Court No. - 35

Case :- WRIT TAX No. - 816 of 2016

Petitioner :- M/S Pmc Fincorp Limited, Rampur
Respondent :- Pr. Commissioner Of Income Tax, Moradabad & 2 Others
Counsel for Petitioner :- Suyash Agarwal
Counsel for Respondent :- C.S.C.

Hon'ble Bharati Sapru,J.
Hon'ble Vinod Kumar Misra,J.

Supplementary affidavit filed today is taken on record.

The present petition has been filed by the petitioner seeking a writ of certiorari to quash the order of transfer dated 22.11.2006, passed by the Principal Commissioner of Income Tax, Moradabad, respondent no.l, under Section 127 (2) of the Income Tax Act transferring the case of the petitioner from the jurisdiction of Deputy Commissioner of Income Tax, Circle-I, Moradabad, respondent no.2, to the jurisdiction of ACIT/DCIT Central Circle-30, New Delhi.

We have heard Sri R.R.Agarwal, learned Senior Counsel, assisted by Sri Suyash Agarwal, learned counsel for the assessee and Sri Shubham Agarwal, learned counsel for the department.

From a perusal of the record, it appears that it is not denied by the assessee that his corporate office is at Delhi. The counsel for the petitioner has sought to argue that his registered office is situated at Rampur and, therefore, his case could not have been transferred for centralised investigation to Delhi. However, the authority, while deciding the matter under Section 127 (2) of the Income Tax Act 1961, has recorded that *"as the seized material/document of Kuber Group have direct link/nexus with the assessee company (M/s PMC Fincorp Limited, formerly known as M/s Priti Mercantile Company Limited) and the same are in the possession of the Dy.Commissioner of Income Tax, Central Circle-30, New Delhi, therefore, centralisation of this case for co-ordinated investigation and meaningful assessment in the interest of the revenue is utterly necessary. Therefore, in exercise of the powers conferred by Section 127 (2) of the Income Tax Act, 1961 and all other powers enabling me in this behalf, I, the Principal Commissioner of Income Tax, Moradabad, hereby transfer the case of the following assessee company (M/s PMC Fincorp Limited, formerly known as M/s Priti Mercantile Company Limited) from Dy. Commissioner of Income Tax, Circle-1, Moradabad to the Asstt./Dy. Commissioner of Income Tax, Central Circle-30, New Delhi on administrative grounds as centralisation of this case for coordinated investigation and meaningful assessment with Kuber Group of cases (Date of Search under Section 133A of the IT Act, 1961 on Kuber Group-09.10.2014) is necessary in the interest of the revenue. This order shall come into force with effect from the date of this order, i.e. 22.11.2016."*

In sharp contrast to that no real prejudice has been shown to the petitioner which would occur if the matter is investigated at Delhi particularly since they themselves admit that the corporate office of the petitioner is at Delhi and there is no denial that they have business transaction with the Kuber Group with regard to purchase of shares.

Learned counsel for the department has relied on a decision of this Court reported in ***(2007 U.P.T.C.-898) M/s Unnao Distilleries and Braveries Limited, Unnao vs. Commissioner of Income Tax-II, Kanpur and others***, wherein while examining such a matter, the Court held that in a case of transfer from one court to the other unless any *malafide* are pleaded or any real prejudice is shown it would not be open to the writ court to compel the department to show at the initial stage or to disclose the material or information on the basis of which the transfer has been made as it could embarrass or prejudice the case at the later stage.

Learned counsel for the petitioner has sought to distinguish this by saying that only a survey was made at the premises of the assessee and search had been carried out at the Kuber Group but does not deny that they had business links with Kuber Group or that the corporate office of the assessee is at Delhi.

Learned counsel for the petitioner has sought to rely on a decision of the Gujrat High Court reported in **[*2016] 72 taxmann.com 14 (Gujrat) Hindusthan M-I Swaco Ltd. v. Principal Commissioner of Income Tax, Vadodara-3***, wherein a view has been taken that only cases of search and seizure may be centralised and not that of survey.

However, we respectfully follow the decision of our own Court in view of the fact that the contents of paragraphs 12 and 15 of the ***Gujrat High Court*** (supra) do not apply to the facts of this case for the reasons stated above.

We do not think that this is a fit case for interference, at this stage.

The writ petition fails and is dismissed. No costs.

Order Date :- 14.12.2016
m.a.

(Vinod Kumar Misra, J.) **(Bharati Sapru J.)**