

\$~95

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

+ **W.P.(C) 3694/2023&CM Nos.14278-79/2023**

KAPIL SIBAL

..... Petitioner

Through: Mr P. Chidambaram, Sr. Advocate  
with Mr Ajay Vohra, Sr. Advocate,  
Mr Rohit Jain & Mr Saksham  
Singhal, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL  
CIRCLE 06 NEW DELHI

..... Respondent

Through: Mr Aseem Chawla, Sr. Standing  
Counsel with Mr Rishabh Nangia, Ms  
Anuja Pethia, Mr Subhashish Kumar  
& Ms Pratishtha Chaudhary,  
Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

% **23.03.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

**CM No.14279/2023**

1. Allowed, subject to the petitioner/assessee filing legible copies of the annexures, at least three days before the next date of hearing.

**W.P.(C) 3694/2023&CM No.14278/2023***[Application filed on behalf of the petitioner seeking interim relief]*

2. This writ petition is directed against notice dated 17.05.2021 issued by the respondent/revenue under Section 153C of the Income Tax Act, 1961 [in short, "the Act"] concerning Assessment Year (AY) 2013-14.

W.P.(C) 3694/2023

Page 1 of 5

3. Mr P. Chidambaram, learned senior counsel, who appears on behalf of the petitioner/assessee, says that apart from anything else, the respondent/revenue seems to be in great haste to conclude the assessment proceedings.

4. It has been pointed out by Mr Chidambaram that a search under Section 132 of the Act, concerning a group going by the name World Window Group, was conducted on 25.06.2018.

5. Insofar as the petitioner/assessee is concerned, notice under Section 153C of the Act was issued three years later, i.e., on 17.05.2021. It is stated that pursuant to the said notice, the petitioner/assessee filed his return on 15.07.2021.

6. Furthermore, Mr Chidambaram states that a request was made on 03.11.2021, for being furnished a copy of the satisfaction note and the reasons/material based on which the notice under Section 153C of the Act had been issued. This request, we are informed, was reiterated by the petitioner/assessee on 01.03.2023.

7. The record shows and something which is not in dispute, that the satisfaction note was furnished to the petitioner/assessee on 09.03.2023. The material/reasons were furnished to the petitioner/assessee on 10.03.2023. The record also shows that one day, later i.e., on 11.03.2023, a show-cause notice under Section 142(1) of the Act was issued *qua* the petitioner/assessee.

8. It is also not in dispute that the petitioner/assessee has filed his objections to the initiation of proceedings under Section 153C of the Act. These objections were filed, we are told, on 20.03.2023.

8.1 Mr Chidambaram says that insofar as the show-cause notice dated 11.03.2023 is concerned, a hearing was slated on 22.03.2023. We are informed that on 22.03.2023, the petitioner/assessee was represented by an authorized representative, i.e., a Chartered Accountant. The authorized representative, it is submitted, carried a letter of even date, i.e., 22.03.2023 which, *inter alia*, adverted to the fact that objections preferred by the petitioner/assessee had not been disposed of as on that date.

9. Given this backdrop, Mr Chidambaram says that there is a narrowing and almost an effacement of principles of natural justice.

9.1 Furthermore, it is Mr Chidambaram's submission that in the search, what allegedly emerged vis-a-vis the petitioner/assessee, was digital data, which was embedded in the laptop, and some excel sheets which were extracted from an electronic device. It is Mr Chidambaram's submission that this material cannot form the basis for initiating proceedings against the petitioner/assessee under Section 153C of the Act.

9.2 In sum, it is Mr Chidambaram's contention that the aforementioned information material cannot constitute incriminating material insofar as the petitioner/assessee is concerned. In support of his plea, Mr Chidambaram has relied upon the judgment of the Supreme Court rendered in ***Common Cause (A Regd. Society) vs. Union of India*** (2017) 77ITR220 (SC).

10. On the other hand, Mr Aseem Chawla, learned senior standing counsel, who appears on behalf of the respondent/revenue, says that the concerned officer can proceed on the basis of the material/information that has been brought to his notice.

11. It is Mr Chawla's contention that the aforementioned judgment

rendered in the *Common Cause* Case would not apply to the proceedings carried out under the Act. In support of his plea, Mr Chawla seeks to place reliance on the judgment of a single Judge of Madras High Court rendered in *M. Vivek vs. The Deputy Commissioner of Income Tax* (2020) 121 taxmann.com 366 (Madras).

12. Insofar as the other contention of Mr Chidambaram is concerned, i.e., that the concerned officer has issued a show-cause notice dated 11.03.2023 without disposing of the petitioner/assessee's objections, Mr Chawla says that the petitioner/assessee, either himself or through his authorized representative, can appear before the concerned authority, whereupon the objections will be disposed of.

13. Having heard the learned counsel for parties, we are of the view that since the impugned notice has been challenged on grounds that it imbued with jurisdictional flaw and the breach of principles of natural justice, it would require some amount of deliberation.

14. Accordingly, issue notice.

14.1 Mr Chawla accepts notice on behalf of the respondent/revenue.

15. Counter-affidavit will be filed within four weeks.

15.1 Rejoinder thereto, if any, will be filed atleast five days before the next date of hearing.

16. In the meanwhile, the concerned officer will stay his hand *vis-a-vis* show-cause notice dated 11.03.2023. The concerned officer will first dispose of the objections preferred by the petitioner/assessee.

16.1 In this context, the concerned officer will issue a notice to the petitioner/assessee, which would indicate the date, venue and time of the

hearing.

17. The concerned officer will pass a speaking order *qua* the objections preferred by the petitioner/assessee; a copy of the same will be furnished to the petitioner/assessee.

18. Needless to state, in case the petitioner/assessee is aggrieved by the decision taken by the concerned officer, he will have liberty to take recourse to an appropriate remedy as provided in law.

19. List the matter on 14.09.2023.

20. Parties will act based on digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**MARCH 23, 2023/ ha**

*Click here to check corrigendum, if any*