

(1984) 11 CAL CK 0015
In the Calcutta High Court
Case No : Matter No. 1165 of 1983

Subir Roy and Another

APPELLANT

Vs

S.K. Chattopadhyay and Others

RESPONDENT

Date of Decision : 19-11-1984

Acts Referred:

Income Tax Act, 1961 — Section 132, 132(1), 132(8)

Citation : (1987) 64 CTR 191 : (1986) 158 ITR 472 : (1986) 29 TAXMAN 13

Hon'ble Judges : Padma Khastgir, J

Bench : Single Bench

Advocate : Goutam Chakraborty, for the Appellant;

Judgement

Mrs. Padma Khastgir, J.—The petitioners, Subir Roy and Goutam Roy, had moved the writ jurisdiction of this court being aggrieved by the search and seizure stated to have been made illegally and arbitrarily by the Income Tax Department on June 29, 1983, at premises No. 4/1, Roy Bahadur A. C. Roy Road, on the basis of an authorisation issued in favour of the respondents u/s 132 of the Income Tax Act. The petitioners contended that they had been duly assessed to Income Tax and have permanent account numbers. The sources of income of the petitioners are, inter alia, from rental income and also by way of interest from fixed deposits. Sailendra Nath Roy and his wife, Protima Roy, were out of India since June 29, 1983. The petitioners contended that there was no authorisation for search of the properties of Smt. Nilanjana Roy, the wife of the petitioner No. 1, and also of Smt. Sudharani Banerjee, a widowed aunt, residing in a portion of the premises No. 4/1, Roy Bahadur A. C. Roy Road.

2. The petitioners contended that the respondents illegally, mala fide, indiscriminately and wrongfully searched the entire premises including the properties of petitioner No. 2's wife and also of the aunt. The said search was conducted, according to the petitioner, without observance of any of the accepted norms. The search party comprised of more than seventy persons. The search commenced at 9-00 a.m. and continued up to 7-30 p.m. Although a panchnama

was prepared recording that the said search was conducted in an orderly fashion without hurting the religious sentiments of any of the occupants and that after the search, the search party offered themselves for personal search which was declined by the inmates, according to the petitioner, those recordings were false and malicious. But it appeared that the petitioners had signed those panchnamas without any protest. The petitioners contended that they were forced to sign under duress and coercion. The premises in which the search was effected is situated on a land measuring four bighas and comprised of built-in-area of more than 14,000 sq. feet. It was the case of the petitioners that the officers did not even spare the prayer room in which the deity was installed. The petitioners contended that the premises No. 4/1, Roy Bahadur A. C. Roy Road, is a trust property of A. N. Roy Trust and there was no warrant of authorisation for the search of such trust property. In spite of that, search and seizure had been made in respect thereof. After the search, certain documents had been seized and order u/s 132, Sub-section (3), was served prohibiting Sri Sailendra Nath Roy from removing or parting with or otherwise dealing with one iron safe kept in the room which was locked and sealed by the respondents. The petitioners, after the search, found that a number of important papers, including deeds, rent receipts and cash worth Rs. 1,200 were missing from the said premises. The petitioner lodged a general diary with the officer-in-charge, Behala Police Station, in respect thereof. The lockers under the prohibitory order dated July 2, 1983, had been sealed. The lockers belonging to the petitioner's sisters, Mondira Mukherjee and Parbati Ganguly, who had been harassed by the Income Tax authorities, had not been spared from such prohibitory order. This search, according to the petitioners, subjected them and the other members of the family to humiliation, hatred, contempt, ridicule and lowered them in the estimation of right-thinking persons of the society. The petitioners did not possess any money, bullion, jewellery or other valuable articles which represented either wholly or in part any income or property which had not been disclosed for the purpose of Income Tax. The office of Twenty First Century Properties Pvt. Ltd. of which petitioner No. 2 is the managing director had also not been spared from such search and seizure of papers, deeds and documents. The petitioner's grievance was that none of the conditions for assumption of jurisdiction u/s 132 of the said Act for issuing the warrant of authorisation existed. The Director of Inspection, Calcutta, had no material whatsoever on the basis of which he could entertain any belief as postulated u/s 132 of the said Act. Hence, the warrants of authorisation issued for such search was without any basis and/or material.

