

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 18886 of 2023****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE BHARGAV D. KARIA****and****HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

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Approved for Reporting	Yes	No
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CHARTERED CAPITAL AND INVESTMENT LIMITED

Versus

PRINCIPLE COMMISSIONER OF INCOME TAX - 1, AHMEDABAD &
ANR.

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Appearance:

MR B S SOPARKAR(6851) for the Petitioner(s) No. 1

MR.VARUN K.PATEL(3802) for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI**Date : 07/10/2025****ORAL JUDGMENT****(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

[1] Heard learned advocate Mr. B.S.Soparkar for the petitioner and learned Senior Standing Counsel Mr. Varun K. Patel for the respondents.

[2] Having regard to the controversy

involved which is in narrow compass, with the consent of the learned advocates for the respective parties, the matter is taken up for hearing.

[3] Rule returnable forthwith. Learned Senior Standing Counsel Mr. Varun Patel waives service of notice of rule for the respondents.

[4] By this petition, under Article 226 of the Constitution of India, the petitioner has prayed for quashing and setting aside the order dated 29.09.2023 issued by the respondent under Section 127 of the Income Tax Act, 1961 (for short 'the Act').

[5] Brief facts of the present case are as under:

[5.1] The petitioner is a Public Limited Company, listed on Stock Exchange. A search operation was conducted under Section 132 of the Act in case of M/s Ravindu Motors Private

Limited, Mrs. Meena Kirloskar, Mr. Mohib N. Khericha (who is Managing Director of the petitioner - Company), Mrs. Janki Kirloskar and Mrs. Rukmani Kirloskar on 15.12.2022.

[5.2] The respondent - Principal Commissioner of Income Tax-1, Ahmedabad issued a notice on 11.04.2023 calling upon the petitioner as to why the PAN of the petitioner should not be centralized with ACIT/DCIT, CC 2(4), Bengaluru , while exercising jurisdiction under Section 127 of the Act.

[5.3] The petitioner filed objections by letter dated 19.04.2023 contending that no search was carried out in the case of the petitioner - Company and petitioner has no concern whatsoever with M/s Ravindu Motors Private Limited, Mrs. Meena Kirloskar, Mrs. Janki Kirloskar and Mrs. Rukmani Kirloskar. It was contended that Mr. Mohib Kericha who happens to be one of the Directors, but beyond that, even in the search in

his case, no incriminating material was found pertaining to or relating to the petitioner - Company.

[5.4] Thereafter, the respondent No.1 issued one more notice on 22.08.2023 informing that objections were supplied to DDIT (Inv), Unit-1(2), Bengaluru and the response was received and therefore, the reply of the petitioner was sought on the comments made by the DDIT.

[5.5] Though the notice dated 22.08.2023 referred to the comments dated 01.05.2023 of the DDIT, Bengaluru but the same was not provided to the petitioner. However, the copy of such comments was provided later on and therefore, the petitioner could file the objections by letter dated 29.08.2023 along with necessary documents, contending that CBDT Circular does not apply to the petitioner - Company as no search was carried out in case of the Company and reiterated the earlier objection.

[5.6] Respondent No.1 thereafter passed the impugned order dated 29.09.2023 disposing the objections and ordered to centralize the case of the petitioner under Section 127 of the Act by transferring to ACIT/DCIT, CC 2(4), Bengaluru.

[6] Being aggrieved, the petitioner has preferred this petition.

[7] This Court passed the following order on 06.11.2023:

"1. Draft amendment is allowed. To be carried out forthwith.

2. Heard learned Senior Counsel Mr.S.N.Soparkar for the petitioner.

3. Learned Senior Counsel Mr.S.N.Soparkar would assail the order dated 29.09.2023 on the ground that the only ground on which transfer of assessment is sought to be made in case of the petitioners is for the purposes of co-ordinating the investigation. He would submit that recording the reasons would indicate that merely because the search operation under section 132 of the Income Tax Act was conducted in the case of M/s.Ravindu Motors Private Limited wherein the petitioners had acted in their professional capacity and rendered advice, transfer of asseessment is sought to be done. Reliance is placed on several decisions, which are as under:

(i) Kamal Varandmal Galani Vs. Principal Commissioner of Income-Tax reported in [2023]152 taxmann.com 340 (Bombay)

