
(2020) 01 DEL CK 0546

In the Delhi High Court

Case No : Criminal Miscellaneous Application No. 36254 Of 2019 In Criminal Writ
Petition No. 1766 Of 2019

Piyoosh Kumar Goyal

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 28-01-2020

Acts Referred:

Income-Tax Act, 1961 — Section 132, 133A

Citation : (2020) 01 DEL CK 0546

Hon'ble Judges : Brijesh Sethi, J

Bench : Single Bench

Advocate : Prashant Mehta, Ashutosh Shukla, Vasundhra Bhardwaj, Sandeep Tyagi, Ajit Sharma, Adeeba Mujahid

Final Decision : Dismissed

Judgement

Brijesh Sethi, J

CRL. M.A.36254/2019

1. The petitioner has filed present application u/s. 482 CrPC seeking permission to travel abroad as well as stay of the lookout circular issued against the petitioner for conducting business affairs. It is submitted that petitioner's companies have been saddled with heavy debtors who are not releasing payment to the tune of 1200 Crore. Petitioner has explored all possibilities to connect to customers/ clients as well as investors through phone/ electronic mode which have not borne the desired result. The matters in respect of overdue have to be discussed in detail with the concerned parties at Dubai viz-a-viz documents from both the sides to reconcile and settle the disputes finally. Petitioner has been requested by its local representative at Dubai office showing necessity of immediate settlement of the outstanding issues directly with the customers as well as lawyers if legal recourse is to be taken to realize the dues. Petitioner is also required to meet investors to stream line finances of the company.

2. It is submitted that lenders of two of the group companies i.e. Worlds Window Impex India Pvt. Ltd. and Magnifico Minerals Pvt. Ltd. have received a letter from Income Tax Authorities (Investigation wing) through Department of Financial Services following which most of the banks of consortium of lenders have stopped debit operations in the accounts of these companies bringing the operations with the suppliers and customers to a standstill. Most of these customers and suppliers are located overseas and they have started levying heavy penalties for non fulfilment of the commitments made to them in the course of normal business. It is submitted that presently these overseas customers owe Worlds Window Impex India Pvt. Ltd. and Magnifico Minerals Pvt. Ltd. Rs. 10,54,44,53,526/- and Rs.1,70,46,97,000/- respectively. The said parties are insisting the petitioner to visit their office and settle all pending issues for release of the said payment. Due to issuance of LOC by the respondents, the petitioner herein is unable to visit these companies, most of which are located in Dubai and for the above said business meetings, the petitioner proposes to travel to Dubai for a week between 12.10.2019 to 20.10.2019. It is submitted that for the entire duration of the said business trip, the petitioner would be staying in hotels and details of which shall be furnished to the concerned department pursuant to the grant of permission to travel abroad by this court. The petitioner has no intention to settle abroad or to evade investigation and petitioner has attended the office of the respondents as and when called and has been cooperative during the entire investigation.

3. It is submitted that on account of the lookout notice/ circular issued against the petitioner, the petitioner has been unable to travel abroad for work for more than a year now since the raid was conducted by the respondent which is causing huge negative impact on the business of the petitioner. The petitioner is facing serious business threat which is causing financial crisis to the petitioner's business and petitioner is even unable to pay salaries to its staff. It is submitted that no prejudice is likely to be caused to any of the respondents if the operation of the impugned lookout circular is stayed during the pendency of the present petition. It is, therefore, prayed that petitioner be allowed to travel abroad to Dubai and the respondents be restrained from interfering or objecting to travel of the petitioner outside India till the pendency of the petition.

4. On the other hand, Ld. Counsel for the UOI, respondent no.1 has opposed the petition and submitted that based upon credible evidence of large-scale tax evasion and other various serious irregularities by various persons and entities of Words Window Group (the "Group"), search and seizure under Section 132 and surveys under Section 133A of the Income-tax Act, 1961 (the "Act") were conducted on 25.06.2018 at various premises of main entities/persons of the group. Such premises included residential premises occupied by Shri Piyoosh Kumar Goyal, who has been a promoter of the group and director in some companies of the group including M/s Worlds Window Impex Pvt. Ltd. which is the flagship company of the group.

5. It is further submitted by Ld. Counsel that evidence, gathered from the residential premises of Piyoosh Kumar Goyal and office premises of the group covered during search and survey, reveals that over the years, the Group has been indulging in large-scale tax evasion and other serious violations of provisions of the Act by incorporating a web of companies and other entities, both within and outside the country. The Group has also been obtaining large-scale credit facilities (in different names) from the banks, based upon fictitious/false transactions. In all these misdeeds Shri Piyoosh Kumar Goyal has been found as the key person controlling/directing affairs of the group within and outside India.

6. It is further submitted by Ld. Counsel that considering the facts of the case, role of Shri Piyoosh Kumar Goyal as group promoter and as main controlling person of the affairs of the Group and his conduct, Look out Circular (LoC) was issued on 11th October 2018. The petitioner has been evasive throughout the investigation. The role of the petitioner revealed from the material gathered during investigation necessitates continuation of LoC. The undertaking of the petitioner cannot be given any credence considering his evasive response throughout the investigation.

7. It is next submitted by Ld. Counsel that all the above facts suggest that if LoC is withdrawn pending investigation, Shri Piyoosh Kumar Goyal may flee from the country making it extremely difficult to secure his presence in the process of investigation and other proceedings under the Act. It is, therefore, prayed that petitioner may not be given permission to travel abroad.

8. A report in sealed cover was also submitted to the Court by the Ld. Senior Counsel for UOI. He submitted that even he does not know the contents of the same as it contains certain details of investigation carried out by the respondents and in case these facts are revealed, it will hamper the investigation and petitioner will be able to erase and conceal the material evidence. He will come to know about the investigation/ interrogation likely to be conducted by the respondents and will be able to prepare himself for giving evasive and ambiguous answers at the time of investigation.

9. I have considered the rival submissions. Though the sealed cover was opened, but this Court is of the opinion that the details of the report need not be revealed at this stage as it will hamper the investigation. This Court is also not relying upon the report for the purpose of deciding the application for the reason that contents of the report are not known to the petitioner and it also cannot be revealed to him at this stage and he is, therefore, not in a position to rebut the same. The perusal of the status report, however, reveals that there are allegations of large scale tax evasion. The report prima facie reveals that petitioner is promoter of the Group and Director in the same companies of the Group who have indulged in large scale tax evasion. The Group has also obtained large scale credit facilities in different names from the banks based upon fictitious transactions. The petitioner has not been co-operating with

investigating agency and has been evasive during interrogation. Keeping in mind the fact that petitioner was the main person controlling/ directing affairs of the group within and outside India and there is large scale tax evasion and investigation is still in progress and there is a strong apprehension that petitioner may not return and, thus, will not be available for investigation, he cannot be granted permission to travel abroad at this stage. The application of the petitioner for seeking permission to travel abroad is, therefore, dismissed and stands disposed of accordingly.