3. The petitioner's case was that the search and seizure was mala fide and for collateral purposes for the purpose of harassing them inasmuch as Sri Aroop Ratan Chatterjee, the Deputy Director lived very close to the premises. The petitioner's sister, Susmita, was married to Dr. Ashit Mukherjee who is a close relation of the said Aroop Ratan Chatterjee. From the very inception of the said marriage, both the mother-in-law of Susmita and her husband ill-treated her. Dr. Ashit Mukherjee wished to open a nursing home in the house of Sailendra Nath

Roy in partnership with the wife of said Aroop Ratan Chatterjee who requested for necessary permission from Subir Roy to allow his premises to be used as a nursing home, but such request was turned down by the petitioner No. 1 and as a result due to this unpleasantness, Susmita was ill-treated by her in-laws and she was forced to leave her in-laws and come and stay with her parents. The divorce proceedings are pending before the Alipore Court. It was contended by the petitioners that the said search and seizure made by the Income Tax Department had been motivated and had been done at the instance, instigation and behest of the said Aroop Ratan Chatterjee. The petitioners reserved their rights to take legal steps by filing an action for defamation and damages before the appropriate forum. Hence, in view of such manifest malice in law as well as in fact, the petitioners contended that they were entitled not only to invoke the jurisdiction under Article 226 but also to obtain reliefs. During the search and seizure, the Gold Control authorities came to the premises and seized a few gold coins. The articles seized had not been made over under Sub-section (9)(a) of Section 132 within fifteen days from the impugned seizure, which indicated a clear infraction of the mandatory statutory provisions making the said impugned seizure bad, null and void. The Income Tax authorities did not issue any show-cause notice in terms of Rule 112(a) of the Income Tax Rules, 1962.

4. u/s 132, warrant of authorisation for conducting the search could only be issued if the respondents had information in their possession in consequence whereof they could entertain any belief as postulated under Clauses (a), (b) and (c) of Sub-section (1) of Section 132 of the said Act. The main ground of the petitioner was that the director had no information in his possession in consequence whereof, he could have had any reason to believe that the petitioners had omitted or failed to proceed or caused to be produced any books of account or other documents, nor had the respondents any materials or reason to believe that the petitioners would not produce such document or books of account relevant to any proceedings. Apart from that, any use of the statutory power with an oblique and mala fide motive amounted to malice in law. No further proceedings had been taken after the seizure.

5. On the contrary, it was the case of the respondents that the search was conducted on June 29, 1983, on the basis of an evasion petition on record about Sailendra N. Roy of Behala which was forwarded to the Deputy Director of Inspection, Calcutta, by the office of the Ministry of Finance by their letter dated November 22, 1982. Subsequent thereto, more specific and detailed informations were received about Sailendra Nath Roy and his sons and daughters. Extensive reconnaissance was done by the Department and a report was submitted to the Deputy Director of Inspection, who, after recording his satisfaction, issued warrants of authorisation in the names of Sailendra Nath Roy, his wife, Protima Roy, his sons, Subir Roy and Goutam Roy, and his daughters, Smt. Susmita Mukherjee, Parbati Ganguly and Mondira Mukherjee. During the course of search, five safe deposit lockers held in various banks in Calcutta either singly or jointly with the members of his family were sealed u/s 132, Sub-section (3) of the

Income Tax Act. Various tenants were summoned and their statements were recorded only after being fully satisfied with the case being a fit case for search u/s 132, warrants of authorisation were issued and such search was conducted on the basis of specific information regarding tax evasion which was verified through secret enquiries and searches were conducted pursuant to the warrants of authorisation. Such searches were made and conducted in an orderly fashion without hurting the religious sentiments of the occupants. Nothing untoward happened during the course of the search. Declarations to the effect were signed by Subir Roy on the panchnama made out in his name as well as the panchnama made in the name of his parents which he signed on their behalf. Such searches were conducted in the presence of independent witnesses. The officers leaving the premises at the time of search offered themselves for search which was declined. Before leaving the premises, everyone offered themselves for search which was declined by the petitioners and other members of their family which fact had been recorded in the panchnama. Nobody forced petitioner No. 2 to sign the panchnama, nor was there any coercion or duress as wrongly alleged by the petitioners. The prayer room was not searched by anybody with shoes on. The search warrant empowered the search of the entire premises and a warrant which was executed in the name of S. N. Roy as trustee to the estate of A. N. Roy Trust. A lady officer was present and supervised the search made in respect of Smt. Susmita Mukherjee, Smt. Nilanjana Roy and also the rooms of the mother, Protima Roy, and aunt, Sudha Banerjee. There were also warrants in the names of Sailendra Nath Roy and Protima Roy. Armed Police escort was present during the course of such search. They had also witnessed the fact that the search was conducted in an orderly manner. During such search, 2 gold mohours, 62 gold coins (guineas) valued at Rs. 81,337.45 were seized from the possession of Sri Subir Roy. Each and every item seized were recorded including documents and papers.