(ii) Farooq Ali Khan Vs. Principal Commissioner of Income-Tax, Bengaluru reported in [2015]59 taxmann.com 74 (Karnataka)

4. Karnataka High Court in the case of Farooq Ali Khan (supra) has considered the decision of Hon'ble Supreme Court in Para-11 and 12, which read as under:

"11. Hon'ble Apex Court in the case of Ajantha Industries v CBDT [1976] 102 ITR 281 has held that while making an order of transfer under Section 127 of the Act requirements of recording reasons is mandatory and non communication of same to the assessee would not save such order by showing that reasons existed in file although not communicated to assessee. It has been held by the Hon'ble Apex Court in the said judgment to the following effect:

"The reasons for recording of reasons in the order and making these reasons known to the assessee is to enable an opportunity to the assessee to approach the High Court under its writ jurisdiction under article 226 of the Constitution or even this court under article 136 of the Constitution in an appropriate case for challenging the order, inter alia, either on the ground or special leave mala fide or arbitrary or that it is based on irrelevant and extraneous considerations. Whether such a writ or special leave application ultimately fails is not relevant for a decision of the question.

We are clearly of opinion that the requirement of recording reasons under section 127(1) is a mandatory direction

under the law and non communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee."

"When law requires reasons to be recorded in a particular order affecting prejudicially the interests of any person, who can challenge the order in court, it ceases to be a mere administrative order and the vice of violation of the principles of natural justice on account of omission to communicate the reasons is not expiated."

12. Now turning my attention back to the facts on hand when impugned order is perused it would indicate that there are no reasons forthcoming from the impugned order as to why the assessment proceedings of the petitioner pending before the jurisdictional Assessing Officer at Bengaluru is being transferred to Assessing Officer at Mumbai, except indicating that "transfer is being effected to facilitate effective and coordinate the investigations in the connected case of petitioner", in which search and seizure operations under Section 132 of the Act was conducted on 24.02.2014 by the Director of Investigations, Mumbai. This would not satisfy the criteria of reasons as indicated under Section 127 of the Act or the dicta laid down by this Court as well as by the Hon'ble Apex Court in the cases referred to hereinabove. In that view of the matter, I am of the considered view that it would suffice and meet the ends of justice if the impugned order is set aside and matter is remitted back to the Principal Commissioner of Income Tax, Bengaluru-560 006 to redo the matter after affording opportunity to petitioner. If further objections, if any, is filed to proposed transfer same shall also be considered. It is also made clear that no fresh notice for

personal hearing shall be issued to petitioner by first respondent and petitioner shall appear before the Principal Commissioner of Income Tax, Bengaluru - 560 006 (first respondent herein) on 11.05.2015 at 11.00 a.m. and after hearing petitioner or his authorized representative first respondent shall proceed to pass orders on merits and in accordance with law. No opinion is expressed with regard to merits of the case."

5. Issue Notice to the respondents, returnable on 28.11.2023. Assessment shall continue, however, no final assessment order shall be passed without the permission of the court. Direct service is permitted."

[8] Learned advocate Mr. B.S.Soparkar for the petitioner submitted that shifting of the PAN of the petitioner- Company is not justified as there are no financial transactions in connection with M/s Ravindu Motors Private Limited. It was submitted that the reliance placed in the impugned order on the CBDT Circular dated 24.05.2023 would not apply to the facts of the case in view of the following four reasons:

- i. Circular relates to "compulsory selection of returns for complete scrutiny during FY 2023-24" and it is not issued for "centralisation

of search cases". It was pointed out that search was conducted on 15.12.2022, whereas Circular for that period i.e. for FY 2022-23 issued by CBDT Circular dated 11.05.2022, which provides that the jurisdiction of the appropriate assessee be transferred to the "Central Charge" and not with the jurisdiction be transferred to the very same Assessing Officer holding charge of the Searched Person.

ii. It was further submitted that at no place in the Show Cause Notice dated 11.04.2023 or in the comments dated 01.05.2023 of DCIT, Bengaluru, the Circular is referred and the transfer is proposed only for "coordinated investigation" which is not in consequence to the Circular. It was further submitted that as no search took place in case of the petitioner and no incriminating material relating to the

petitioner was found wherein no Notice under Section 143(2) or 142(1) is also issued in case of the petitioner either by the Ahmedabad or Bangalore Office, the impugned order passed under Section 127 of the Act is not tenable relying upon the Circular dated 24.05.2023.

