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2024:DHC:4229-DB

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

\+ W.P.(CRL) 3573/2023 & CRL.M.As. 33184-85/2023, 34432/2023, 6038/2024

ANKUR GUPTA ..... Petitioner

Through: Mr. M.S. Khan, Mr. Daniyal, Mr. M. Arshyan and Ms. Shaziya, Advocates

versus

UNION OF INDIA AND OTHERS ..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC with Mr. Tarveen Singh Nanda, GP and Mr. Abhay Singh, Advocate for R-1
Mr. Anupam S. Sharma, Special Counsel-ED with Mr. Prakarsh Airan, Ms. Harpreet Kalsi, Mr. Abhishek Batra, Mr. Ripudaman Sharma, Mr. Vashisht Rao and Mr. Syamantak Modgill, Advocates
Ms. Anubha Bhardwaj, SPP for CBI with Ms. Diksha Nishad, Advocate for R-4/CBI
Mr. Dayan Krishnan, Sr. Adv with Mr. Nitish Kant Sharma and Shridhar Kale, Advocates for R-7, 10 and 12
Ms. Amrita Singh, Advocate for SEBI

% Date of Decision: 21st May, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T(ORAL)

CRL.M.A. 33182/2023-EXEMP.
CRL.M.A. 33183/2023 EXEMP.

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Allowed, subject to all just exceptions.

Accordingly, the present applications stand disposed of.

W.P.(CRL) 3573/2023

1. Present writ petition has been filed as a Public Interest Litigation ('PIL') under Article 226 of the Constitution for directing the Respondent Nos. 1 to 5 to take action against the group of companies and individuals i.e. Respondents No. 6 to 23 on the allegations of money laundering and consequential loss to the public exchequer, by way of evasion of taxes.

2. It is stated that issuance of shareholding of Respondent No. 8 in favour of Respondent No. 7 and its subsequent transfer to Respondent No. 9 are grossly undervalued. It is stated that the transfer has been done to cause loss to the public exchequer. It is stated that even though Respondent No. 8 was an asset rich Company, however, its shares were transferred by Respondent No. 7 in favour of Respondent No. 9 at a value less than the market price.

2.1. It is stated that the representation dated 14th September, 2023 addressed to the statutory authorities including the Income Tax Department has not seen any result. The present petition has been filed seeking a direction to Central Bureau of Investigation (CBI), Enforcement Directorate (ED), Income Tax Authorities and Reserve Bank of India (RBI) to investigate the transactions of allotment of shares by Respondent No. 8 and its subsequent transfer in favour of Respondent No. 9.

2.2. It is stated that Petitioner is a wholesale dealer of Indian apparels who carries on business in Chandni Chowk and he learnt about the impugned transactions through information available in the public domain.

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3. Learned senior counsel for Respondent No. 7, 10 and 12 states that the present petition is motivated. He states that in fact the Petitioner herein had filed another W.P.(Crl.) 2383/2021, wherein Respondent No. 16 herein was also a party. He states the said writ petition was dismissed with costs by the Division Bench of this Court vide order dated 25th March, 2022 after returning a finding that the same is motivated. He states that in the SLP (Crl.) No. 5179/2022 filed by the Petitioner against the said dismissal though the Supreme Court waived the costs, however, it refused to interfere with the judgment passed by the Division Bench of this Court. He states that commonality of Respondent No. 16 in the present writ petition and the earlier writ petition evidences that the Petitioner herein is seeking to settle scores with the companies and entities in which Respondent No. 16 is a Director/Partner.

3.1. He states that as a matter of fact Income Tax authorities conducted a search and seizure at the premises of Respondent No. 7 on 30th March, 2021. He states that a notice dated 28th December, 2021 was issued under Section 142(1) of the Income Tax Act, 1961 ('IT Act'). He states that the transaction impugned in the present PIL was also investigated by the IT Department. He states that Respondent No. 7 in its reply dated 25th March, 2022 duly explained the transaction of sale and the basis of the valuation. He states that IT Department carried out block assessment for last seven years. He states that assessment orders have been passed by the IT Department for the said period and as is apparent from the said orders, the IT Department was satisfied with the explanation furnished by the Respondent No. 7. He states that since the IT Department has already examined the allegations of evasion of taxes, therefore, it stands negated. He states that no adverse proceedings

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have been initiated against Respondent No. 7 despite conducting a block assessment.

3.2. He states that Respondent No. 8 was drowning in debt and as its share holder Respondent No. 7 was constrained to accept the best price to ensure the re-payment of liabilities to the secured lender i.e., Punjab National Bank. He states that in fact, the entire endeavour was to service the debt as Respondent No. 8's account has been declared NPA.

3.3. He states that the transaction that is sought to be questioned took place in the year, 2015 and the present petition has been filed eight years later in the year 2023 which evidences the mala fide of the PIL filed by the Petitioner herein.

4. Having heard the learned counsel for the parties, we are of the considered opinion that no directions as sought for in the present PIL are merited in this petition.

5. The Petitioner is seeking directions for investigation into the valuation of the sale of the shareholding held by Respondent No. 7 issued by Respondent No. 8 and subsequently transferred to Respondent No. 9. However, in view of the fact that the said transaction has been examined by the IT Department during the block assessment of Respondent No. 7 shows that the matter is within the knowledge of the authorities and considering the fact that no adverse proceedings have been initiated by the IT Department, we are of the opinion that no further directions are required in this petition.

6. Further, in view of the fact that an earlier W.P.(Crl.) No. 2383/2021 and SLP (Crl.) 5179/2022 filed by the same Petitioner against common Respondent No. 16 has been dismissed on the finding that the same is motivated, we are of the opinion that entertaining the present PIL at the

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behest of the Petitioner does not advance the cause of justice and the objective behind entertaining a PIL.

7. The present petition is accordingly dismissed in limine along with pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 21, 2024/hp/ms

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