6. The reasons for issuance of the search warrants were based on secret and confidential documents which the learned lawyer on behalf of the respondents brought to the notice of this court and which indicated that pursuant to information received, the Ministry of Finance directed the said search and seizure. The warrants of authorisation were issued after due enquiries and reconnaissance. Hence, the conditions precedent to the assumption of jurisdiction u/s 132 of the Income Tax Act were present in the instant case. The Director of Inspection before signing the warrants of authorisation was fully satisfied that it was a fit case for search u/s 132 of the Income Tax Act. In the supplementary affidavit affirmed by A. R. Chattopadhyay, the Deputy Director of Inspection, he categorically denied all the charges made against him. The search was conducted by N. P. Sengupta, Deputy Director of Inspection, Unit No. 3, whereas A. R. Chattopadhyay was the Deputy Director of Inspection of Unit No. 2 who had no connection whatsoever with this search and seizure. There had been not only application of mind but careful examination of information. There could be no question of any malice or mala fide intention. The respondents did

not act in any undue haste. The seized books of documents were duly handed over to the concerned Income Tax Officer u/s 132(1)(a) of the Income Tax Act within fifteen days of the search. Smt. Lila Mahapatra, the Assistant Director of Inspection, Investigation, Income Tax Department, Calcutta, herself affirmed an affidavit stating the case of the respondents.

7. The burden was on the petitioner to prove the mala fides on the part of the respondents. The petition lacked in material particulars to indicate such mala fide conduct on the part of the respondent. In the case of E.P. Royappa Vs. State of Tamil Nadu and Another, :

"The burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility."

8. Further, court will refuse to investigate where particulars of such mala fide conduct are not given in the petition itself. In the case of Sukhwinder Pal Bipan Kumar and Others Vs. State of Punjab and Others, , it was held (at p. 70) :

"In our view, the allegations in the writ petitions are not sufficient to constitute an averment of mala fides so as to vitiate the impugned orders of suspension. The court would be justified in refusing to carry out investigation into allegations of mala fides, if necessary particulars of the charge making out a prima facie case are not given in the petition. The burden of establishing mala fides lies very heavily on the person who alleges it."

9. In the case reported in Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others, , it was held that courts cannot uphold the plea of mala fides on the basis of mere probabilities.

10. In the case of Income Tax Officer, Special Investigation Circle-B, Meerut Vs. Seth Brothers and Others etc., , it was held that where there were allegations challenging the validity of an action u/s 132 on the ground of absence of power or on a plea that the proceedings were taken maliciously or for a collateral purpose a writ petition may lie. In such a case, the High Court normally does not proceed merely on affidavits to determine such important issues of fact especially where serious allegations of improper conduct are made against public servants without taking proper evidence.

11. Section 132 of the Income Tax Act, 1961, provides for the provisions for search and seizure and under that section power had been given to the Director of Inspection or the Commissioner or any such Deputy Director of Inspection or the Inspecting Assistant Commissioner as may be empowered in this behalf in consequence of information in his possession and has reason to believe, to search and seize the documents under the conditions as set out in the section itself. In the case of Income Tax Officer, Special Investigation Circle-B, Meerut Vs. Seth Brothers and Others etc., , it was held :

"The section does not confer any arbitrary authority upon the revenue officers.

