



IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT PETITION No. 6810 of 2024

*ARIHANT JEWELLERS*

*Versus*

*PRINCIPAL COMMISSIONER OF INCOME TAX I AND OTHERS*

WITH

WRIT PETITION No. 6850 of 2024

*MR. AMIT SHARMA*

*Versus*

*PRINCIPAL COMMISSIONER OF INCOME TAX I AND OTHERS*

WRIT PETITION No. 15169 of 2024

*SEQUEL LOGISTICS PRIVATE LIMITED THROUGH ITS  
AUTHORIZED PERSON/ SIGNATORY JITENDRA PATIDAR*

*Versus*

*PRINCIPAL COMMISSIONER OF INCOME TAX I AND OTHERS*

**Appearance:**

*Shri Ajay Bagadia, learned Senior Counsel assisted by Shri Amit Pal,  
learned counsel for the petitioner in W.P. No.6810 of 2024.*

*Shri P. M. Choudhary, learned Senior Counsel assisted by Shri Amit Pal,  
learned counsel for the petitioner in W.P. No.6850 of 2024.*

*Shri Jai Kansara, learned counsel for the petitioner in W.P. No.15169 of  
2024.*

*Shri Harsh Parashar along with Ms. Yashika Bondwal, learned counsel for  
the respondent / Income Tax Department.*

*Shri Bhuwan Gautam, learned Government Advocate for the respondents /  
State.*



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**Reserved on : 15<sup>th</sup> July, 2025****Delivered on : 18<sup>th</sup> August, 2025**

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**O R D E R*****Per : Justice Vivek Rusia***

The present three writ petitions are filed under Article 226 of the Constitution of India raise interconnected questions of facts and law arising out of the seizure of jewelry in 37 consignments on 23.10.2023 by the Static Surveillance Team, (SST) Ratlam by the District Election Officer during the enforcement period of Model Code of Conduct during the Madhya Pradesh State Assembly Elections and thereafter proceedings initiated under the Income Tax Act, 1961 (in short 'the IT Act') and the consequential action taken by the respondent authorities.

02. Since the factual matrix and legal questions involved are substantially common and interlinked across all the writ petitions, with the joint request of the parties, they are analogously heard and are being disposed of together by this common judgment.

03. Admittedly, the petitioners have sought common relief in these three writ petitions and there is no conflict of interest between them. There are no allegations and counter-allegations against each other. They all agree on a series of actions taken by the respondents.

**FACTS OF THE CASE IN BRIEF**

04. On 23.10.2023, during the enforcement of the Model Code of Conduct in connection with the Legislative Assembly Elections in Madhya Pradesh, a Bolero Vehicle bearing registration No.MP 09 ZR 5319 (hereinafter called as 'Vehicle') operated by Sequel Logistics Private Limited was intercepted by the Static Surveillance Team (SST),



Ratlam. At the time of interception, Mr. Amit Sharma, an employee acting in his official capacity as Custodian Officer at the Indore office of Sequel Logistics, was present in the Vehicle along with the driver.

4.1. The SST was operating under the directions of the Election Commission of India in accordance read with the Standard Operating Procedure for seizure and release of cash and valuable items issued by the Central Board of Direct Taxes (CBDT) vide Regulation No. 464/Seizure/GE-Las/2021/EPPS dated 19.08.2021 read with Instruction No. 76/Instructions/EEPS/2015 dated 29.05.2015.

4.2. Upon interception, the SST seized 37 sealed and tamper-proof jewellery consignments valued at over Rs.6.00 crore, as per accompanying documents. These consignments belong to various clients of Sequel Logistics booked for transportation to the different locations. The petitioner M/s Arihant Jewellers, one of them, booked the consignment, which allegedly contained approximately 1785.120 grams of gold jewellery valued at Rs.1,06,36,500/-.

4.3. Following the seizure, summons dated 25.10.2023 under Section 131 of the IT Act were issued to Mr. Amit Sharma in his personal capacity by the Income Tax Department and he was asked to appear before them on the same day itself. Subsequently, on his arrival, his statement was recorded wherein he disclosed that he was not the owner of any of the consignments and was acting purely in his official capacity as a custodian employee of Sequel Logistics and that the goods belonged to different clients of Sequel Logistics, but the same was not accepted or believed.

4.4. The District Grievance Committee for Ratlam, constituted by the District Election Officer under the instruction of the Election



Commission of India, comprising the Chief Electoral Officer, the Nodal Officer of Expenditure Monitoring and the District Treasury Officer on 26<sup>th</sup> October, 2023, issued a communication to the Income Tax Department acknowledging its request for requisition of seized consignments. Pursuant to this a warrant of authorization under Section 132A(1) of the Income Tax Act was issued on 27.10.2023 by the Principal Director of Income Tax (Investigation), Bhopal authorizing the Deputy Director of Income Tax (Investigation) to requisition the seized consignments and accordingly consignments and supporting documents were handed over on 28.10.2023 by Shri Durgesh Sirolia, SST Magistrate, Ratlam.

4.5. Subsequently, on 29.12.2023, a notice was issued by the Principal Commissioner of Income Tax-1, Indore, to Mr. Amit Sharma, informing him that his assessment case has been transferred to the jurisdiction of the Deputy Commissioner of Income Tax (Central)-2, Indore under Section 127 of the Income Tax Act. Meanwhile, M/s Arihant Jewellers submitted a formal representation dated 10.01.2024 to the Additional and Deputy Commissioners of Income Tax (Central), Indore, asserting legal ownership of the seized goods and requesting immediate release of the goods. Sequel Logistics also submitted similar representations on behalf of its clients whose consignments were seized.

4.6. On 12.01.2024, Mr. Amit Sharma also submitted a letter to the Deputy Commissioner of Income Tax (Central) - 2, Indore reiterating that he had no proprietary interest in the seized consignments and that the goods belonged to different entities who had availed of the services of Sequel Logistics and also requested for the certified copy of his statement recorded on 25<sup>th</sup> October, 2023. Thereafter, three notices



under Section 148 of the Act were issued on 16.01.2024 to Mr. Amit Sharma for the assessment years 2020–21, 2021–22 and 2022–23 by the Assistant Commissioner of Income Tax (Central Circle) - 2, Indore.

4.7. By Communication dated 29.01.2024, M/s Arihant Jewellers was informed that the consignments had been requisitioned under Section 132A and that jurisdiction had been transferred to the Central Circle. The Communication also stated that assessment proceedings against Mr. Amit Sharma have been ongoing and that any release of the goods would be subject to further examination. On the same date, Mr. Amit Sharma also addressed a letter to Deputy Commissioner of Income Tax (Central) - 2, reiterating that he had no proprietary interest in the consignments and sought the supply of the seizure memo, *panchnama* and related documents.

