$~131 to 133

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

\# **CNR No. DLHC010365462026**

\+ W.P.(C) 11351/2026, CM APPL. 52598/2026 & CM APPL. 52599/2026

\# **CNR No. DLHC010365472026**

\+ W.P.(C) 11352/2026, CM APPL. 52600/2026 & CM APPL. 52601/2026

\# **CNR No. DLHC010365482026**

\+ W.P.(C) 11353/2026, CM APPL. 52602/2026 & CM APPL. 52603/2026

RAJENDRA PRASAD NARGIS .....Petitioner

SUDHA NARGIS .....Petitioner

DEEPAK NARGIS .....Petitioner

Through: Mr. Salil Kapoor, Mr. Ajay Bhargava, Ms. Vanita Bhargava, Ms. Phalguni Nigam, Mr. Vedant Sharma and Mr. Sumit Lalchandani, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Raktim Gogoi, CGSC with Ms. Akshita Nigam, Mr. Kaushlendra Dutt Pandey, Advocates and Ms. Nasreen Khatoon, G.P. for UOI through VC.
Mr. Puneet Rai, SSC with Mr. Ashvini Kr. Mr. Rishabh Nangia, JSCs, Mr. Nikhil Jain and Ms. Nancy Jain, Advocates for IT Deptt.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER
% 10.08.2026

1. By way of the present writ petitions, the petitioners have challenged the Proviso to Section 3(1) and Clause (c) of Section 72 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (*hereinafter referred to as 'the Act of 2015'*).

2. Learned Counsel for the petitioners submitted that certain petitions involving a challenge to these very provisions are pending consideration before this Court.

3. When the Court raised a query about cause of action that has accrued to the petitioners, learned Counsel for the petitioners submitted that the petitioners have recently received a notice on 18.04.2026 proposing to launch prosecution.

4. During the course of submission, learned Counsel informed that the petitioners had earlier filed three writ petitions (W.P.(C) Nos. 5528/2023, 5529/2023 and 5530/2023), against the assessment order dated 31.03.2021, which writ petitions were withdrawn by the petitioners with liberty to take appropriate remedies.

5. He further submitted that before that, when the petitioners had received notices of penalty, they had preferred another set of writ petitions, being W.P.(C) Nos. 3892/2022, 4291/2022 and 4292/2022 and the same are pending consideration before this Court.

6. While submitting that in the above referred writ petitions, the *vires* of

Sections 41 and 43 of the Act of 2015 is under challenge, learned Counsel for the petitioners argued that impugned Proviso to Section 3(1) and Clause (c) of Section 72 are arbitrary and violative of Articles 14, 300A & 265 of the Constitution of India, inasmuch as they seek to apply retrospectively.

7. He argued that in the instant cases, the properties were acquired much prior in time and still the Assessing Officer (AO) has assessed the same in the Assessment Year 2019-2020 by way of assessment order dated 31.03.2021.

8. He further argued that the Act of 2015, which came into force in year 2015, cannot levy tax and bring within its sweep any property which was acquired or purchased prior to promulgation of the Act of 2015.

9. Mr. Puneet Rai, learned Senior Standing Counsel for the respondents at the outset argued that the present petitions are an abuse of the process of law inasmuch as the petitioners have called in question the retrospective operation of the provisions at such a belated stage.

10. He highlighted that when the petitioners laid challenge to penalty proceedings, *vires* of only Sections 41 and 43 of the Act and not of Proviso to Section 3(1) and Clause (c) of Section 72, nor the retrospectivity of the Act of 2015 was challenged. He argued that the *vires* of these Sections has been challenged just to maintain a petition before this Court; otherwise, the petitioners would have to take remedies in accordance with law, if they are in any manner aggrieved by the action taken under the Act of 2015.

11. In rejoinder, Mr. Salil Kapoor, learned Counsel for the petitioners clarified that the writ petitions *qua* the assessment order were withdrawn, since the same were filed after a substantial period of time, as the assessment order impugned in those writ petitions, which were filed in the year 2023, was dated 31.03.2021 and the assessees had already preferred appeal before the

appellate authority.

12. Heard learned Counsel for the parties.

13. We are not inclined to entertain the present writ petitions, because according to us, the challenge to Proviso to Section 3(1) and Clause (c) of Section 72 of the Act of 2015 is a subterfuge to obviate prosecution or to somehow maintain the writ petition before this Court.

14. If the petitioners were, in any manner, aggrieved of the retrospectivity of the contentious provisions, such ground(s) were very much available to them even at the first stage, when writ petitions *qua* penalty proceedings were filed. The retrospective operation of the provisions of the Act of 2015 is the first and most obvious question or ground that could have occurred to a litigant.

15. Admittedly, the petitioners did not incorporate a challenge to Proviso to Section 3(1) and Clause (c) of Section 72 of the Act of 2015, at the time, when earlier two writ petitions were filed.

16. Petitioners' challenge to Proviso to Section 3(1) and Clause (c) of Section 72 of the Act of 2015 is clearly barred by the principles of Order II Rule 2 of the Code of Civil Procedure, 1908, – as all the pleas which were available to the petitioners at the first instance ought to have been taken.

17. We, therefore, dismiss the petitions with a cost of Rs. 20,000/- each to be deposited in Delhi State Legal Services Authority within a period of two weeks from today.

18. We make it clear that we have neither recorded any finding about validity or *vires* of the Proviso to Section 3(1) and Clause (c) of Section 72 of the Act of 2015 nor have we made any observation about the legality of the prosecution so launched against the petitioners. Hence, the petitioners shall

be free to raise all their pleas before the concerned authorities or to take appropriate legal recourse available to them.

19. All pending applications also stand disposed of.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

AUGUST 10, 2026/*MR*