The Commissioner or the Director of Inspection must have, in consequence of information, reason to believe that the statutory conditions for the exercise of the power to order search exist. He must record reasons for the belief and he must issue an authorisation in favour of a designated officer to search the premises and exercise the powers set out therein. The condition for entry into and making search of any building or place is the reason to believe that any books of account or other documents which will be useful for, or relevant to, any proceeding under the Act may be found. If the officer has reason to believe that any books of account or other documents would be useful for, or relevant to, any proceedings under the Act, he is authorised by law to seize those books of account or other documents and to place marks of identification therein, to make extracts or copies there from and also to make a note or an inventory of any articles or other things found in the course of the search. Since, by the exercise of the power, a serious invasion is made upon the rights, privacy and freedom of the taxpayer, the power must be exercised strictly in accordance with the law and only for the purposes for which the law authorizes it to be exercised. If the action of the officer issuing the authorization or of the designated officer is challenged, the officer concerned must satisfy the court about the regularity of his action. If the action is maliciously taken or power under the section is exercised for a collateral purpose, it is liable to be struck down by the court. If the conditions for exercise of the power are not satisfied, the proceeding is liable to be quashed. But where power is exercised bona fide, and in furtherance of the statutory duties of the tax officers, any error of judgment on the part of the officers will not vitiate the exercise of the power. Where the Commissioner entertains the requisite belief and for reasons recorded by him authorises a designated officer to enter and search premises for books of account and documents relevant to or useful for any proceeding under the Act, the court in a petition by an aggrieved person cannot be asked to substitute its own opinion whether an order authorising search should have been issued. Again, any irregularity in the course of entry, search and seizure committed by the officer acting in pursuance of the authorisation will not be sufficient to vitiate the action taken, provided the officer has in executing the authorisation acted bona fide."

12. Although earlier it was necessary that the authorities concerned should not only have reason to believe but such reason should also be recorded in writing, but after the amendment in 1975 of Rule 112, it is no longer necessary to record the reason. That rule "after recording his reason for doing so" has been omitted but the obligation is still there u/s 132 that in consequence of an information in his possession he had reason to believe, then the concerned authorities may cause search and seizure to be made. The concerned authority, since that amendment, need not record the reason under new Rule 112 and Form No. 45, provided he had information in his possession in consequence whereof he had reason to believe that the search and seizure was necessary. In the case reported in 139 ITR 122 referred to.

13. Hence, the existence of belief is necessary but not the sufficiency of the

belief. The court should not substitute its own reason and thereby step into the shoes of the concerned authority. Provisions of Section 132 are directed against persons who are believed on good grounds to have illegally evaded payment of tax on their income and property. Therefore, drastic measures are taken to recover Government dues. It had been observed in the case of *Pooran Mal Vs. The Director of Inspection (Investigation), New Delhi and Others*, that it is a well known fact of economic life that huge sums of unaccounted money are in circulation which are endangering its very fabric. Therefore, in the interest of the community, it is only right that fiscal authorities should have sufficient powers to prevent tax evasion. Search and seizure are not new weapons in the armoury of the authorities whose duty it is to maintain social security in its broadest sense. This process is widely recognised in all civilised countries. This power is given to the Income Tax authorities with a view to prevent large scale tax evasion which would be objectionable in its due and proper exercise.

14. u/s 132(1) (b) and (c), if the authority had reason to believe in consequence of information that a person to whom a summons or notice has been or might be issued will not produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceedings under the Income Tax Act or any person is in possession of any money, bullion, jewellery or other valuable article or thing representing either wholly or partly income or property which has not been or would not be disclosed for the purpose of Income Tax, in such a case, the Director of Inspection may issue authorisation for search and seizure. There should be a rational connection between the information in possession and the belief formed thereon which would not be influenced by any extraneous or irrelevant purpose. When there is information and the concerned authority had reason to believe upon such information to issue authorisation, the court would not sit in appeal if such belief is formed bona fide and in good faith. As indicated earlier, from the records produced before the court, it appeared that pursuant to an information forwarded to the respondent by the Ministry of Finance, New Delhi, and after making enquiries, the authorities concerned formed a reasonable belief on the basis of such information and/or enquiries that authorisation be made for search and seizure in the instant case. The respondents complied with the necessary provisions of law and had not acted arbitrarily or illegally. Under the circumstances, this court is reluctant to interfere with such action in this proceeding. The petitioner's second grievance is that they were not supplied with the warrant before the search. This court is of the view that it was not necessary to supply the same to the petitioners beforehand provided they had the occasion to have and see the said warrants at the time of the search. In the case of *Jain and Jain and others Vs. Union of India and others*, , it was held that there is no provision either in the Act or the Rules providing for the supply of a copy of the warrant of authorisation of search to the assessee. All that the law requires is that authority must be produced before the commencement of the search and/ or seizure.