4.8. Meanwhile, All India Gem & Jewellery Domestic Council, Mumbai received a Communication on 31.01.2024 from the Officer on Special Duty (OSD), Election Cell, CBDT, clarifying that seizure of jewellery or bullion is not needed if the goods are accompanied with valid documentation, including tax invoices, stock statements, authorization letters and ID cards.

4.9. However, disregarding the above, the Income Tax Department issued a communication dated 08.02.2024 to M/s Arihant Jewellers and other consignors/consignees stating that Mr. Amit Sharma had been held to be the owner of the goods during requisition proceedings and that only his case had been centralized. A CBDT instruction dated 16.02.2023 was also cited to state that the respondent authorities did not have jurisdiction over claims of the consignors or consignees. Similar responses were also given to the subsequent representations filed by



Sequel Logistics and other consignors/consignees.

4.10. Despite repeated communications dated 13.02.2024 and 05.03.2024 by M/s Arihant Jewellers and on 04.03.2024 by Sequel Logistics addressed to the Income Tax Authorities and the District Committee, Ratlam, asserting ownership by the respective traders and violation of applicable SOPs, no action was taken by the respondent authorities.

4.11. According to the petitioners, during the 2024 General Elections, a similar incident occurred on 25 April 2024 when another vehicle of Sequel Logistics was intercepted by the Static Surveillance Team, Deendayalnagar, Ratlam and on this occasion, nine consignments were seized despite being accompanied by complete documentation. However, in this case, after the representative of Sequel Logistics appeared before the District Election Officer with all requisite records upon verification of documents, the District Election Monitoring Committee passed an order on 29.04.2024 directing the release of consignments, finding that the seizure had been unjustified.

4.12. Being aggrieved by the action and inaction of the respondent/authorities, the petitioners have now approached this court under Article 226 of the Constitution, challenging the legality of seizure, requisition and consequential assessment proceedings. The petitioners contend that the impugned actions are arbitrary, contrary to the prescribed procedural safeguards provided in the Income Tax Act and relevant CBDT instructions and further prayed for appropriate reliefs in each of their cases including a declaration that the seizure and requisition were bad in law as done without authority of law and contrary to the statutory safeguards as provided by law.



05. After filing the reply by respective respondents, the petitioners have filed a detailed rejoinder, written submissions and a compilation of case laws in support of their case.

**SUBMISSION OF PETITIONER / ARIHANT JEWELLERS**

06. Shri Ajay Bagadiya, learned Senior Counsel appearing on behalf of this petitioner, advanced detailed submissions assailing the legality of the seizure and continued retention of the petitioner's jewellery consignment. That the entire action commencing from the interception by the SST to the requisitioning of the goods under Section 132A of the Income Tax Act, 1961, is without jurisdiction and contrary to the binding Standard Operating Procedure (SOP) framed by the ECI.

6.1. At the outset, learned Senior Counsel submitted that the Petitioner is a registered and established entity engaged in the lawful business of manufacturing and trading of jewellery. The petitioner in the ordinary course of business had procured 2050 grams of gold from M/s Creative Gold and had in accordance with standard industry practice instructed the seller to deliver the said gold directly to M/s Subhas Mondal a craftsman in Mumbai to manufacture jewellery who had to upon completion of the work dispatch the finished jewellery in a consignment to the petitioner at Ratlam through Sequel Logistics Pvt. Ltd, with whom the petitioner had entered into a logistics agreement dated 15.12.2020 for the transportation of high-value goods.

6.2. Learned Senior Counsel submitted that the consignment belonging to the petitioner was one of 37 consignments which was seized by the SST, Ratlam despite having necessary documents including tax invoice dated 21.10.2023 issued by M/s Subhas Mondal and further submitted that the above transactions were duly recorded in



the regular books of account of the petitioner which are available on record.

6.3. Learned Senior Counsel submitted that when the said vehicle was intercepted by the SST, Ratlam Mr. Amit Sharma showed all proper documents for each consignment however the SST without giving any valid reason seized all the goods and later handed over them to the Income Tax Department which they were not authorized under the SOP to take custody in such a manner.

6.4. Learned Senior Counsel submitted that the SOP issued by the Election Commission particularly Circular No. 464/Seizure/GE-Las/2021/EPPS dated 19.08.2021 read with Instruction No. 76/Instructions/EEPS/2015 dated 29.05.2015 clearly states that the SST is empowered to seize cash or valuables only upon a clear finding that such items are being used or intended to be used for electoral purposes or are linked to a candidate, political party or electoral inducement and that in the present case since there was absence of any such linkage the SST had no authority to carry out seizure.

6.5. Learned Senior Counsel submitted that Clause 8 of the SOP specifically provided that in cases where valuables are accompanied with proper documentation and there is no electoral linkage, the SST shall not seize the cash but may pass on the information to the Income Tax Department for necessary action. That in the present case, there was no political linkage found, and as proper documentation was available establishing the nature, origin and destination of the goods, the SST had no ground to seize them and subsequently transfer them to the Income tax department.

6.6. Learned Senior Counsel submitted that Clause 9 of the SOP





further mandates that in the event of suspicion of an offence it is binding upon the SST to get an FIR or a complaint registered in the police station or court having jurisdiction within 24 hours however in the present case no such FIR or complaint was registered against the petitioner nor any finding was recorded by the SST or the District Level Committee establishing any irregularity or criminality done by the petitioner thereby making the entire seizure illegal.

6.7. So far as the actions of Income Tax Department are concerned, learned Senior Counsel argued that the requisition made under Section 132A of the IT Act against Amit Sharma in respect of property of the petitioner is void ab initio and liable to be quashed as the provision empowered the authorized officer to requisition articles only where he has "reason to believe" that such articles represent income not disclosed or likely to be suppressed for the purposes of assessment. That in the present case, no such belief can be said to have validly arisen as the department had before it the tax invoice, docket, declaration and the statement of Mr. Sharma which all clearly indicated that the consignment was lawful stock-in-trade of the petitioner which was being transported as per the normal course of commercial transit involved in such businesses.

6.8. Learned Senior Counsel submitted that the requisition was effected without any notice or opportunity of hearing to the petitioner thereby violating the principles of natural justice and further submitted that the department had wrongly presumed the custodian of the consignment to be the owner whereas the actual ownership rested with the petitioner which was evident from the documentary record as well as the statement recorded by the Department itself.



6.9. Learned Senior Counsel Shri Bagadia further submitted that the subsequent transfer of the case under Section 127 of the Income Tax Act to another jurisdiction without giving an opportunity of hearing to the petitioner and without recording reason in writing for such transfer shows the malafide intention of the IT department and further submitted that the centralization of the case of Amit Sharma has been done merely to avoid scrutiny before this court and to distance the officer who had requisitioned the goods from further accountability.