[8.1] Learned advocate Mr. B.S. Soparkar, submitted that the expressions "coordinate investigation" / "facility of investigation" are vague and does not justify the centralization as there are no valid reasons of transfer of the assessee. It was submitted that by merely stating the need for coordinated investigation, it cannot be said to be valid reason for transferring the PAN of the petitioner from Ahmedabad to Bengaluru as the petitioner had no transaction whatsoever when the Company is managed and operated by the Kiloskar family. It was submitted that it is not even the case of the respondent that there is any

incriminating material found in search connecting the petitioner with the searched parties.

[8.2] In support of his submissions, learned advocate Mr. Soparkar, referred to and relied upon the following decisions:

- I. Hindustan M-I Swaco Ltd. V. Principal Commissioner of Income-tax, Vadodara-3 reported in [2016] 72 taxmann.com 14 (Gujarat);
- II. Anuben Lalabhai Bharwad V. Principal Commissioner of Income-tax-3 reported in [2016] 72 taxmann.com 178 (Gujarat);
- III. Pegasus Assets reconstruction Private Limited Vs. Principal Commissioner of Income Tax, Mumbai-3, & Ors. rendered in Writ Petition No.1067 of 2022, decided by the Hon'ble Bombay High Court, judgment and order dated 05th February, 2024;
- IV. Kamal Varandmal Galani V. Principal Commissioner of Income-tax reported in [2023] 152 taxmann.com 340 (Bombay);
- V. Farooq Ali Khan V. Principal Commissioner of Income-tax, Bengaluru reported in [2015] 59 taxmann.com 74 (Karnataka);

[8.3] Learned advocate Mr. Soparkar also referred to and relied upon the Assessment orders which are passed subsequent to the filing of this

petition in case of Meena Kirloskar for Assessment Year 2022-23, Assessment order dated 07.03.2024, Assessment order dated 25.03.2025 in case of Vijay Kirloskar for Assessment Year 2023-24 and Assessment order dated 07.03.2024 in case of M/s Ravindu Motors for Assessment Year 2022-23, to demonstrate that there is no addition made on account of any transaction with the petitioner - Company in case of those searched persons. It was, therefore, submitted that the impugned order passed under Section 127 of the Act is liable to be quashed and set aside.

[8.4] It was also pointed out that only because Mr. Mohib N. Khericha is one of the Directors of M/s Ravindu Motors Private Limited and is also the Managing Director of the petitioner - Company, the PAN of the petitioner - Company could not have been transferred to Bengaluru in the guise of coordinated investigation, in absence of any material made

available which may be relevant for the purpose of exercising the jurisdiction under Section 127 of the Act.

[8.5] Learned advocate Mr. Soparkar has also relied upon the Additional Affidavit filed on behalf of the petitioner placing on record the composition of Board of Directors, shareholdings, or detailed financial statements for the Financial Years 2021-22 to 2023-24 and company master data and the Assessment orders passed in case of searched persons referred to hereinabove, to submit that there is no connection between the petitioner - Company and the searched persons.

[9] *Per contra*, learned Senior Standing Counsel Mr. Varun K. Patel, submitted that in case of the petitioner, several incriminating documents were found and seized from the residential and business premises of Mr. Mohib N. Khericha who was the Managing Director of the petitioner - Company. Reliance was placed on the CBDT Circular

dated 24.05.2023 providing the guidelines issued in case of search and seizure cases under Section 132 and 132A of the Act which required centralization with central charge as per the provisions of Section 127 of the Act.

[9.1] Reliance was placed by the learned Senior Standing Counsel for the respondent in the case of **Kamlesh Rajnikant Shah V. Principal Commissioner of Income-tax** reported in [2022] 138 **taxmann.com** 59 (Gujarat), but it would not be applicable in the facts of the present case.

