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

**+ Crl.M.A.Nos. 12118/2015, 12119/2015, 12120/2015, 18534/2015, 7868/2016, 7869/2016, 7870/2016, 17316/2016, 17317/2016, 17318/2016 and 17319/2016 in CONT.CAS.(CRL.) No.4/2015**

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**Date of decision : 25<sup>th</sup> January, 2017**

**COURT ON ITS OWN MOTION**

**..... Petitioner**

**Through: None**

**Versus**

**RAKESH KUMAR GUPTA**

**..... Respondent**

**Through: Respondent in person**

**CORAM:**

**HON'BLE MS. JUSTICE GITA MITTAL**

**HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT**

**GITA MITTAL, J**

1. By way of the present order, we propose to decide 11 applications being Crl.M.A. Nos. 12118/2015, 12119/2015, 12120/2015, 18534/2015, 7868/2016, 7869/2016, 7870/2016, 17316/2016, 17317/2016, 17318/2016 and 17319/2016 filed by the respondent before us. Before dealing with the individual applications, it is necessary to note a few essential facts relating to the litigation wherefrom the present contempt proceedings arise. It appears that three Income Tax Appeals and one Writ Petition being

***ITA No. 1428/2006 CIT v. M/s Escorts Ltd.; ITA 2011/2010 CIT v Big Apple Clothing Pvt. Ltd.; ITA 1262/2011 CIT v. Naresh K. Trehan and W.P.(C) No.836/2007 Escorts Ltd. V. Asstt. Commissioner of Income*** are pending before this court. These matters relate to income tax assessment orders and proceedings under the Income Tax Act against the private parties therein. Sh. Rakesh Kumar Gupta, the respondent herein, has no connection with the parties and is also not a party to these proceedings.

2. Sh. Rakesh Kumar Gupta filed an intervention application being CM No.5779/2008 in ITA 1428/2006 CIT v. M/s. Escorts Ltd. in which he had levelled several allegations against the counsel for the revenue. This application was rejected by the court by the order dated 15<sup>th</sup> January, 2005. Similar allegations were made in subsequent affidavits as well as e-mail communications sent to the court as well as to standing counsels as well as affidavits against the counsels for the revenue; which were considered by the court, in the proceedings on 12<sup>th</sup> February, 2015 in the said matters. Being of the view that the behaviour of the respondent herein amounted to seeking to prejudice, interfere or trying to interfere with due course of proceedings in the above cases, proceedings under Section 15 of the Contempt of Court Act, 1971 were due and warranted, notice to show cause was issued on the 12<sup>th</sup> February, 2015 to the respondent as to why he should not be proceeded against under Section 15 of the Contempt of Court Act, 1971 with regard to the allegations made by him and the present contempt proceedings came to be registered. The eleven

applications which are the subject matter of the present order have been filed in the present contempt proceedings.

3. These applications were listed before us on 16<sup>th</sup> November, 2016 when we had proposed to hear and dispose of these applications by oral orders. However, the respondent resorted to repeated interventions and obstructed us from passing orders on the applications to the extent of making allegations that he was not being heard. In this background, we decided to reserve orders. It is noteworthy that the respondent advanced protracted arguments on these applications.

4. We take up these applications in the chronological order in which they have been filed :

(i) **Crl.M.A.No.12118/2015** (page 368)

This application has been filed by the applicant submitting that the written submissions stand filed in ITA No. 1428/2016 by learned counsel for the Income Tax Department. With regard to these submissions, the applicant has filed the present application seeking the following prayer :

*“b. Direct Ms Suruchi Aggarwal to (R-3) file affidavit about facts as requested in preceding paragraph – Para 13.”*

5. Such a prayer in the present application could be made only in ITA 1428/2016 and has no bearing on the consideration by us. The prayer in the present application is completely misdirected.

The application is dismissed with costs which are assessed at ₹2,500/- which shall be deposited with the Delhi High Court Legal

Services Committee within a period of four weeks from today.  
Proof of deposit of costs shall be filed in the present proceedings.