15. The third grievance about the presence of the police personnel, in the

absence of any allegation of use of force or excessive force, could not be a ground for interference by this court. u/s 132, Sub-section (2), provision had been made for the authorised officer to requisition the services of any police officer to assist him for all or any of the purposes as mentioned in the section itself. In the case reported in *Income Tax Officer, Special Investigation Circle-B, Meerut Vs. Seth Brothers and Others etc.*, , it was held that in keeping police officers at the time of search in the house of influential businessmen to ensure protection of the officers and the records, in such a case it could not be said that excessive force was used. The assistance of police may be obtained in the course of a search.

16. The last of the petitioner's grievances was about the enormity of the search party which could not be a ground for interference inasmuch as, as indicated earlier, because of the enormity of the building and the premises, it was necessary for the purpose of search and seizure to ensure the presence of a number of persons on behalf of the respondents. In the case reported in *MAMCHAND and CO. AND OTHERS Vs. COMMISSIONER OF Income Tax, WEST BENGAL II, AND OTHERS.*, , it was held that the enormity of the search could not be a ground for condemning the same if the search was otherwise justified. In the case of *Mamchand and Co. and Others Vs. Commissioner of Income Tax, West Bengal II and Others*, , it was held (headnote):

" When the Commissioner of Income Tax issues a search warrant u/s 132 of the Income Tax Act, 1961, it is the duty of the Commissioner to the court, when challenged, to show that he had prima facie "reason to believe so as to bring the matter within the four corners of Section 132(1)(b) of the Act. He has to show facts which prima facie will convince the court that a reasonable man could, under the circumstances, form a belief which will impel him to take action under the law. The court will not go into the sufficiency or adequacy of such reasons. On the other hand, if the Commissioner failed to disclose even a prima facie case, or it could be established that there were no reasons at all or that the reasons were irrelevant or extraneous, or, if lack of honesty, that is to say, mala fides, could be established, then the court would have ample jurisdiction to strike down the proceedings initiated by the Commissioner."

17. It is not necessary to state the reasons in the warrant, nor is it necessary to specify the documents or books of account, etc., which would be the subject-matter of search and seizure. Provided the Commissioner indicates broadly the nature of the documents and the goods in regard to which the officer authorised by him should make a search, it is not necessary that he should make the search himself when he authorises such officers to make the search and seizure. It is the officers who are to decide whether the documents and goods are such as to come within the scope of the seizure contemplated u/s 132 of the Act. But this must be done on the basis of the reasons communicated to them by the Commissioner and not beyond it. If it is so done, it will be taken to be the act of the Commissioner himself.

18. It was held, on the facts of the case, that from the reasons disclosed and placed before the court, a prima facie case had been made but that the information received by the Commissioner was such that a reasonable person could form the kind of belief which would justify investigation and search u/s 132(1)(b) of the Act.

19. It was further held that whether a particular search and seizure was excessive will depend on the facts and circumstances of each case. In that case, the charge of indiscriminate search and seizure was held to have not been substantiated.

20. Mr. Goutam Chakraborty, the learned lawyer on behalf of the petitioner, relied upon the case in *Dwarka Prosad Agarwalla Vs. Director of Inspection*, and submitted that the respondents not only should have reason to believe but have the same recorded in writing but in view of the amendment of the rules in the year 1975, it is no longer necessary to record such reason. The question of return of the articles seized did not arise inasmuch as it was the case of the respondents that from the panchnamas, it indicated that only documents had been seized by the Income Tax authorities.

21. In the case reported in *Gulab and Company and Another Vs. Superintendent of Central Excise (Preventive) and Others*, it was held (headnote):

" The words " reason to believe" in Section 132(1) do not mean purely a subjective satisfaction on the part of the Commissioner. The court could examine the question with reference to the materials available with the Commissioner and whether they have a rational connection or relevant bearing to the formation of the belief. If the reasons are extraneous or irrelevant having regard to the purposes of the section, the action would be without jurisdiction. The belief also must be entertained in good faith and not by a colourable exercise of power. Subject to this, the opinion of the Commissioner is final and not open to question."

22. u/s 132, Sub-section (8), the books of account or other documents seized shall not be retained by the authorised officer for a period exceeding 180 days from the date of the seizure unless for reasons recorded by him in writing and approval of the Commissioner for such retention is obtained. Hence it is not in every case that the seized articles or documents will have to be returned within the specified period. Where an action of an officer issuing authorisation is challenged, the officer concerned must satisfy the court about the regularity of his action. If the action is maliciously taken or the power is exercised for a collateral purpose, it is liable to be struck down by the court. But where the power is exercised bona fide and in furtherance of statutory duties of the tax officers, any error of judgment on the part of the officer will not vitiate the exercise of the power. Where the Commissioner entertains the requisite belief, the court, in a petition by the aggrieved person, cannot be asked to substitute its own opinion as to whether an order authorising search should have been issued.

