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

% ***Date of Decision 12.02.2020***

\+ **W.P.(CRL.) 343/2020 & CRL. M.A. 2540/2020**

LAKSHMI SATYANARAYANA DUTT TADIKONDA
..... Petitioner

Through: Mr. N. Hiharan, Sr. Adv. with Mr. Aman Panwar, Mr. Mudit Gupta, Mr. Harsh Gattani, Mr. Siddharth Yadav, Mr. Sharang Dhulia, Advocates.

Petitioner in person.

versus

UNION OF INDIA & ANR ..... Respondents

Through: Mr. Anil Soni, (CGSC) with Mr. Devesh Dubey, Adv. for R-1

Mr. Abhishek Maratha, Sr. Standing Counsel with Mr. Pratyaksh Gupta, Sr. Standing Counsel and Ms. Nupur Sharma, Advocate for (R-2).

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR J.(ORAL)

1. By way of this petition, the petitioner is seeking the withdrawal of the Look Out Circular (LOC) issued against him and no other prayer has been pressed during the course of the arguments by the Ld. Sr. counsel for the

petitioner.

2. Briefly stated, the petitioner according to him is a qualified chartered accountant and in 2008 migrated to Dubai to work as a Financial Controller for Jaleel Group of companies and has been living in Dubai ever since. On 28.02.2018, the petitioner was granted his latest residency visa by UAE. It is contended that the petitioner keeps on visiting India frequently to visit his family and for other purposes. On 03.12.2019, the petitioner arrived in India from Dubai and on 27.12.2019, he departed for Dubai without any impediments. However, on 06.01.2020, when the petitioner again arrived from Dubai to India at Hyderabad International Airport for some business meeting then at the time of immigration, the petitioner was informed by the concerned officers to meet with the Income Tax Authorities regarding some pending issues and no other details were given.

3. When on 08.01.2020, after completing his business meetings, the petitioner was leaving for Dubai from Hyderabad International Airport, then at the time of immigration, the petitioner was approached by few officers of Income Tax Department who served the petitioner with the copy of summons dated 08.01.2020 and took him to question him in regard to their investigation pertaining to Punj Lloyd Group. The petitioner after cancelling his flight ticket to Dubai accompanied them for questioning.

4. According to the petitioner, from 08.01.2020 to 09.01.2020, the petitioner was questioned by the officers of the department and he answered each and every question. The officers even impounded soft copies of the two mobile phones of the petitioner and also his laptop. On 13.01.2020, the petitioner received a call from Income Tax Delhi Office asking him to appear before them on 13.01.2020. So he rushed from

Hyderabad to Delhi to reach the Income Tax Office. He was informed that they could not question him as the officers were busy.

5. From 14.01.2020 to 17.01.2020, the petitioner appeared before the investigating officers on multiple occasion and fully co-operated in the investigation. On 28.01.2020 the petitioner sent an email requesting the respondent agencies to revoke the LOC, so that he could travel to Dubai.

6. The respondents have filed a status report stating therein that a survey operation U/s 133 A of the Income Tax Act was conducted in the case of M/s Punj Lloyd Limited on 19.02.2019 and during the investigation it was found that M/s Punj Lloyd Limited had made payments against bogus bills raised by entities outside India which was directly / indirectly controlled by them. It is stated that this money later flowed back to the accounts of entities controlled by the promoters of M/s Punj Lloyd Limited. It is stated that it is the petitioner who had arranged the entities that raised bogus bills for M/s Punj Lloyd Limited in the middle east as stated by Sh. Rahul Maheshwari (CFO, M/s Punj Lloyd Limited). It is stated that the petitioner has helped in tax evasion by facilitating payments against bogus bills and invoices raised to M/s Punj Lloyd Limited by entities based in foreign jurisdiction.

7. It is further stated that in due course proceedings for LOC were initiated against the petitioner U/s 53 of the Black Money And Imposition of Tax Act, 2015 for abetment in tax evasion. The statement of the petitioner was recorded on oath U/s 131 (1A) of the Act on 08.01.2020 and 14.01.2020 and in the statements recorded on oath, the petitioner stated that the entities arranged by him had raised bogus invoices against Punj Lloyd Limited and also quantified the total amount of expenses booked by M/s

Punj Lloyd Limited against bogus invoices. It is further stated that the petitioner stated that once the entities received the amount from the banks on behalf of M/s Punj Lloyd Limited, such entities then deducted their own commission for raising bogus bills while the petitioner deducted his commission for making the arrangement, after which the remaining amount went back to M/s Punj Lloyd Limited and its promoters. Therefore, it is stated that the transaction performed by the petitioner were not in the nature of normal business/commission income. It is stated that the statements of the petitioner are yet to be confronted with the promoters of M/s Punj Lloyd Limited.

