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Ct.5.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4992 of 2025
With
CAN 1 of 2025

Jatin Mosun
Versus
Union of India & Ors.

Mr. J. P. Khaitan, Sr. Advocate
Mr. Pranit Bag
Mr. Anuj Mishra
Mr. Balaram Patra
Ms. Amani Kayan

... For the petitioners.

Mr. Prithu Dudhoria

... For the respondents.

1. Challenging the proceedings initiated under Section 127 of the Income Tax Act, 1961 (hereinafter referred to as the “said Act”) for transfer of records from Kolkata to Jaipur, the aforesaid writ petition has been filed.

2. By an order dated 28th March, 2025, this Court proceeding on the basis of the disclosure made by the parties and noting that the assessment proceedings in respect of the Assessment Year 2023-24 is underway and unless the same is brought to logical conclusion on/or before 31st March, 2025, the same is likely to be barred by limitation, had permitted such proceedings to continue, however, provided that the order passed therein should not be communicated to the petitioner without leave of this Court.

3. Today, Mr. Khaitan, learned senior advocate representing the applicant/petitioner would submit that the applicant/petitioner was unaware of the fact that as on 28th March, 2025 the assessment order dated 23rd February, 2025 for the Assessment year 2023-24 under Section 143(3) of the said Act had already been passed. As such he submits that the said order be not enforced at this stage. By drawing attention of this Court to the notice issued under Section 148 of the said Act, dated 6th March, 2025 for the Assessment Year 2022-23 and the notice dated 7th March, 2025 for the Assessment Year 2024-25, he would submit that an assessment proceeding has already been initiated. In the circumstances noted hereinabove, he would submit that the applicant/petitioner should be afforded with adequate protection so that the writ petition which is pending consideration is not rendered infructuous.

4. Mr. Dudhoria, learned advocate appears on behalf of the respondents.

5. Having heard the learned advocates appearing for the respective parties and noting that the transfer order under Section 127 of the said Act dated 4th December, 2024 is pending consideration before this Court, I am of the view that the applicant/petitioner should be afforded with at least a limited protection. As such, taking note of the fact that the notices under Section 148 of the said Act in respect of the Assessment Years 2022-23 and 2024-25 have already been issued, and the limitation involved, the

applicant/petitioner shall be at liberty to participate in such proceedings without prejudice to his rights and contentions in the pending writ petition.

6. The Assessing Officer may conclude the proceedings, however, the same shall not be enforced against the applicant/petitioner till disposal of the writ petition or until further order whichever is earlier.

7. Insofar as the assessment order dated 23rd February, 2025 for the Assessment Year 2023-24 which has already been passed, I am of the view having regard to the peculiar facts noted hereinabove, since demand has been raised as would corroborate from the notice of demand issued under Section 156 of the said Act, the aforesaid assessment order shall also abide by the result of the writ petition.

8. Affidavit-in-opposition on behalf of the respondents/Income Tax Department filed in Court is taken on record.

9. Time to file reply on behalf of the petitioner stands extended till two weeks after the annual vacation.

10. Let the writ petition appear for consideration in the Combined Monthly List of December, 2025, under the heading "For Orders".

11. The Application, being CAN 1 of 2025 accordingly stands disposed of.

(Raja Basu Chowdhury, J.)