The Act does not require that the warrant of authorisation should specify the particulars of documents, books of account and/or articles. A general authorisation of search and seizure relevant to or useful for any proceedings complies with the requirement of the Act and the Rules framed thereunder. It is the officer making the search who has to exercise his judgment whether to seize or not to seize the document. An error committed by the officer in seizing the documents which may ultimately be found not to be useful for or relevant to the proceedings will not by itself vitiate the search, nor will it entitle the aggrieved person to an omnibus order releasing all documents seized.

23. The learned lawyer on behalf of the respondents referred to the case in *Demetriades v. Glasgow Corporation* [1951] 1 All ER 457 and submitted that while considering the Defence (General) Regulations, 1939, in respect of requisition of land, there the learned judges observed that in the absence of averments of bad faith, ulterior motive or possibly perverseness on the part of the authority, the jurisdiction of the courts was excluded and the competent authority was the judge of the use of the property. Hence when the power had been given to the competent authority under the statute, unless such power is used arbitrarily, mala fide with an ulterior motive, the court should not interfere with the exercise of such power.

24. In the case of *Commissioner of Income Tax, West Bengal III and Others Vs. Oriental Rubber Works*, , it has been held :

"ordinarily the books of account or other documents that may be seized under an authorisation issued under Sub-section (1) of Section 132 can be retained by the authorised officer or the concerned Income Tax Officer for a period of one hundred and eighty days from the date of seizure, whereafter the person from whose custody such books or documents have been seized or the person to whom such books or documents belong becomes entitled to the return of the same unless the reasons for any extended retention are recorded in writing by the authorised officer/ the concerned Income Tax Officer and approval of the Commissioner for such retention is obtained. In other words, two conditions must be fulfilled before such extended retention becomes permissible in law : (a) reasons in writing must be recorded by the authorised officer or the concerned Income Tax Officer seeking the Commissioner's approval, and (b) obtaining of the Commissioner's approval for such extended retention, and if either of these conditions is not fulfilled, such extended retention will become unlawful and the concerned person (i.e., the person from whose custody such books or documents have been seized or the person to whom those belong) acquires a right to the return of the same forthwith. It is true that Sub-section (8) does not in terms provide that the Commissioner's approval or the recorded reasons on which it might be based should be communicated to the concerned person, but in our view, since the person concerned is bound to be materially prejudiced in the enforcement of his right to have such books and documents returned to him by being kept ignorant about the factum of fulfilment of either of

the conditions, it is obligatory upon the Revenue to communicate the Commissioner's approval as also the recorded reasons to the person concerned. In the absence of such communication, the Commissioner's decision according his approval will not become effective."

25. From the custody and possession of petitioner No. 1, the gold coins had been seized by the central excise and not by the Income Tax authorities. If the documents are retained beyond the statutory period for reasons recorded by the Commissioner, communication whereof should be made expeditiously as possible as indicated in the decision in Commissioner of Income Tax, West Bengal III and Others Vs. Oriental Rubber Works, .

26. u/s 132(8) proviso, the Commissioner shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all proceedings under the Indian Income Tax Act, 1922, or the present Act in respect of the years for which the books of account and documents are relevant were completed. Under Sub-rule (9), liberty is granted to the person from whose custody such books of account and other documents are seized, to make copies or take extracts therefrom. Under Sub-Rule (10), the person legally entitled to the books of account or other documents has the right to apply before the Board for return of the books of account or other documents.

27. Under the circumstances, the action was taken on behalf of the respondents pursuant to information received from the Ministry of Finance and after making elaborate enquiries, the respondents issued the warrant of authorisation having reason to believe that proper materials for tax evasion would be recovered from the petitioner's premises. Hence, this court should not sit in appeal over such action and interfere with such exercise of power. As a result, the rule is discharged. All interim orders are vacated. This order would not prevent the petitioners from applying before the respondents for handing over all warm clothes and wearing apparel and other warm materials which may be used by the petitioners and the other members of their family for the ensuing winter season. No order as to costs. On the prayer of Mr. D. N. Bhattacharjee, stay granted for a fortnight.