

Deepak Talwar vs Union Of India & Ors on 13 May, 2021

Author: Rajiv Shakdher

Bench: Rajiv Shakdher, Talwant Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 5294/2021

DEEPAK TALWAR

Through:

Mr. Tanveer Ahmed Mir
Mr. Prabhav Ralli, Adv

versus

UNION OF INDIA & ORS.

Through:

Mr. Zoheb Hossain, Sr.
Counsel for respondent
3/Revenue.
Mr. Shahan Ulla, Advoc
respondent no.1/UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 13.05.2021 [Court hearing convened via video-conferencing on account of COVID-19]

1. Allowed, subject to just exceptions.

2. The prayer made in the captioned application is to grant exemption from filing notarized affidavits along with the writ petition. The prayer made in the captioned application is allowed, subject to the petitioner placing on record the notarized affidavits, within three days of the resumption of the normal and usual work pattern by this Court.

3. The application is, accordingly, disposed of.

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4. The prayer made in the captioned application is to grant exemption from filing court-fee and welfare stamp. The captioned application is disposed of with a direction to the petitioner to file the requisite court-fee and welfare stamp, within three days of the resumption of the normal functioning by this Court.

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5. Mr. Tanveer Ahmed Mir, who appears on behalf of the petitioner, informs us that the issues raised in the instant writ petition, are also obtaining, in other writ petitions that are pending adjudication before this Court. Our attention, in this context, has been drawn to Annexure P-17 collectively.

5.1 To be noted, in this matter, an assessment order has already been passed. The impugned assessment order is dated 31.03.2021. 5.2 The petitioner has taken the position that much prior to the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (in short 'the Act') coming into force, the petitioner ceased to hold the foreign asset.

5.3. The petitioner claims that he had held beneficial interest in the shares [hereafter referred to as the "foreign asset"] of Asia Field Ltd. (incorporated in British Virgin Islands), through Pasawee Ltd. (a company incorporated in Hong Kong), for a period of 22 days, spanning between 05.02.2007 and 27.02.2007, and thereafter, for one day, i.e., between 24.04.2009 and 25.04.2009 via a trust namely Balajee Trust (a trust incorporated in Mauritius).

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6. On the other hand, Mr. Zoheb Hossain, who appears on behalf of the respondent, submits that the triggering point of the Act would be when the foreign asset comes to the notice of the Assessing Officer (in short „AO). 6.1 It is Mr. Hossain's submission that this aspect of the matter stands covered against the petitioner in view of the judgement of the Supreme Court rendered in Union of India vs. Gautam Khaitan, 2019 (10) SCC 108. 6.2 Insofar as the knowledge of the AO is concerned, it is the case of the revenue that it became aware of the foreign asset, said to have been held by the petitioner, via the Foreign Tax and Tax Research (in short "FT and TR"), division of the CBDT.

7. Thus, we would like to have on record, the documents and the information, that FT and TR had in its possession, to enable us to fix a date of knowledge and, if at all, the provisions of the Act would apply in this case. We are of the view, to get to this point, the date of knowledge of FT and TR would be relevant. These aspects can only be examined once a counter-affidavit is filed on behalf of the revenue. 7.1 We may also note that there are several other issues that have been raised, in the petition.

8. Accordingly, issue notice.

8.1 Mr. Zoheb Hussain, accepts notice on behalf of the respondent nos. 2 to 5/revenue. Likewise, Mr. Shahan Ulla accepts notice on behalf of respondent no.1/UOI.

8.2 Counter-affidavit(s) will be filed within six weeks. Rejoinder(s) thereto, if any, will be filed before that next date of hearing.

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9. List the matter on 07.09.2021.

10. In the meanwhile, respondent nos. 2 to 5/revenue will not take any coercive measures against the petitioner.

RAJIV SHAKDHER, J TALWANT SINGH, J MAY 13, 2021 sh [Click here to check corrigendum](#), if any W.P.(C) 5294/2021 page 4 of 4