6.10. Learned Senior Counsel submitted that the continued retention of the consignment by the Income Tax Department is in clear violation of the mandate of Section 132B of the Act as the provision lays down a strict timeline of 120 days from the date of requisition within which the Assessing Officer is required to complete the assessment or determine liability and appropriate the seized assets accordingly and in absence of such determination, the assets are liable to be released forthwith. That in the present case, the requisition was made long back and no determination has still been made long after the expiry of the stipulated period, thus the continued retention is totally arbitrary and unlawful.

6.11. Learned Senior Counsel submitted that despite repeated representations made supported with all relevant documents, no adjudication has been made on merits and further pointed out that the applications submitted during the pendency of the writ proceedings were also rejected without addressing the core issue of ownership or validity of requisition on the ground that the matter had been centralized and thus the authority has no jurisdiction/power to deal with the case.

6.12. In support of his submissions, learned Senior Counsel has supplied copies of the several judgments of Apex Court and of different



High Court delivered in the cases of *State of Punjab v/s Davinder Pal Singh Bhullar* reported in (2011) 14 SCC 770, *Badrinath v/s Government of Tamil Nadu* reported in (2000) 8 SCC 395, *CIT v/s Vindhya Metal Corporation* reported in (1997) 5 SCC 321, *Indian Traders v/s State of Bihar* reported in (2019) 417 ITR 95 (Patna), *Khem Chand Mukim v/s Pr. DIT (Investigation)* reported in (2020) 423 ITR 129 (Del.), *Biaora Constructions (P.) Ltd. V/s Director of Income Tax (Investigation)* reported in (2006) 281 ITR 247 (MP), *Pushpa Ranjan Sahoo v. Assistant Director of Income Tax* reported in 2012 SCC OnLine Ori 428, *Harshvardhan Chhajed v/s DGIT (Investigation)* reported in (2021) 438 ITR 68 (Raj.), *Ashish Jayantilal Sanghavi v/s ITO* reported in (2022) 444 ITR 457 (Bom.), *Mitaben R. Shah v/s Deputy CIT* reported in (2011) 331 ITR 424 (Guj.), *M/s Bhagwati Jewellers v/ Directorate of Enforcement in SB Civil Writ Petition No. 10226/2021 (Raj.)* and *Nadim Dilipbhai Panjvani v/s Income Tax Officer Ward-3 in Special Civil Application No. 13374 of 2015 (Guj.)*.

6.13. Shri Ajay Bagadia, learned Senior Counsel, in conclusion, submitted that the seizure was without authority under the SOP, the requisition under Section 132A was illegal for want of valid satisfaction and notice and that the continued retention beyond 120 days is contrary to Section 132B and accordingly prayed that the impugned requisition and all consequential proceedings be quashed and a direction be issued to the respondents to forthwith release the petitioner's consignment.

#### **SUBMISSIONS OF PETITIONER / AMIT SHARMA**

07. Shri P. M. Choudhary, learned Senior Counsel appearing for the petitioner – Mr. Amit Sharma submitted that the entire action taken



against the petitioner under the Income Tax Act, 1961, is without jurisdiction, suffers from non-application of mind and is based on a fundamental misunderstanding of the petitioner's role in the entire episode. That the petitioner is merely an employee of M/s Sequel Logistics Pvt. Ltd., a fact admitted by the respondents themselves, and he was in lawful possession of the consignments solely in his capacity as a custodian for transportation purposes for its employer.

7.1. Learned Senior Counsel submitted upon being intercepted by SST, Ratlam the petitioner immediately produced all relevant documents relating to the consignments and on finding no political link or illegality, the SST released the petitioner on 24.10.2023 but despite there being no illegality did not return the consignments to the petitioner and instead handed them over to the income tax department which was without authority and contrary to the SOP guidelines as it restricts such transfer unless there is a link to an electoral candidate or suspicion of an offence none of which were found or recorded in this case. The basic intelligence and application of mind are expected from the government officials.

7.2. Learned Senior Counsel submitted that the Income Tax Department summoned the petitioner, and his statements were recorded wherein he disclosed his identity as an employee of Sequel Logistics and explained that he was only transporting the goods in his capacity as the custodian of the company. During the statement, specific questions regarding each document were asked. The answers to questions 5, 6, 9, 11, 12, 15, 16, 19, 22 and 26 in the statement are particularly relevant for the consideration of ITO, who failed to understand them.

7.3. Learned Senior Counsel submitted that despite disclosure of all



facts by the petitioner, a warrant of authorisation/ requisition under Section 132A (1) (c) was illegally issued by the department on the belief that the goods in question are part of the undisclosed income of the petitioner. This requisition by the income tax authority is totally unsustainable in law, as there is no basis whatsoever to form such a belief, especially in light of the statement of the petitioner and the accompanying documents.

7.4. Learned Senior Counsel submitted that the continued belief by IT that the petitioner is the owner is wholly misconceived, which will lead them nowhere. The expectations from an employee to establish the ownership of consignments who is merely discharging his assigned duties is totally misplaced, as he had only limited knowledge regarding the contents of the consignment and his responsibility was limited to only that which is of a bailee. The absence of e-way bills does not vitiate the transportation in this case, as the movement of jewellery is exempt under Rule 138(14)(a) of the CGST Rules, 2017.

7.5. Learned Senior Counsel submitted that the department had obtained a No Objection Certificate (NOC) from the Local Grievance Committee on 26.10.2023, that is, even before any formal order under Section 132A was issued, which shows that the department had acted first and tried to justify it later, which is not permissible in law. Learned senior counsel objected to the presumption taken by the department under Section 132(4A) and submitted that such presumptions arise in case of lawful seizure and also do not apply to a person acting as a carrier without any ownership interest.

7.6. Lastly, learned Senior Counsel submitted that multiple notices under Section 148 of IT Act have been issued to the petitioner in his



capacity without prior opportunity of hearing and without initiating any action against the actual owners despite communications from them and the employer further his case was also subsequently centralized under Section 127 of the IT Act without granting any opportunity of hearing.