(ii) **Crl.M.A.No.12119/2015** (at page 375)

6. This application is premised on the averments made in para 3, 4 and 9 which are to the following effect :

*“3. On 12/2/2015, Hon'ble Court bench admitted Mr. Simran Mehta CM APPL.- 2553/2015 and issued notice. Mr. Simran Mehta had given copy of CM to C/R-1/IV/WB during court proceeding. On next date of hearing 12/3/2015, Mr. Simran Mehta denied giving copy of CM to C/R-1/IV/WB.*

*4. Accusers (Mr. Simran Mehta, Advocate) are not giving, even basic material to C/R-1/IV/WB. e.g. Mr. Simran Mehta, Advocate (is not identifying the pages (out of 6 loose pages -\*Page 12 to 17 of Application dated 10/3/2015) given by him to Hon'ble Court. (request was made by e mail dated 23-2-2015 & 11-4-2015). Similarly Mr. Simran Mehta is not sticking to one particular stand (taken two different stand -first stand-case of giving CM copy on CM admission date, then (second stand) totally opposite stand of not giving CM copy on the date CM decision )( request was made by e mail dated 11-4-2015) . Similarly not giving certified copy of CM and decision in which Mr. Simran Mehta got injunction orders (against C/R-1/IV/WB), because C/R-1/IV/WB want to challenge injunction order. If, C/R-1/IV/WB does not comply injunction order, then, Mr. Simran Mehta, may again request*

*Hon'ble Court to start another contempt proceeding C/R-1/IV/WB for non-compliance of Court order.*

*9. In the light of above, C/R-1/IV/WB prayed this hon'ble Court to kindly direct Mr. Simran Mehta to file affidavit clearly stating about critical six loose pages submitted by Advocates and also clarify stand on giving copy of CM APPL-2553/2015 to C/R-1/IV/WB.*

<i>a</i>	<i>Identify pages given by him to Hon'ble Court (by stating Page Number in affidavit)</i>
<i>b</i>	<i>Who had prepared/given these paper to him.</i>
<i>c</i>	<i>Identify pages given to him (by opposite side Advocate R-3) (by stating Page Number in affidavit).</i>
<i>d</i>	<i>Justified that pages given by him contain essential facts as stated by C/R-1/IV/WB shortlisted in perjury application.</i>
<i>e</i>	<i>State, whether Mr. Simran Mehta given copy of CM APPL.-2553/2015 to C/R-1/IV/WB or not.</i>

7. On these averments, the respondent has prayed as follows :

*“10. xxx xxx xxx*

*b. Direct Mr. Simran Mehta to file clarifying affidavit about facts as requested in preceding paragraph - (Para 9).”*

8. Again, just as the prayer in Crl.M.A.No. 12118/2015, this prayer could be made only in the proceedings wherein CM No. 2553/2015 has been made. The same has no bearing on the present case.

This application is, therefore, dismissed with costs of ₹2,500/- which shall be deposited with the Delhi High Court Legal Services Committee within a period of four weeks from today. Proof of deposit of costs shall be filed in the present proceedings.

(iii) **Crl.M.A.No.12120/2015** (at page 380)

9. By this application, the applicant prays for a direction to the Income Tax Appellate and Writ Branch of this court to supply documents relating to the aforementioned income tax appeals and the writ petition to this court.

The respondent is not a party to those matters and is not entitled to this record.

It is, therefore, not open to the respondent to seek such direction. In case, any records are required for by this court, appropriate directions requisitioning the same would be made by the court.

This application is dismissed with costs of ₹2,500/- which shall be deposited with the Delhi High Court Legal Services Committee within a period of four weeks from today. Proof of deposit of costs shall be filed in the present proceedings.

(iv) **Crl.M.A.No.18534/2015** (page 412)

10. By this application, the applicant seeks early disposal of Crl.M.A.Nos.12118/2015, 12119/2015, 12120/2015. In as much as these applications have been heard and are being disposed of by this order, Crl.M.A.No.18534/2015 is hereby disposed of as having been rendered infructuous.

(v) **Crl.M.A.No.7868/2016** (page 451)

11. By this application, the applicant has prayed for permission to record the hearings in court by phone, camera/electronic device. Such a prayer is completely unwarranted. This application is misconceived and is dismissed as such.

