



Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION (ST) NO. 18707 OF 2023
IN
WRIT PETITION NO. 8903 OF 2023

Achal Ramesh Chaurasia ...Applicant
In the matter between
Achal Ramesh Chaurasia ...Petitioner
Versus
Deputy Director of Income Tax & Ors ...Respondent

**Mr Atul Rajadhyaksha, Senior Advocate, with Akhilesh Dubey,
Amit Dubey & Varad Dubey, i/b Law Counsellors, for the
Applicant/Petitioner.**
Ms Swapna Vaibhav Gokhale, for Respondent Nos. 1 and 2.
Mr DP Singh, for Respondent Nos. 3 and 4.

SHEPHALI
SANJAY
MORMARE

Digitally signed by
SHEPHALI
SANJAY
MORMARE
Date: 2023.07.20
17:14:38 +0530

**CORAM G.S. Patel &
Neela Gokhale, JJ.**
DATED: 19th July 2023

PC:-

1. The Petitioner encountered a Look Out Circular when he attempted to travel overseas on 31st May 2023. Apparently, this Look Out Circular or LOC was issued at the instance of the 1st Respondent, Deputy Director of Income Tax.

2. The Petitioner is a promoter of the ARC group. He is also independently assessed to tax. There is no dispute that the tax authorities carried out search and seizure of ARC entities and promoters, including the present Petitioner, on 15th February 2022.

3. Mr Rajadhyaksha also draws our attention to a communication dated 31st May 2023 from the Deputy Director of Income Tax Investigations to the FRRO Mumbai. This clarifies that LOCs were indeed issued against inter alia the Petitioner and others in his family. These are said to be without any expiry date and are said to be in force until there is a deletion request from the originator. But what follows in the second paragraph is important. Here, the Income Tax says that the appraisal report and the seized material and case records have been handed over to the jurisdictional assessing officer in central charge. There were no pending proceedings with the authority which triggered the LOC. The assessing officer was informed about the position of the LOC and it is he who said that the LOC will continue till 31st March 2024, i.e., the due date for completion of assessment proceedings.

4. But the fact that there is an assessment proceeding does not always or invariably justify the issuance of an LOC, nor does it justify preventing a Petitioner from traveling overseas in exercise of well-settled fundamental rights.

5. On instructions, learned Counsel for the Income Tax says that the reason the LOC had to be issued was that there was a period during which the Petitioner could not be contacted. He did not

answer his phone. He was found neither at his office nor at his residence.

6. We need not have any apprehensions on that score. After all, not only is the Petitioner before us, but so are his Advocates. Mr Rajadhyaksha reiterates the undertaking already given that the Petitioner will cooperate with the tax authorities and the assessing officer and will be available whenever required to answer all queries in the course of the assessment proceedings.

7. We have heard a group of petitions challenging the LOCs and the office memoranda but those were cases where there were claims by banks. This case perhaps stands on a slightly different footing. Even where there is a claim by the Income Tax and there are pending proceedings, it will have to be tested whether such an LOC can be issued and, if issued whether it can be continued indefinitely at the instance of the issuing authority with no predetermined expiry or validity date.

8. Hence admit. Respondents waive service. Affidavits in Reply to be filed and served by 23rd August 2023. Affidavit in Rejoinder to be filed and served by 6th September 2023.

9. In the meantime, the LOC in question is stayed until 23rd August 2023 since the Petitioner proposes to travel to Dubai for business purposes. This permission is subject to the usual conditions, viz.,-

- (a) the Petitioner is to file an undertaking to return to this country at the end of this period, if not already done;
- (b) the Petitioner is to file a detailed itinerary with his contact details and addresses overseas, if not already done;
- (c) The Petitioner must file an undertaking (if not already done) not to apply for renewal or extension of this order until he returns to this country.

10. Subject to these conditions, the LOCs in question against the Petitioner are stayed until 23rd August 2023.

11. The immigration authorities at all ports of departure including all airports will permit the Petitioner passage and permit the Petitioner to take his flights out of the country irrespective of whether the Income Tax Department has notified them or not and irrespective of whether this suspension is noted in the immigration authorities' systems or not.

12. The immigration authorities will not ask for a certified copy of this order but will act on presentation of an authenticated or digitally signed copy of this order.

13. List the Writ Petition as per the CIS.

(Neela Gokhale, J)

(G. S. Patel, J)