7.7. In support of the aforesaid contentions, learned Senior Counsel supplied photocopy of several judgments of Apex Court and of different High Court in the cases of *CIT v/s Vindhya Metal Corporation* reported in (1997) 224 ITR 614 (SC), *Vindhya Metal Corporation v/s CIT* reported in (1985) 156 ITR 233 (All), *DGIT (Inv.) v/s Spacewood Furnishers Pvt. Ltd.* reported in (2015) 374 ITR 595 (SC), *Ajit Jain v/s Union of India* reported in (2000) 242 ITR 302 (Del) affirmed in (2003) 260 ITR 80 (SC), *D.N. Singh v/s CIT* reported in (2023) 454 ITR 595 (SC), *ITO v/s Lakhmani Mewal Das* reported in (1976) 103 ITR 437 (SC), *Ganga Saran & Sons P. Ltd. v/s ITO* reported in (1981) 130 ITR 1 (SC), *ITO v/s Seth Brothers* reported in (1969) 74 ITR 836 (SC), *Biora Construction (P) Ltd. v/s DIT (Inv.)* reported in (2006) 281 ITR 247 (MP), *Tejram Omprakash (HUF) v/s DIT (Inv.)* reported in (2013) 262 CTR 82 (MP), *MECTEC v/s DIT (Inv.)* reported in (2021) 433 ITR 203 (Telangana HC), *Khemchand Mukim v/s PDIT (Inv.)* reported in (2020) 423 ITR 129 (Del), *Prakash Jaichand Shah v/s DIT (Inv.)* reported in (2013) 350 ITR 336 (Guj), *Samta Construction Co. v/s DDIT (Inv.)* reported in (2000) 244 ITR 845 (MP), *Smt. Rewati Singh (Late) v/s ACIT* reported in (2017) 397 ITR 512 (All), *H.L. Sibal v/s CIT* reported in (1975) 101 ITR 112W (P&H), *Garg Trading Co. v/s Sales Tax Officer* reported in (1983) 16 VKN 10, and *Tejram Omprakash (HUF) v/s Director of Income Tax (Investigation) & Ors* reported in (2013) 262 CTR 82 (MP).



7.8. Learned Senior Counsel lastly submitted that the IT authorities are still erroneously proceeding with the case of the petitioner, treating him as the owner of the jewellery and prayed that the entire proceedings initiated against him in his personal capacity be quashed and that appropriate direction be issued for the release of the consignments to their rightful owners.

**SUBMISSIONS OF PETITIONER / SEQUEL LOGISTICS PRIVATE LIMITED**

08. Shri Jay Kansara, learned counsel for the petitioner Sequel Logistics submitted that it is a where a specialized logistics company engaged in the secure transportation of high-value consignments such as bullion, diamonds, and jewellery and operating on a business-to-business model the company provides door-to-door secured logistics solutions to authorized traders, manufacturers, and retailers across the country including reputed business and government institutions such as the Reserve Bank of India and several nationalized banks.

8.1. Learned counsel submitted that the petitioner functions under formal logistics agreements with its clients wherein sealed consignments are transported strictly as per instructions, accompanied by requisite documents including tax invoices, transport dockets, authorisation letters and client declarations specifying the nature and value of the goods being transported. Under these agreements, the company is not permitted to open or inspect the sealed packages, and its role is confined to transporting them without any claim of ownership over the contents.

8.2. Learned counsel submitted that the consignments in question belonged to *bona fide* jewellery traders like Arihant before this court and manufacturers across the country and were supported by complete



documentation, including tax invoices, entries in books of accounts, transport dockets and agreements with the petitioner.

8.3. Learned counsel submitted that the employee of the company, Mr. Amit Sharma, had furnished all such documents before the respondent authorities and has also placed them on record through the present proceedings. Additionally, income tax returns of the consignors and consignees for the years 2020–21, 2021–22 and 2022–23 have also been submitted to support their case.

8.4. Learned counsel submitted that multiple communications were sent to the department by the petitioner on behalf of all consignees claiming ownership of the goods and requesting their release. However, the authorities have not taken any steps under Section 132B of the Act, and since the 120-day statutory period for retention has long lapsed, the continued possession is unlawful.

8.5. Learned counsel submitted that the arbitrary action by respondents had not only caused financial damage but had also affected their reputation as well as credibility, causing a lasting impact on the petitioner company and prayed that the seizure, requisition and retention be declared illegal and that directions be issued for their release to the rightful owners.

#### **SUBMISSIONS OF RESPONDENT / STATE AUTHORITIES**

09. Shri Bhuwan Gautam, learned Government Advocate appearing on behalf of the answering respondents No. 4 to 6, 8 and 9 submitted that the seizure of the consignments containing jewellery in question was carried out strictly in discharge of statutory duties assigned to the Static Surveillance Team (SST) as part of election related enforcement mechanisms mandated by the Election Commission of India.





9.1. Learned Government Advocate submitted that following the announcement of the Madhya Pradesh Assembly Elections on 21.10.2023 and the consequent enforcement of the Model Code of Conduct the District Election Officer, Ratlam had constituted various surveillance teams including the concerned SST through a revised order dated 05.10.2023 authorizing designated officers to conduct checks to prevent the movement of unaccounted cash, jewellery and other valuables capable of influencing the electoral process.

9.2. That on 23.10.2023, while discharging routine surveillance duty near the Shalakhedi check-post, the SST intercepted a private vehicle bearing registration no. MP-09-ZR-5319, which was found to be carrying 37-38 sealed boxes containing what appeared to be gold and silver ornaments. At the time of interception, neither the driver nor Mr. Amit Sharma, who was present, was able to produce any invoice, bill, consignment note or other document establishing the lawful ownership or source of the goods. In the absence of supporting documentation, the SST proceeded to seize the goods in accordance with the SOP dated 07.08.2023 and a seizure memo was duly prepared on the spot. And subsequently, a Panchanama was drawn on 24.10.2023 when certain documents were produced about a part of the consignment.

9.3. Learned Government Advocate submitted that as per the applicable SOPs, any seizure of cash or valuables exceeding Rs.10.00 lakhs during election enforcement operations must be reported to and transferred to the Income Tax Department or the appropriate authority within seven days of polling. In the present case, given the high value of the goods and the absence of complete documentation, the matter was referred to the District Grievance Committee for further verification.



9.4. Learned Government Advocate submitted that the committee had, after examining the documents subsequently submitted, found invoices supporting only part of the seized articles, specifically silver weighing approximately 112.11 kg, which were accordingly released vide order passed by the Committee. However, the remainder of the articles for which no proper documentation of claim of ownership was furnished were formally handed over to the Income Tax Department in accordance with the prescribed protocol.

9.5. Learned Government advocate submitted that since appropriate proceedings have already been initiated by the Income Tax Department, it is open to the petitioners and other concerned parties to approach the said authority for redressal, including the release of goods. The role of the SST and the District Grievance Committee was confined to administrative compliance with directions issued by the Election Commission, and the action taken was neither arbitrary nor mala fide. That no allegations of personal bias or improper conduct have been levelled by the petitioners against the officials concerned.

9.6. Learned Government Advocate finally submitted that the writ petitions are not maintainable in law as the petitioners have an alternative and efficacious statutory remedy under the Income Tax Act, as writ jurisdiction under Article 226 cannot be invoked without exhausting the remedy available and prayed that the petitions be dismissed.