(vi) **Crl.M.A.No.7869/2016** (page 454)

12. In this application, the applicant has made the following averments :

*“2. Tax payers are hiding important facts and giving false statement to win tax cases/ proceeding through unfair means. And harass (C/R-1) in the contempt proceeding.*

*3. Income Tax department is still presenting weak case in Tax cases (ITA 1428/2006 and connected matters) and not brought to this Hon'ble court notice about their strong points and false averments of tax payers.*

*4. C/R-1 written various letters to Income Tax department (pinpointing shortcoming in tax department pleading). Missing strong points are*

*summarized in perjury application (page 131-156 of this Contempt proceeding records).*

*5. In the light of above, C/R-1 C/R-1 prayed this hon'ble court to take strong actions against Tax payer (for hiding important facts and making incorrect averment to win tax cases through unfair means And harass (C/R-1) in the contempt proceeding) and Tax department (not brought to this Hon'ble court notice about their strong points and false averments of tax payers to lose tax cases through unfair means at Nation Cost and C/R-1 Cost and harass (C/R-1) in the contempt proceeding).”*

13. Premised on these averments, the applicant/respondent seeks the following prayer :

“ 6. xxx                      xxx                      xxx

*b. C/R-1 prayed this Hon'ble court to **take strong actions against Tax payer** (for        hiding important facts and making incorrect averment to win tax cases through unfair means And harass (C/R-1) in the contempt proceeding) and Tax department (not brought to this Hon'ble court notice about their strong points and false averments of tax payers to lose tax cases through unfair means at Nation Cost and C/R-1 Cost And harass (C/R-) in the contempt proceeding.)”*

14. On the face of the record, this application in the present



proceedings is again completely misconceived. We are concerned in the present proceedings only with an examination of the issue as to whether the respondent/applicant has committed contempt of court.

15. So far as the conduct and action of the assesseees and the revenue is concerned, the same is the subject matter of consideration in the aforesaid three appeals and the pending writ petition. In any case, as observed by the Division Bench in the order dated 9<sup>th</sup> April, 2015, the applicant has no *locus standi* to make such a prayer.

This application is dismissed with costs which are quantified at ₹2,500/- which shall be deposited with the Delhi High Court Legal Services Committee within a period of four weeks from today. Proof of deposit of costs shall be filed in the present proceedings.

(vii) **Crl.M.A.No.7870/2016** (page 457)

16. We extract the averments made by the respondent on which the prayer in this application is premised:

*“2. Tax payers are hiding important facts and giving false statement to win tax cases/ proceeding through unfair means. And harass (C/R-1) in the contempt proceeding.*

*3. Income Tax department is still presenting weak case in Tax cases (ITA 1428/2006 and connected matters) and not brought to this Hon'ble court*

*notice about their strong points and false averments of tax payers.*

*4. Above action of Tax payer and Tax department has resulted ,huge delay in payment of reward money to C/R-1 of more than decade. C/R-1 devote maximum time to help Tax department to collect evaded income tax. Delayed reward payment is giving huge financial stress to C/R-1. Tax payer and Tax department is using this hon'ble Court proceeding to kill the C/R-1 economically first, which ultimately will result physical death.*

*5. In the light of above, C/R-1 prayed this hon'ble court to direct Tax department to pay interim reward to Rs 10 Crore. C/R-1 final reward may exceed Rs 1000 Crore as stated in Page 395 Para 15(i) of interim reply dated 19/9/2015.”*

17. On these averments, the applicant seeks the following prayers :

*“6. xxx xxx xxx  
b. C/R-1 prayed this hon'ble court to direct Tax department to pay interim reward of Rs 10 Crore”*

18. No direction can be issued in the present case for payment of any reward to the respondent in these proceedings. This application is again hopelessly misconceived and is dismissed with costs of ₹2,500/- which shall be deposited with the Delhi High Court Legal Services Committee within a period of four weeks from today. Proof of deposit of costs shall be filed in the present

proceedings.

(viii) **Crl.M.A.No.17316/2016** (page 512)

19. In this application, the contemnor/respondent makes the following averments :

*“2. C/R-1 had supplied substantial evidence in soft form (DVD) and available at Page 388 in Court file*

*3. C/R-1 is ready to prove all allegation levelled against tax payer, tax department etc are true. Hon'ble Court need Information contain in DVD to effectively hear case and C/R 1 to prove the main allegation against Tax payers (that they are lying to Court to win case at the Cost of Nation Tax due) and Tax payment is not putting points in their favour for unexplained reasons, therefore, it is vital to decide case property that information should be in the form that Hon'ble bench see them.*

*4. Tax payer as well Tax department had already this information in paper form as well in soft form, DVD information is to be converted in paper form for Hon'ble bench only.*

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*6. In the light of above, to protect the revenue interest and to protect justice, C/R-1 request for converting information contain in DVD in paper form or alternatively convert present court/Bench to E Court or alternatively transfer the case to E Court.”*

20. On these allegations, the applicant/respondent makes the following prayer :

*“b. C/R-1 request for converting information contain in DVD in paper form or alternatively convert present court/Bench to E court or alternatively transfer case to E Court.”*

21. This court is fully equipped and receives digitalised records. No direction, as sought by the applicant, are necessary and the application is dismissed.

