$~
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
19.
\+ **W.P.(C) 7742/2014 & CM APPL. 18223/2014**

SRI RAM CHANDRA MISSION,
SHAHJAHANPUR ..... Petitioner
Through Mr K.K. Sharma, Senior Advocate with Mr Gaurav Agarwal and Mr Puneet Kumar Saxena, Advocate.

versus

COMMISSIONER OF INCOME TAX, & ORS. ..... Respondents
Through Mr Rahul Chaudhary, Senior Standing Counsel.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **14.03.2016**

1. This is a writ Petition filed in the name of 'Sri Ram Chandra Mission', Shahjahanpur, seeking to quash the order dated 26th June 2014 and the letter dated14th July 2014 issued by the Deputy Director (S)-1(2), Directorate of Income Tax (Systems) of Respondent No. 1.

2. By the order dated 26th June, 2014 it was directed that the holder of Permanent Account Number (‘PAN’) ‘AAETS5043H’ should not use the said PAN in future for any transaction and that the card should be surrendered to the PAN Service provider. Further, by the letter dated 14th July 2014, the Deputy Director (S)-1(2) wrote to the Branch Manager, Axis Bank, stating that the aforementioned PAN ‘AAETS5043H’ has been

marked as 'FAKE' and requested the bank to take necessary steps as per banking regulations to avoid further misuse of the said PAN card by the PAN holder.

3. The petition states that 'Shri Ram Chandra Mission' (hereafter 'Society') is a society which was granted registration way back on 21st July, 1945. It was also granted registration under Section 12A(a) of the Income Tax Act, 1961 ('the Act') by the office of the CIT Lucknow. The petition further states that following the death of the founder President of the Society, Shri Ram Chandraji Maharaj, on 19th April 1983, a dispute arose as to who would succeed him as the President of the Society. It is stated in Para 4.4 that one section of the Society led by one Mr P. Rajagopalachari claimed themselves to be the persons in charge of the Society and got the jurisdiction for the purposes of Income Tax shifted from Shahjahanpur to Delhi sometime in 1990.

4. It is stated that an application was filed in 2004 on the basis of which PAN Card ‘AAETS5043H’ was issued. However, it appears from the counter affidavit filed by the Income Tax Department ('Department') to this petition, that in the application filed for issuance of the PAN Card filed by one Mr. Umesh Chandra on 15th October 2003, the name of the applicant in the application form was given as 'SRI RAM CHANDRA MISSION'. Against Column No. 2 which asks the applicant to state the ‘Name you would like printed on the card', the applicant has filled: 'SRIRAM CHANDRA MISSION'. The document enclosed with the application for proof of identity and address was the Renewal Certificate of Society

Registration issued by the Registrar of Societies, Uttar Pradesh on 7th March, 2001 which was in Hindi and which mentions the name of the Society as 'SHRI RAM CHANDRA MISSION'. It appears, accordingly, that the aforementioned PAN Card ‘AAETS5043H’ came to be issued on the strength of the above application.

5. On 7th May, 2014, a complaint was received by the Directorate of Income Tax (Systems) from one Mr U.S. Bajpai claiming himself to be the Secretary of ‘SHRI RAM CHANDRA MISSION’ for treating the aforementioned PAN Card as 'fake'. On 16th May 2014, a letter was written by the Deputy Director (Systems) of Respondent No.1 to the Commissioner of Income Tax (‘CIT’), Bareilly (‘Respondent No. 2’) drawing his attention to the fact that the there was already a PAN ‘AAATS1751N’ allotted to ‘SHRI RAM CHANDRA MISSION’ on 14th March 1997 having the same details and that the system had captured the case to be resolved for duplicate with PAN ‘AAATS1751N’ but while processing the PAN application, it was “wrongly marked as ‘PAN to be allotted’ whereas this case could have been marked ‘Already allotted PAN’”. The fact that the applicant, Mr Umesh Chandra, President of the Society had mentioned the name of the Society as 'SRIRAM CHANDRA MISSION' in the PAN application while documents submitted were having the name 'SHRI RAM CHANDRA MISSION' was also noted and, therefore, the CIT, Bareilly was requested to make necessary enquiries regarding genuineness of the documents enclosed with the application.

6. On the basis of the above letter, an enquiry was conducted by the Income Tax Officer (‘ITO’) -II, Shahjahanpur and a report dated 12th June 2014 was

submitted to the CIT, Bareilly confirming that while PAN ‘AAETS5043H’ had been allotted to 'SRIRAM CHANDRA MISSION’, another PAN ‘AAATS1751N’ has also already been allotted to 'SHRI RAM CHANDRA MISSION' on the same address i.e. Mishripur Block, Hardoi Road, Shahjahanpur, Uttar Pradesh on 14th March, 1997. The ITO conveyed to the CIT its conclusion that the subsequent PAN ‘AAETS5043H’ in the name of 'SRIRAM CHANDRA MISSION’ may be marked as ‘fake’ since it was obtained in fraudulent manner by producing certificate of the original society 'SHRI RAM CHANDRA MISSION ' having PAN ‘AAATS1751N’.

7. The Department has also placed on record the 'Detailed procedure for allotting the PAN cards'. Relevant for the purposes of the present petition is Para 4.3 of the said procedure which, *inter alia*, states that if during investigation it is found that the PAN had been “obtained in the name of either non-existent person or in false identities including on the basis of wrong or unauthenticated or fabricated or unverifiable Proof of Identity(POI)/Proof of Address (POA)/Proof of Date of Birth (DOB) documents then also a decision can be taken by respective Assessing Officer to mark the PAN as "FAKE" through system functionality provided to them”.