[9.2] The learned Senior Standing Counsel Mr. Varun Patel, referred to and relied upon the following averments made in the affidavit in reply filed on behalf of the respondent:

"Accordingly, after considering the aforesaid facts of the case, the case of the petitioner is proposed for centralization from Ahmedabad to Central charge at Bengaluru and after affording an opportunity of hearing to the petitioner contemplated under Section 127(2) (a), impugned order u/s. 127(2) is passed disposing of the objections of the petitioner against the proposed centralization of case.

It is therefore submitted that in view of above, the impugned order is just, proper and legal and there is no illegality or irregularity while passing the impugned order.

4. With reference to para 1, it is submitted that the contents of this para being general in nature do not call for any specific reply. The respondent, however, denies each and every allegation, averment and contention raised therein.

5. With reference to para 2.1 to 2.8, it is submitted that the contents of these paras being matter of fact and record does not call for any specific reply. The respondent, however, denies each and every allegation, averment and contention raised therein.

6. With reference to para 3.1, the respondent denies each and every allegation, averment and contention raised therein. It is submitted that there is no infringement of fundamental rights enshrined by Articles 14 and 19(1)(g) of the Constitution of India while passing the impugned order.

7. With reference to para 3.2 to 3.5, the respondent denies each and every allegation, averment and contention raised therein. It is submitted that as stated hereinabove, a search operation u/s 132 of the Act was conducted on 15-12-2022 in the case of Mr. Mohib N. Khericha, director of Chartered Capital and Investment Ltd. Residence of Mohib N. Khericha and corporate office of Chartered Capital and Investment Ltd. At 711, Mahakant, Paldi, Ahmedabad were covered. Shri Mohib N. Khericha, director of Chartered Capital and Investment Ltd. was one of the directors in Ravindu Motors Pvt. Ltd. and in past, had done transactions with the entities of the Ravindu Motors Pvt. group. It is thus submitted that the business premise of the

assessee Chartered Capital and Investment Ltd. was covered u/s 132 of the Act.

It is submitted that as per the guideline issued by the CBDT vide letter F.No.225/66/2023/ITA-II dated 24.05.2023, search and seizure cases u/s 132 and requisition u/s 132A cases are required to be centralized with central charge as per provisions of section 127 of the IT Act. It is therefore submitted that the contentions raised in this para are erroneous, illegal and untenable.

8. With reference to para 3.6 the respondent denies each and every allegation, averment and contention raised therein. It is submitted that the order u/s 127 is passed by the Pr. CIT-1, Ahmedabad on 29.09.2023 after affording necessary opportunities to the assessee and considering the report of the DDIT(Inv.), Unit -1(2), Bengaluru vide which the objections of the assessee was rebutted by giving elaborate reasons as to why the case is required to be centralised to the same assessing officer to whom the entire group has been centralised for administrative convenience, coordinated investigation and completion of assessment which is well within the powers conferred to Pr. Commissioner/ Commissioner of Income Tax by sub-section 2 of section 127 of the IT Act, 1961. The original signed order by the Pr. Commissioner of Income Tax -1, Ahmedabad is placed in the respective file. Since, the order has to be communicated to various Income tax authorities, copies of the order of Pr. Commissioner of Income Tax-1, Ahmedabad have been communicated to the assessee under the signature of Income Tax Officer (Tech)-1 O/o Pr. Commissioner of Income Tax-1, Ahmedabad, which is the usual procedure followed by the department across the country.

9. With reference to para 3.7, the respondent denies each and every allegation, averment and contention raised therein. It is submitted that on perusal of the order u/s 127(2) of the act dated 29-09-2023, it can be clearly seen that the order was passed only after agreement between the PCIT-1, Ahmedabad and PDIT(Inv), Bengaluru for better coordinated investigation and assessments, in fact, the comments of the DDIT(Inv), Unit-1(2), Bengaluru were also called for disposing the objections raised by the assessee and DDIT(Inv), Unit-1(2), Bengaluru had again stated that the case of Mr. Mohib N. Khericha and his company, Chartered Capital and Investment Ltd are required to be centralized for the purpose of better coordinated investigation and passing of assessment order. Therefore, the claim of the assessee that there is no agreement between the required authorities is without any basis and is not tenable."