8. It is submitted by the Ld. Sr. counsel for the petitioner that as per the status report filed by the respondents, the statement of the petitioner has already been recorded and it is not their case that the petitioner has not joined the investigation as and when directed or he is evading the course of law. He further submitted that the petitioner is an Indian citizen having Indian Passport so there are no chances of his running away. It is further submitted by the Ld. Sr. counsel for the petitioner that the status of the petitioner is resident status which is renewed by UAE authorities and there exists extradition treaty between the two countries.

9. It is further submitted by the Ld. Sr. counsel for the petitioner that the petitioner is in India since 06.01.2020 and he was lastly called for investigation on 16.01.2020 and thereafter he has not been called for joining the investigation. He further argued that investigation in respect of the petitioner is over.

10. The Ld. Sr. Standing Counsel for the respondents has argued on the lines of the status report. It is argued that the allegations against the

petitioner are grave and serious in nature and he has abetted the evasion of large amount of Income Tax. He further argued that the statements of the petitioner are to be confronted with the promoters of M/s Punj Lloyd Limited and he relied upon "***Piyoosh Kumar Goyal Vs. Union of India & Ors***." Crl. M.A. 36254/2019 in W.P. (Crl.) No. 1766/2019 decided by the coordinate bench of this Court on 28.01.2020.

11. In the case of E.V.Perumal Samy Reddy, E.V.R.Santosh Reddy and Rajeshwari vs. State represented by the Deputy Commissioner of Police and State represented by the Inspector of Police MANU/TN/2308/2013, Madras High Court noted various types of persons who could be included in the LOC:-

(i) Persons with Terrorists or Militant Links,

(ii) Belligerent Foreigners,

(iii) Foreigners previously noticed for violations of visa conditions.

(iv) Persons required by courts in criminal/civil cases who are absconding

(v) Absconding Offenders wanted by Police/CBI/Customs /Central excise/ Directorate of Rev. Intelligence/other agencies

12. Apparently, the petitioner does not fall in any of the above categories. There are no allegations that the petitioner ever absconded and did not participate in the criminal proceedings, rather according to the status report the petitioner has joined the investigation as and when called by the IO and his statements have already been recorded and as stated by the Ld. Sr. Standing counsel for the respondents, he has made certain admissions in his statements given to the department, so this shows that the petitioner has been co-operating with the investigating agency.

13. As far as the contention of the Ld Sr. Standing Counsel for the respondents that the statements of the petitioner are to be confronted with the promoters of M/s Punj Lloyd Limited, in my opinion, since the statements of the petitioner have already been recorded, the same can be confronted with the promoters of M/s Punj Lloyd Limited. In the entire status report there is neither any apprehension, nor there is any hint nor any allegation that the petitioner would not be available for interrogation and will not present himself at the time of trial. The Judgment Piyoosh Kumar Goyal ***(supra)*** relied upon by the Ld. Sr. Standing counsel for the respondents is not applicable to the facts of the present case as in that case, the petitioner was not co-operating with the investigating agency and has been evasive during the interrogation and he was the main person controlling / directing the affairs of the group within and outside India which is not the case of the petitioner herein.

14. The petitioner is not an employee of M/s Punj Lloyd Limited as stated by the petitioner and not denied by the respondents. It is also not the case that the petitioner is not joining the investigation or that he has not co-operated during the investigation, rather according to the respondents he has even made some admissions during the course of the investigation and recording of his statements.

15. The issuance of the LOC is a serious matter as it contains full particular of the individual which are sent throughout the world. Therefore, keeping in view the above said facts and circumstances, there is no justification in keeping the present LOC alive. The same is, therefore, directed to be recalled by the issuing authority. The following conditions are imposed on the petitioner :

(a) That he shall join the investigation as and when called by the investigating officer. However, the investigating officer shall give him atleast 7 days prior notice.

(b) That he shall co-operate in the investigation.

(c) That in case the petitioner is proposes to travel beyond Dubai, he shall furnish details of the country (ies) with his complete itinerary to the investigating officer.

16. In case of violation of the above conditions imposed on the petitioner, the respondents will have the liberty to approach this Court.

17. With these directions, the petition stands disposed of and Crl.MA 2540/2020 is also disposed of accordingly.

18. Observations made in the order shall have no impact on the merits of the case.

RAJNISH BHATNAGAR, J

FEBRUARY 12, 2020

Sumant