreign country including the USA.

15. The application is disposed of with these above terms.

16. List before the Registrar for compliances and accepting of undertakings, on 6th April, 2023 at 2.30pm

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17. List before the Court date already fixed.

PRATHIBA M. SINGH, J

APRIL 5, 2023

mr/dn