(ix) **Crl.M.A.No. 17317/2016** (page 515)

22. By this application, the applicant has made a grievance that the counsels for the Income Tax Department have attended very few hearings in the present proceedings and seeks directions to the Tax Department to depute a representative to this court for completion of formalities. It is trite that contempt proceedings are between the court and the contemnor. In case, presence of any particular person or authority is deemed necessary, it is for the court to so direct.

The prayer made in this application is misconceived and is rejected with costs of ₹2,500/- which shall be deposited with the Delhi High Court Legal Services Committee within a period of four weeks from today. Proof of deposit of costs shall be filed in the present proceedings.

(x) **Crl.M.A.No.17318/2016** (page 519)

23. In this application, the respondent has made the following assertions in paras 3 and 4:

*“3. C/R-1 is facing this case in person and has basic law knowledge only. Due to lack of fund, does not able to engage proper lawyers to take his case.*

*4. Absence of lawyers help has resulted order by Tax bench, which has ignored various facts.”*

24. In para 5, the applicant refers to proceedings before the Tax Bench in the aforestated appeals and contempt. The respondent makes the following prayers in this application:

*“b. When application is pending to review order dated 12/3/2016, Hon'ble Court, then Hon'blereferred 12/3/2016 as final order. 12/3/2016 order was partly revised by the presiding Judge bench of Tax case on 27/5/2016.”*

25. We have heard all applications filed by the respondent which are being disposed of by this order. As such, this application is rendered infructuous and is disposed of as such.

26. We may note that on the last date of hearing, in view of the submissions made by the applicant in paras 3 and 4 noted above, we had queried the applicant if we could give him a lawyer of ability from the panel constituted by the Delhi High Court Legal Services Committee. The respondent was emphatic that he shall choose a lawyer but the lawyer would be permitted to make only legal submissions and that he would make factual submissions himself. This in fact manifests that the submission by the respondent that he is unable to plead legal submissions is not

correct. We had noted this fact in our order dated 11<sup>th</sup> January, 2017.

We have also noted the intemperate conduct of the respondent no.1 in our order dated 11<sup>th</sup> January, 2017.

(xi) **Crl.M.A.No. 17319/2016** (page 533)

27. In this application, the respondent makes the following averments :

*“2. Tax department is deliberately losing revenue for unexplained reasons, can be proved with the latest ITAT order (AAA Portfolio P Ltd. Case-copy of order is at page 26-31) dated 7-4-2016 on the same issue on the pending cases on which present contempt proceeding was initiated against C/R-1.*

*3. There is total blackout (tax department favourable points in ITAT order) on direction (issued dated 14-2-2016 by Director of Income Tax Vig (NZ) to CIT 1 Delhi (supervisor officer of officer looking AAA Portfolio P Ltd Case). Main issue is summarised in four pages from 197 to 200 of Criminal Contempt 4/2015 case file). And in detail is explained by C/R-1 Page 135 to 140 and 175 to 190.*

*4. Kindly note, there is gap of one year, between direction issued and ITAT order. And this point should be part of ITAT records.”*

On these averments, he makes the following prayer :

*“b. C/R-1 request this Hon'ble Court to call the complete records from ITAT and appeals filed in Delhi High Court of AAA Portfolio P Ltd Case.”*

28. Such a prayer may be relevant for the purposes of deciding the issues in the Income Tax Appeals and writ petition. Such prayer in the present proceedings is completely misdirected.

The application is dismissed with costs which are assessed at ₹2,500/- which shall be deposited with the Delhi High Court Legal Services Committee within a period of four weeks from today. Proof of deposit of costs shall be filed in the present proceedings.

**GITA MITTAL, J**

**ANU MALHOTRA, J**

**JANUARY 25, 2017/kr**