#### **COMMON SUBMISSIONS OF INCOME TAX DEPARTMENT**

10. Shri Harsh Parashar, learned counsel appearing on behalf of respondent Nos 1, 2 and 3 / IT department, submitted that all three writ petitions are misconceived, filed with substantial delay and without



exhausting the adequate and efficacious statutory remedies available under the Income Tax Act, 1961. That the seizure of assets on 23.10.2023 by the Static Surveillance Team (SST), subsequent requisition under Section 132A of the IT Act and reassessment proceedings under Section 148 of the IT Act were all validly undertaken in accordance with statutory mandate and after satisfaction of requisite legal thresholds.

10.1. Learned counsel submitted that the requisition of assets was carried out lawfully under Section 132A of the IT Act, 1961, pursuant to credible information received by the department from a concerned state government official during electoral surveillance and that the department had not acted *suo motu* but had intervened only after receiving information. The decision of requisition was based on credible and cogent material supported by a "reason to believe" as required under the statute.

10.2. Learned counsel submitted that an independent enquiry was conducted by summoning the person found in possession under Section 131(1A) the IT Act, 1961 whose statement revealed significant inconsistencies and since the documents provided by Amit Sharma were vague, incomplete and failed to explain the source or valuation of the high-value consignments the statutory presumption under Section 132(4A) was drawn against him. That even if a seizure is held to be illegal, the evidentiary value of the seized material remains intact, and the department is entitled to proceed with assessment or reassessment based on such material.

10.3. Learned counsel submitted that Section 132B of the IT Act, 1961, provides a complete and specific mechanism for any person



claiming ownership of the seized assets to seek release thereof, subject to satisfying the competent Assessing Officer regarding the nature and source of acquisition. Despite being advised, none of the petitioners made any valid or complete application under Section 132B of the IT Act, 1961, within the statutory period of 30 days from the end of the month in which the assets were seized. All three petitioners have consciously avoided invoking the statutory remedy under Section 132B of the IT Act, 1961, presumably to evade scrutiny of their financial affairs and the requirement to explain the source and ownership of the gold and silver items.

10.4. Learned Counsel finally concluded the submissions that the satisfaction note prepared for the purpose of requisition is protected from disclosure under the proviso to Section 132A of the IT Act, 1961 and cannot be the subject of judicial scrutiny. Those questions relating to ownership, source of acquisition and justification for the transport of high-value jewellery require inquiry into facts and evidence which cannot be undertaken by this Court in writ jurisdiction.

**SPECIFIC SUBMISSION OF MR. PARASHAR FOR EACH CASE**

11. With respect to the case of M/s Arihant Jewellers in W.P. No. 6810 of 2024, learned counsel submitted that the petition has been filed by Arihant Jewellers without first making a proper application for the release of the seized assets under the prescribed procedure of Section 132B of the IT Act, 1961. A vague representation in January 2024 seeking release of the gold without explaining the source of the assets or the delay in filing the same cannot be treated as a valid application under Section 132B of the Act, as it did not meet the statutory requirements.



11.1. Learned counsel submitted that the Department has rejected the representation as no assessment or proceedings were pending against the petitioner before the concerned officer. These orders have not been challenged in the present writ petition and therefore stand unopposed. Under the scheme of the IT Act, 1961, only the jurisdictional Assessing Officer of the person claiming ownership of the seized assets can accept and decide such applications under Section 132B of the IT Act, 1961, after verifying existing tax liabilities and other relevant details. Learned counsel submitted that since the officer who handled the requisition in this case is not the Assessing Officer of M/s Arihant Jewellers, he had no authority to adjudicate its claim.

11.2. Mr. Harsh learned counsel emphasised that the seizure records show three packets bearing the name "Arihant", yet the petitioner has sought release of only one and has not provided an explanation regarding the other two packets, raising serious doubt about the claim of ownership by the petitioner. The petitioner has not challenged the rejection of its earlier representations; instead, it is seeking to invalidate the entire seizure, hoping that all proceedings that followed will fall. The petitioner cannot bypass the statutory process merely by raising a challenge to the seizure and prayed that the petition be dismissed.

11.3. With respect to the case of Mr. Amit Sharma in W.P. No.6850 of 2024, Mr. Harsh learned counsel submitted that he is the primary person from whom the gold and silver Jewelleries were seized and pursuant to a requisition under Section 132A his case was centralized and reassessment proceedings are underway however the petitioner has not been cooperative in the assessment proceedings and despite multiple notices under Section 142(1) and Section 133(6) the IT Act, 1961 has



failed to provide adequate information.

11.4. Learned counsel submitted that once a notice under Section 148 the IT Act, 1961 has been issued and proceedings under the IT Act, 1961 are ongoing the proper remedy for the assessee is to participate in those proceedings, file objections and avail the appellate remedies as may arise from the final assessment order rather than invoke the extraordinary jurisdiction of this court. It is submitted that the petitioner has not explained the delay in filing the writ petition and has also not challenged the centralization order or jurisdiction of the Assessing Officer, and thus the petition is premature and misconceived, and the petitioner must be relegated back to the statutory authority to avail the remedy of appeal.

11.5. With respect to the case of Sequel Logistics in W.P. No. 15169 of 2024, Mr. Parashar learned counsel submitted that that their entire claim rests on a vague assertion that Mr. Amit Sharma has been their employee and the consignment was being carried on behalf of consignors/consignees however no credible documentation was furnished to support this claim either during the course of requisition proceedings or thereafter.

11.6. Learned Counsel appearing for the IT department submitted that no application for release was filed by Sequel Logistics either within the prescribed time or even after the advisory letter was issued to them by the Department, and that the petition suffers from delay. The petitioner lacks locus to seek release of the seized assets or to challenge the requisition proceedings, particularly when it has not taken steps to demonstrate either ownership or source.

11.7. Learned counsel placed reliance upon several judgments of



Apex Court and other High Courts in the cases of *Pooran Mal v/s Director of Inspection* reported in (1974) 93 ITR 505 (SC), *Kusum Lata v/s CIT* reported in (1990) 51 Taxman 300 (SC), *GKN Drive Shafts (India) Limited v/s Income Tax Officer* reported in (2002) 125 Taxman 963 (SC), *Commissioner of Income Tax v/s Chhabil Das* reported in (2014) 1 SCC 603, *Seema Gupta v/s Income Tax Officer* reported in [2023] 153 taxmann.com 583, *BMN Steel Emporium, Chennai v/s Deputy Commissioner of Income Tax* reported in [2023] 155 taxmann.com 623 (Madras), *Leo Charitable Trust v/s PCIT(Investigation)* reported in [2023] 152 Taxmann.com 441 (Madras), *DGIT v/s Spacewood Furnishers Pvt. Ltd.* reported in (2015) 2 SCC 179, *M/s N.K. Jewellers & Another v/s CIT* reported in (2018) 12 SCC 627 and *Deepak Kumar Agarwal v. Assessing Officer & Others* reported in (2024) SCC OnLine ALL 2878.

