2024:DHC:6125

$~5

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

% ***Date of decision: 13th August, 2024***

\+ CM(M) 2984/2024

ASHUTOSH SHARMA .....Petitioner

Through: Mr. Manohar Malik, Mr. Prateek Chauhan and Ms. Astha Gumber, Advocates

versus

INCOME TAX OFFICE .....Respondent

Through: Mr. Puneet Rai, Senior Standing Counsel with Mr. Ashvini Kumar, Standing Counsel and Mr. Rishabh Nangia, Standing Counsel for Income Tax Department

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

<u>J U D G M E N T</u> ***(oral)***

1. Petitioner has invoked supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

2. Previously, there was a Look Out Circular (LOC) issued at the behest of Income Tax Department against the petitioner herein. Petitioner claimed that such LOC has not been issued in legitimate manner and prayed that such LOC be cancelled. Simultaneously, he also sought liberty of the learned Trial Court to travel abroad.

3. Such request was considered by the learned Trial Court i.e. Court of Learned Addl. Chief Metropolitan Magistrate (Special Acts), Central District, Tis Hazari Court, Delhi on 31.05.2019 and the LOC was rescinded and the

permission was also given to the petitioner to travel abroad. Para-22 of said order reads as under: -

> *"Accordingly, the Look Out Circular against the applicant stands rescinded and applicant is at liberty to travel abroad with the condition that he shall submit his travel itinerary alongwith details of his stay before leaving the country to the respondents ie. Assessing officer and also to this court. It is further directed that applicant shall deposit of FDR of Rs. 25 lacs with the court before leaving the country and shall join the investigation as and when directed by the assessing officer*."

4. Thereafter, petitioner submitted one application before the same Court seeking release of his FDR but such request has been turned down on the ground that FDR was not a condition with respect to travel. The relevant portion of such impugned order dated 04.06.2024 reads as under: -

> *"From the perusal of order dt.31.05.2019, it is without any doubt that deposition of FDR of Rs.25 Lacs was one of the conditions for rescinding the LOC against the applicant. By way of any imagination, the condition of deposition of FDR of Rs.25 Lacs cannot be said to be only for travelling abroad once permission of which was sought from the court in alternative while moving application for cancellation of LOC, in pursuance of which order dt.31.05.2019 was passed by Ld. Predecessor of this court. Accordingly, no merit is found in the application.*
> *Application stands dismissed."*

5. Department of Income Tax is duly represented in the present proceedings and in response to the query put by this Court, it has been, very fairly, admitted that as on date there is no further Look Out Circular against the petitioner.

6. This Court has already extracted the relevant portion of the order whereby the petitioner had been permitted to travel abroad and it is quite evident that the above said FDR was in lieu of his such travel only as he was directed to submit the same before leaving the country. Admittedly, he was also asked to join the investigation as and when directed by the Assessing Officer and learned counsel for the respondent has stated that such proceedings have already culminated into an assessment order.

7. Be that as it may, in view of the fact that earlier Look Out Circular had been rescinded and there is no fresh Look Out Circular, there was no reason to have not released the aforesaid FDR of Rs. 25 lacs.

8. The petition is accordingly allowed and learned Trial Court is directed to release the aforesaid FDR of Rs. 25 lacs to the petitioner.

9. Petition stands disposed of.

(MANOJ JAIN)
JUDGE

AUGUST 13, 2024/*dr*