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

+ **CRL.M.C. 2757/2023**

INCOME TAX OFFICE

..... Petitioner

Through: Mr. S.V. Raju, ASG with Mr. Zoheb Hossain, Sr. Standing Counsel with Mr. Sanjeev Menon, Jr. Standing Counsel with Mr. Ankit Bhatia, Mr. Vivek Gurnani, Ms. Sejal Aneja, Ms. Madhumithha K., Advocates.

versus

ANIL TUTEJA & ORS.

..... Respondents

Through: Mr. N. Hariharan, Sr. Advocate with Mr. Arshdeep Singh Khurana and Mr. Harsh Srivastava, Advocates for R-1. Mr. Rahul Tyagi, Advocate for R-4. Mr. Mohit Mathur, Sr. Advocate for R-5. Mr. P.Roychaudhuri, Advocate for R-8.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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19.04.2023

CRL.M.A. No.10324/2023 (Exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.M.C. 2757/2023 & CRL.M.A. No. 10323/2023 (Stay)

By way of the present petition under section 482 of the Code of Criminal Procedure 1973, the petitioner/Income Tax Office through



its DDIT (Inv.), Unit 1(4) seeks to impugn order dated 06.04.2023 made by the learned ACMM (Special Acts), Central District, Tis Hazari Courts, Delhi in criminal complaint case bearing Ct. Case No. 1183/2022.

2. The challenge in the present proceedings is limited to the extent, that by way of the impugned order, the criminal complaint alleging offences under sections 276C(1)/278 read with sections 278B/278E of the Income Tax Act, 1961 ('IT' Act) and sections 120B/199/200/204 of the Indian Penal Code, 1860 ('IPC'), has been returned on the ground that the learned ACMM has no territorial jurisdiction in relation to the said offences.
3. The petitioner also prays for a direction to the learned ACMM to take cognizance of *all* offences disclosed in the criminal complaint.
4. Mr. S.V. Raju, learned ASG appearing for the petitioner on instructions of Mr. Zoheb Hossain, learned Standing Counsel for the IT Department, submits that the learned ACMM has proceeded on a wrong appreciation of the allegations in the criminal complaint, and on a mis-application of the legal position, since it is contended, the learned Magistrate had territorial jurisdiction over *all* the offences in relation to *all* the accused persons named in the criminal complaint.
5. Issue notice.
6. Learned counsel, as above, appear on behalf of respondents Nos. 1, 4, 5 and 8 on advance copy; accept notice; and seek time to file reply.
7. Mr. N. Hariharan, learned senior counsel appearing for respondent No. 1 submits on instructions of Mr. Arshdeep Singh Khurana, learned counsel, that respondent No. 1 has filed a criminal revision



petition bearing Cr.Rev.No.224/2023 under section 397 Cr.P.C. before the learned Additional Sessions Judge impugning the same order dated 06.04.2023, in which proceedings the learned ASJ has been pleased to stay the operation of the said order till the next date of hearing before that court, which is 13.07.2023. It is accordingly submitted that since a challenge before the learned ASJ is already pending in relation to the same order, the present proceedings may be unnecessary.

8. It is further submitted by learned counsel appearing for respondent Nos. 1, 4, 5 and 8 that before approaching this court in its inherent jurisdiction under section 482 Cr.P.C., the petitioner ought to have exhausted the remedy of preferring a criminal revision petition under section 397 CrPC before the learned Sessions Court.
9. While noting the above submission, and since the revision petition has been filed before the learned ASJ by only one of the respondents, the question of whether the petitioner could have approached this court invoking its inherent powers without first preferring a criminal revision petition, will be considered after written response is received from all the respondents.
10. Upon the petitioner taking steps, let notice be sent to the unserved respondents by all permissible modes, returnable for the next date.
11. Let the notice indicate that replies to the petition be filed within 06 weeks; rejoinders thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
12. Since on an *ex-facie* reading of order dated 17.04.2023 made by the learned ASJ in Cr.Rev. No. 224/2023, it is seen that the operation of



impugned order dated 06.04.2023 has been stayed in its entirety, no interim order is called-for in the present proceedings, at least at this stage.

13. Re-notify on 31st July 2023.

ANUP JAIRAM BHAMBHANI, J

APRIL 19, 2023/uj