11.8. In view of the foregoing submissions, learned counsel summed up that the petitions are premature, barred by availability of a statutory remedy, involving disputed facts not fit for writ adjudication, seeking to bypass the process of verification and assessment envisaged under the Income Tax Act, 1961, and thus prayed that all three writ petitions be dismissed.

### **APPRECIATION & CONCLUSION**

12. Sequel Logistics Private Limited filed W.P. No.15169 of 2024 seeking reliefs to the extent of issuance of writ in the nature of mandamus/order holding that the action of Static Surveillance Team, Ratlam, of seizure/detaining of consignments on 23.10.2023 for the lawful possession of its representatives was arbitrary, illegal and without any basis. The petitioner is also seeking a declaration that requisition of



goods and seizure of consignments by the authorities under the provisions of the Income Tax Act is arbitrary, illegal and bad in law.

13. W.P. No.6850 of 2024 has been filed by an employee of Sequel Logistics seeking relief of quashment of proceedings initiated by the Income Tax Department and also quashment of notice issued under Sections 132A & 148 of the Income Tax Act for the Assessment Year – 2020 – 21, 2021 – 22 & 2022 – 23.

14. M/s Arihant Jewellers has filed W.P. No.6810 of 2024 seeking writ in the nature of mandamus or order, holding that the action of SST for seizure of goods and assignment of the petitioner is illegal, arbitrary and bad in law. The petitioner is further seeking direction to release the consignment relating to them from the custody of the Income Tax Department.

15. For adjudication of these writ petitions, the following issues have emerged for consideration: -

*Issue No.1. Whether the action of the SST is justified in detaining / seizing the consignments and handing over to the Income Tax Department ?*

*Issue No.2. Whether the action of the Income Tax Department is justified in initiating the proceedings under Section 148 against Mr. Amit Sharma upon a prima facie believe that the consignment belongs to him ?*

*Issue No.3. Whether Arihant Jewellers is entitled to get back the jewellerys belonging to them ?*

### **ANSWER TO ISSUE NO.1**

16. Facts of the case are not in dispute to the extent that Sequel Logistics is a company registered under the provisions of the Companies Act and engaged in the business pertaining to logistics, logistics





solutions for precious goods and securities such as diamonds, jewellery items, bullion, cash, etc. The petitioner is also the registered partner of all the bullion banks nominated by the Reserve Bank of India, having operations in around 130 countries and 500 cities in India, with 100 branches and 3500 employees. The petitioner pays the tax of around 70 to 80 crores; however, the same is not relevant in this matter.

17. The Sequel Logistics is not disputing about its relationship of employee – employer with Mr. Amit Sharma. Under the agreement of consignor/consignee, 37 consignments were being carried by Mr. Amit Sharma to deliver to different consigners from Indore to Ralam on 23.10.2023 in a Bolero Vehicle.

18. The aforesaid Vehicle was intercepted by the SST at or around 4:30 pm on 23.10.2023. According to Mr. Amit Sharma, he provided all the necessary documents for each and every consignment, such as the docket, consignor/consignee's tax invoice, delivery challan, relevant certificates, etc. The details as reproduced in the memo of writ petition are reproduced as under:-

Sr. No.	Docket Number	Consignees	Consignors
1	16357	South India Jewellers	Nidhi Jewellers
2	18866	Dhiraj Jewellers	Mokes Gold
3	43766	Anmol Ratnam	Madhab G. Maji
4	11961	Midas Diamonds Private Limited	Midas Diamonds Private Limited
5	43226	Kataria Dhulchand Pannalal Jewellers Private Limited	Gkd Jewels Pvt. Ltd.
6	41363	Arihant Jewellers	Swarn Shilp Chains & Jewellers Pvt. Ltd.
7	10060	Kgk Creations (Inida) Private Limited	Kgk Creations (India) Pvt. Ltd.
8	43766	Anmol Ratnam	Qizil Jewels Private Limited



9	10718	Emerald Jewel Industry India Ltd.	Emerald Jewel Industry India Ltd.
10	41363	Arihant Jewellers	M/s Subhas Mondal
11	41726	Golden Carat Private Limited	Golden Carat Private Limited
12	10481	Mani Jewel	Mani Jewel
13	18886	Dhiraj Jewellers	Hemratna Jewellers
14	10056	Mehta Gold Private Limited	Mehta Gold Private Limited
15	10603	J.P. Exports	J.P. Exports
16	41741	Priyesh Kailash Chandra Sharma	Anokhi Bangles
17	11187	Kp Sanghvi Jewels Pvt. Ltd.	Kp Sanghvi Jewels Pvt. Ltd.
18	41741	Priyesh Kailash Chandra Sharma	Biswajit Jyotindera Nath Bera
19	10895	Creative Jewel	Creative Jewel
20	10189	R.S. Diamonds Pvt. Ltd	R.S. Diamonds Pvt. Ltd
21	41214	Siddhi Jewels	Siddhi Jewels
22	14963	Matra Smruti Jewels	Matra Smruti Jewels
23	40318	M.U. Jewellers Ltd.	Sajjanlal Gajendra Kumar
24	41190	Aujasa	Samta Jewel Llp
25	10769	Hemratna Jewellers	Hemratna Jewellers – Mumbai
26	41196	Jain Chain Ahmedabada Llp	Jain Chain Ahmedabada Llp
27	12380	Mark Bullion Commodities Private Limited	Mark Bullion Commodities Private Limited
28	11983	Shri Vardhman Ornaments Pvt. Ltd.	Shri Vardhman Ornaments Pvt. Ltd.
29	44233	Ratnalife Creation Llp	Ratnalife Creation Llp
30	41190	Aujasa	Unitouch Creation
31	44572	Arpit Kumar Lalit Kumar Chordiya	BS Jewellers
32	40318	M.U. Jewellers Pvt. Ltd.	Shri Samarth Jewellers
33	41348	Jmd Jewellers	Shrishti Gold Pvt. Ltd.



34	14549	Unique Valley	Unique Valley
35	44260	Leo Silver Art Pvt. Ltd.	Leo Silver Art Pvt. Ltd.
36	41190	Aujasa	Suraj Suresh Chavan
37	14285	Vie ' 90 Jewellery	Vie ' 90 Jewellery

19. The documents related to the above 37 consignments revealed that the value of the entire jewellery in the consignment is Rs. 6,11,51,573/- (Rupees Six Crore Eleven Lakh Fifty One Thousand Five Hundred and Seventy Three Only). The SST prepared a *Panchnama* of seizure of 37 tamper-proof jewellery consignments as per accompanying documents, one of which M/s Arihant Jewellers claiming return of approximately 1785.120 grams of jewellery amounting to Rs. 1,06,36,500/-.