[10] Having heard the learned advocates for the respective parties and considering the facts of the case and the material made available on record, it is not in dispute that Mr. Mohib Khericha was the Managing Director of the petitioner - Company and search took place in case of the Managing Director and other persons of the Kirloskar family. During the course of the search, the transactions pertaining Shri Mohib N. Khericha were found from the premises of the

petitioner - Company, however, there is nothing on record to show that any documents or material is found pertaining to or relating to the petitioner - Company in connection with the searched persons. It is also pertinent to note that there is no search authorization in the case of the petitioner - Company issued by the respondents and therefore, only the premises of the petitioner - Company was under search as it could not have been the reason for transferring the PAN of the petitioner or centralization, while invoking the provisions of Section 127 of the Act.

[11] On perusal of the impugned order dated 29.09.2023 passed under Section 127 of the Act while dealing with the objections raised by the petitioner, relied upon the comments of the DDIT, Investigation, that Mr. Mohib Khericha was Director of the petitioner - Company and also Director of M/s Ravindu Motors Private Limited

and he had done transaction with the entities of the M/s Ravindu Motors Private Limited Group and therefore, premises of the petitioner - Company was covered under the search, it would be necessary to transfer the PAN of the petitioner - Company to Bengaluru. It is also discernible from the order that the transaction between Mr. Mohib Khericha and the Kirloskar family was the basis of the search proceedings and there is no reference to any transaction between the petitioner - Company so as to transfer the PAN of the petitioner from Ahmedabad to Central Charge at Bengaluru.

[12] From reading of the impugned order passed under Section 127(2) of the Act, it does not reflect as to why it was necessary to transfer the jurisdiction from Ahmedabad to Central Charge, Bengaluru as none of the issues raised by the petitioner have been dealt with in the impugned order. The respondent has also

failed to demonstrate as to what was the need for coordinated investigation connected with the petitioner when there is no incriminating material found during the course of the search pertaining to or relating to petitioner - Company and merely because Managing Director of the petitioner was a searched person would not have led to invocation of jurisdiction under Section 127 of the Act as none of the criteria or reasons as indicated under Section 127 of the Act are fulfilled.

[13] It would be therefore germane to refer to the provisions of Section 127 of the Act, which reads as under:

127. Power to transfer cases.-(1) The Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer

or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,—

(a) where the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner to whom such Assessing Officers are subordinate are in agreement, then the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

(b) where the Principal Directors General or Directors General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (1) or sub-section

(2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation.—In section 120 and this section, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year."

[14] On perusal of the provisions of Section 127 of the Act, it is clear that main purpose of centralization of cases is to investigate dubious transactions of the assessee with the searched person. However in the facts of the case, there is nothing on record to show that the petitioner - Company has entered into any transaction with

the searched person.

[15] In the facts of the case, the respondent has assumed the jurisdiction, though there is no sufficient material on record to justify such action. It is true that the transfer of cases for effective investigation and coordination can be resorted in case of the persons other than the searched persons. However, in the facts of the case, the respondent has failed to demonstrate the circumstances which warrant the transfer of the PAN. The reliance placed on the circular dated 24.05.2023 is also not applicable in the facts of the case as it only states that the cases were to be selected for scrutiny with prior administrative approval of the Principal Commissioner concerned who shall ensure that such cases are transferred to central charge under Section 127 of the Act within 15 days of the service of the notice under Section 143(2) or 142(1) of the Act by the jurisdictional

Assessing Officer concerned. In the facts of the case, no notice under Section 143(2) or 142(1) or 153C is issued in case of the petitioner - Company by the jurisdictional Assessing Officer and therefore, the Circular relied upon by the respondent would not be applicable in the facts of the case.

[16] Even otherwise, on perusal of the Assessment Orders, which are passed during the pendency of the petition, in case of the Kiloskar family referred to and relied upon by the learned advocate for the petitioner clearly shows that there is no addition made at the ends of those searched persons to show that any transaction with the petitioner - Company.

[17] In view of the foregoing reasons, petition succeeds and accordingly, allowed. The impugned order dated 29.09.2023 passed by the respondent - the Principal Commissioner of Income Tax-1, Ahmedabad under Section 127 of the Act, is

hereby quashed and set aside. Rule made absolute.

No orders as to costs.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI, J)

Lalji Desai

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: LALJI DESAI(HC01558), PRIVATE SECRETARY, at High Court of Gujarat on 14/10/2025 17:52:23