8. It is on the above basis that the Deputy Director (S)-1(2), Directorate of Income Tax (Systems) on 26th June 2014 issued the impugned order . This was followed by the letter dated 14th July, 2014 to the Axis bank.

9. It requires to be noticed that in the memo of parties of the present petition the name of the Petitioner is spelt as 'Sri Ram Chandra Mission'. This

spelling is also repeated in the body of the petition. Yet, it is the said spelling of the word Sri without the 'h' that has led to the issuance of two PAN numbers for the same Society. Mr. Sharma tried to suggest that this was an inadvertent typographical error. However, given the fact that the issue in the present petition arises as a result of the said erroneous spelling, it is ironic that the Petitioner has persisted with it in the petition as well.

10. The main grievance in the present petition is that the aforementioned PAN ‘AAETS5043H’ could not have been cancelled without affording an opportunity of being heard and, therefore, the order is in violation of the principles of natural justice. It is pointed out that as a result of the above order which terms the said PAN Card as "FAKE", at least three criminal complaints have been filed against Mr Navneet Saxena and 21 others (who all claim to be committee members of the Society) by Mr P. Rajagopalachari claiming himself to be the President of the said Society in Hyderabad, Delhi and Shahjahanpur. It was, accordingly, submitted that the impugned order was causing grave prejudice and, therefore, should be quashed.

11. It must be mentioned here that in these very proceedings an application being CM No. 19793/2014 was filed in the name of 'SHRI RAM CHANDRA MISSION' supported by the affidavit of one Mr Niraj Sharma claiming to be its authorized representative. Reference was made in the said application to a suit filed in the Court of Civil Judge at Allahabad by one Smt. Mohini Bajpai against Mr Umesh Chandra Saxena who was restrained from posing himself as the President of the Society by an order of injunction granted in favour of the plaintiff. This injunction was, according to the

applicant, confirmed both by the Allahabad High Court as well as the Supreme Court. It was stated that after the death of Mr Umesh Chandra Saxena, Mr Navneet Kumar Saxena (through whom the present petition has been filed) started claiming himself to be the President of the Society. Mr Navneet Kumar Saxena and his brothers were impleaded in the aforementioned suit and the interim injunction became effective against them as well. It is sought to be clarified by Mr K.K. Sharma, learned Senior Advocate for the Petitioner, that an appeal against the order of the Civil Court at the instance of Mr. Navneet Kumar Saxena is pending in the Allahabad High Court.

12. Mr. Rahul Chaudhary, learned Senior Standing Counsel appearing for the Department states that it has gone by the guidelines and, in particular para 4.3 referred to hereinbefore in treating the subsequent PAN issued as 'FAKE'. As explained in the counter affidavit, this arose as a result of the PAN application for the said card having been made in the name of 'SRIRAM CHANDRA MISSION' while the particulars and other details were that of 'SHRI RAM CHANDRA MISSION' in respect of which PAN had already been allotted being PAN 'AAATS1751N'. He points out that two PAN Cards cannot be issued to one entity. He further explained that although the returns claimed to have been filed in the name of the Society using the subsequent PAN Card may have been processed by the system, the rectification became necessary once it was found that the second PAN Card had been obtained in a name different from that of the Society.

13. While there is no dispute that the impugned order dated 26th June 2014

has been issued without prior notice to the Petitioner, the Court is not persuaded to interfere with it only for that reason. Given the background facts which led to the passing of the order, even if the Court were to remand the matter to Respondent No. 1 for a fresh decision after hearing the Petitioner, the result ant order would be no different.

14. The cancellation of the second PAN card stems from the contestation between two factions of the Society, with each faction claiming to be the rightful successor to the Founder President of the Society and in respect of which there is already a suit instituted which is pending in the civil court. It was repeatedly urged by Mr Sharma that this Court should clarify that the word 'FAKE' in the impugned order was used by Respondent No.1 only because of the procedure envisaged in Para 4.3 and that the mere mistake in mentioning the name of the Society as 'SRIRAM CHANDRA MISSION' or 'SRI RAM CHANDRA MISSION' in the application for the PAN should not be viewed as an attempt by the Petitioner to mislead the Department and obtain a PAN Card on that basis.

15. The question whether the error in the spelling of the name of the Society in the application filed by Mr. Navneet Kumar for a PAN card (that has now been termed as 'FAKE') was innocent or deliberate will have to be examined in appropriate proceedings where that question might arise. It is not possible for this Court in a writ petition under Article 226 of the Constitution to examine that disputed question of fact. The stand of the Department has been made clear in the counter affidavit filed by it and it will be open to the faction of the Society against criminal complaints have been filed to contest

it in accordance with law. What inference should be drawn as a result of the said affidavit of the Department is again entirely for the concerned Court to decide.

16. The fact of the matter is that there cannot be two PAN Cards for one entity. Since there is already a PAN Card issued in the name of the Society way back in 1997 there cannot be another PAN Card issued to it in 2004. Therefore, sending the matter back to Respondent No. 1 for a fresh decision will serve no purpose. The real dispute is which of the two factions of the Society should be recognised as being competent and authorised to operate the said PAN Card? That will obviously depend on the orders that may be passed in the pending suit. From that point of view, the action of Respondent No.1 cannot be said to be illegal or invalid.

17. The writ petition and the pending application are, accordingly, dismissed in the above terms.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 14, 2016
pkv