20. As per the reply filed by the District Election Officer, Ratlam, since the Model Code of Conduct had been made applicable w.e.f. 21.10.2023, vide order dated 05.10.2023, the Static Surveillance Team (SST) was constituted by the Collector and District Election Officer, Ratlam, under the directions of the Election Commission of India. The relevant SST who was deputed in Legislative Assembly 219, Ratlam (Rural), Police Station – Bilpank from period 6:00 am to 2:00 pm, headed by Shri Ranjeet Singh Bhawar and Assistant Survey Officer, Ratlam. In order to check the possibility of influencing the voters by the candidates or their representatives under Section 123 of the Representation of the People Act, 1951, the Vehicle in question was intercepted. The SST drew a *Panchanama* on 23.10.2023. All the 37-38 boxes were opened, and the jewellery weighing 11919.512 grams was found. The copy of *Panchnama* has been filed along with the return.

21. The Election Commission of India issued Standard Operating



Procedure (SOP) for seizure and release of cash and other items vide Circular dated 07.08.2023 for the State of Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan & Telangana. As per this SOP, a Committee shall be formed comprising three officers of District i.e. Chief Executive Officer, Jila Panchayat, Nodal Officer of Expenditure & Monitoring District Election Officer, District Treasury Officer called as the **District Grievance Committee (DGC)** to examine each case of seizure made by Police or SST or FS where no FIR/complaint has been filed against the seizure or where the seizure is not linked with any candidate or political party or any election campaign. The DGC shall immediately pass an order for the release of such cash to such person from whom the cash was seized. It further provides that if the release of cash is more than Rs. 10,00,000/-, the Nodal Officer of Income Tax shall be kept informed before the release is affected. It further provides that in no case the matter relating to seizure/cash / valuable shall be kept pending in Malkhana or Treasury for more than seven days after the date of poll, unless any FIR or complaint has been filed. The contents of the Circular /SOP are reproduced below:-

"I am directed to refer to the Commission's letter no.76/Instructions/EEPS/2015/Vol.II, dated 29<sup>th</sup> May, 2015, forwarding therewith Standard Operating Procedure for seizure and release of cash and other items, and to draw your attention to the instructions laid in '**Para 16-Release of Cash**' and to request your to ensure compliance of the instructions in letter and spirit during election process.

2. There are instances of keeping cash and valuables in Treasury/Malkhana without any FIR/Complaint. The Commission is concerned about the grievances of public and hence, it is reiterated that as per instruction lai din 'Para 16-Release of Cash', in order to avoid inconvenience to the public and genuine person and also for redressal of their grievances, if any, a Committee shall be formed comprising three officers of the District, namely, (i) CEO, Zila Parishad/CDO-PD, DRDA,



(ii) Nodal Officer of Expenditure Monitoring in the District Election Office (Convenor) and (iii) District Treasury Officer. Name of such committee will be 'District Grievance Committee', who shall suo-moto examine each case of seizure made by the Police or SST or FS and where the Committee finds that no FIR/Complaint has been filed against the seizure or where the seizure is not linked with any candidate or political party or any election campaign etc., as per SOP dated 29<sup>th</sup> May, 2015, it shall take immediate step to order release of such cash etc. to such persons from whom the cash was seized after passing speaking order to that effect. If the release of cash is more than Rs.10 (Ten) Lac, the nodal office of Income Tax shall be kept informed before the release is effected.

3. It is to be ensured that functioning of 'District Grievance Committee' should be given wide publicity, including telephone number of the Convenor of the Committee. The procedure of appeal against seizure should be mentioned in the seizure document and it should also be informed to such persons at the time of seizure of cash. It is also to be ensured that during election process the 'District Grievance Committee' headed by CEO, Zila Parishad/CDO/PD, DRDA will meet once in 24 hours at a predeclared place and time. All the information pertaining to release of cash shall be maintained by the Nodal Officer of Expenditure Monitoring in a register, serially date wise with the details regarding amount of Cash intercepted/seized and date of release to the person(s) concerned.

4. In no case, the matter relating to seized cash/valuables shall be kept pending in Malkhana of Treasury for more than 7 (seven) days after the date of poll, unless any FIR/Complaint is filed. However, 'District Grievance Committee' should not delay in taking decision and keep pending any case unnecessarily upto 7<sup>th</sup> day of date of poll. It shall be the responsibility of the Returning Officer to bring all such cases before 'District Grievance Committee' and to release the cash/valuables as per order of the Committee.

5. You are requested to bring it to notice of all DEOs, ROs, election authorities concerned including Observers, all Nodal Officers of various enforcement agencies involved in Election Expenditure Monitoring for necessary compliance."

[Emphasis Supplied]

22. The main grievance of the petitioners, Sequel Logistic and Amit Sharma, is that this Circular has been grossly violated by the District Grievance Committee. The contention of counsel appearing for the State



as well as Income Tax Department is that since the jewellery worth more than Rs. 10,00,000/- were seized, the Income Tax Officer was called, and the jewellery was handed over. But it is not in dispute that to date, no FIR has been registered in this matter.

23. In an identical manner, the District Grievance Committee vide order dated 30.10.2023 during the relevant period had released the jewellery weighing 121 kg. According to the reply filed by the District Election Officer, at the time of seizure, there was no appearance of documents or bills presented by a person in whose custody the material was there, therefore, the matter was brought to the knowledge of District Grievance Committee and when the documents were presented before the District Grievance Committee regarding bills of 112.11 kg silver, the same was released.

24. It is further submitted that as per the letter dated 09.10.2023, it was made clear by the Collector, Ratlam, that any material found without a proper document shall be seized and handed over to the concerned Department. The District Election Officer has not filed any document in the reply to show that the DGC took any decision for not releasing these consignments either to Mr. Amit Sharma or Sequel Logistics, and passed an order for handing over the same to the Income Tax Department.

25. As per the SOP, there has to be satisfaction by the SST or the DGC that the seized cash, articles or goods are being transported or in possession of a person concerned belonging to any candidate of the election and brought for influencing the voters. There is absolutely no such satisfaction recorded either by SST or by the District Grievance Committee. As discussed above, no FIR was registered against Mr. Amit



Sharma, Sequel Logistics or any other candidates. Therefore, as per this SOP, these consignments ought to have been released to Mr. Amit Sharma, from whom it was seized, instead of being handed over to the Income Tax Department. As the SOP only provides information that is liable to be given to the Income Tax Department in respect of the release of cash more than ₹10,00,000

26. The Income Tax Department filed a reply admitting certain important facts in paragraph 5.2 and the same is reproduced below:-

"5.2. With respect of paragraph no.5.4 & 5.6 of the Petition, the contents therein are correct and affirmed. It is not the case that supporting documents explaining the source and details of the consignment in question were not carried by the petitioner. Further, it is correctly stated that the consignments or even Respondent No.5 has no linkage whatsoever to any candidate / his or her agent / a party worker, etc, nor was the Vehicle carrying any unaccounted cash, election posters, election materials, drugs, arms, etc." It is pertinent to mention that it is not even the case of SST or any of the Respondent authorities that the Vehicle was carrying any such items connected with the election of any candidates. It is submitted that, as mentioned in these paragraphs, till date, no basis or reason to seize the consignments or for transferring the consignments to the Respondent authorities has been provided. It is submitted that multiple representations have been made by Respondent No.5 as well. However, no explanations or documents have been provided to Respondent No.5 as well."

27. The Income Tax Department has also admitted that Mr. Amit Sharma is indeed an employee of SLPL appointed to the post of Custodian Officer at Indore Office, which is evident from the communication dated 12.01.2024 and the statement recorded on 25.10.2023. Therefore, the SST and District Grievance Committee did not consider the important facts that the Vehicle was not carrying any unaccounted cash, election posters, election materials, drugs, arms, etc., except these consignments, which could create suspicion leading to



seizure and handing over to the IT department. It is also not the case with the SST that the Vehicle does not belong to Sequel Logistics, which is a logistics company. The valuation of the consignment or jewellery, which is more than Rs.6,00,00,000/- became the basis of seizure and information to the IT department.

28. As per the list of dates in chronological events submitted by the parties, especially the Income Tax Department, on 23.10.2023, SST, Ratlam City 220, seized the gold and silver jewellery from the possession of Mr. Amit Sharma. On 24.10.2023, this information was shared with the Income Tax Officer – I, Ratlam, who subsequently shared the information with the Deputy Director, Investigation Wing – I, Indore, relating to each of 38 packets containing gold and silver ornaments. On 25.10.2023, Income Tax Officer – I issued a summons under Section 131(1)(d) of the IT Act to Mr. Amit Sharma for examination about the nature and source of gold and silver ornaments. On 27.10.2023, a warrant of authorisation was issued under Section 132A(1) of the IT Act by the Principal Director of Income Tax Investigation, Bhopal. It is also a case of the Income Tax Department that during the proceedings under Section 132A, Mr. Amit Sharma claimed that the seized consignments belong to Sequel Logistics. Finally, on 28.10.2023, the gold and silver ornaments worth Rs.5.87 crore were taken from the SST by the Income Tax Department. From 23.10.2023 to 28.10.2023, these consignments worth Rs 5.87 crore were in the custody of SST, Ratlam, which is also in violation of the SOP dated 07.08.2023 because, as per Clause 4, in no case, the matter relating to seized cash/valuables shall be kept pending in Malkhana or Treasury for more than seven days. There is no such document to show





that these valuable consignments were sent to the Malkhana or Treasury. There is a contradiction in the number of consignments and the value of the jewellery in the documents of the SST and Income Tax Department. Therefore, the action of the SST and District Grievance Committee is wholly illegal in keeping the valuable consignments with them for seven days and not recording the satisfaction and thereafter, handing over to the Income Tax Department.

29. In view of the above detailed discussion, issue No.1 is hereby answered against the respondents and in favour of the petitioners.

**ANSWER TO ISSUE NO.2**

30. As per the return filed by the Income Tax Department, the gold and silver ornaments were seized by the SST, Ratlam City 220, on 23.10.2023 from the possession of Mr. Amit Sharma in a total of 38 packets. This information was shared with Income Tax Officer – I on 24.10.2023, who further shared it with the Deputy Director of Income Tax (Investigation) – I, Indore. On receipt of such information, a Commission under Section 131(1)(d) of the Income Tax Act was issued on 24.10.2023 to the Income Tax Officer, Ratlam, to conduct an enquiry from Mr. Amit Sharma with further direction to carry out the investigation and submit the enquiry report. The Income Tax Officer – I conducted an enquiry and submitted a detailed report on 25.10.2023, which contains the statement of Mr. Amit Sharma on oath disclosing the nature and source of purchase of gold jewellery weighing 12121.51 grams, inclusive of packing documents. The statement of Mr. Amit Sharma was recorded on oath under Section 131(1) of the Income Tax Act. Mr Sharma also disclosed that he is working as a Custodian of SLPL. He works to deliver the gold and silver ornaments from



consignors and various clients like Chennai, Mumbai, Surat, etc., to different consignees located in nearby Indore City and Ratlam. Upon demand, Mr. Amit Sharma produced the documents relating to gold and jewellery seized by SST, like the docket, delivery challan, labour receipts, etc. He was confronted with each tax invoice bill, delivery challan, labour bill, docket, bilti provided by SLPL relating to each 38 packets.

31. After examining the report submitted by the Income Tax Officer – I, Ratlam, the Deputy Director of Income Tax (Investigation) – I, Indore has reached to the conclusion that item of gold and silver carried by Mr. Amit Sharma in all 38 packets remained as unexplained with angle of purchase, ownership and stock moment as Mr. Amit Sharma could not furnish necessary documentary evidence and failed to give the necessary reply. The Principal Director of Income Tax recorded its satisfaction that the gold and silver ornaments weighing 12121.51 gram, either wholly or partly, income and property or assets has not been disclosed for the purpose of Income Tax Act and the same is liable to requisitioned from SST Magistrate, Ratlam 220, Station Road, Police Station – Ratlam within the meaning of Section 132A(1)(c) of the Income Tax Act and accordingly, the further proceedings have been initiated from 28.10.2023 by issuing notice under Section 132A of the Income Tax Act. The case of Mr. Amit Sharma was centralized vide order dated 29.12.2023 from Income Tax Officer – 5 (1), Indore, to Deputy Commissioner of Income Tax (Central – 2) Indore by Principal Commissioner of Income Tax, Indore – 1.

32. According to the respondents / Department, in the present case, the seizure was not done by the Income Tax Authorities; it was done by



SST, Ratlam. Hence, it is not a case under Section 132 of the IT Act, but falls squarely under Section 132A. Thereafter, a notice was issued under Section 148 of the IT Act in the case of Mr. Amit Sharma for the Assessment Years 2020–21, 2021–22, and 2022–23, and as of today, the proceedings are pending.

33. Mr. Amit Sharma approached this Court by way of W.P. No.6850 of 2024, questioning the income tax proceeding against him solely on the ground that these assets do not belong to him. Sequel Logistics Private Limited has also filed W.P. No.15169 of 2024 before this Court, although no action has been taken against it either under the Income Tax Act or under the IPC. The company has come to this Court as a responsible consignor to protect the consignments of its clients and goodwill. Moreso, the company also filed a case before this Court to protect its employee, Mr. Amit Sharma, from these proceedings. This is a *bona fide* act on the part of Sequel Logistics by approaching this Court; otherwise, they have no reason to file a petition by spending so much money. We don't know whether individual goldsmiths and jewellers have approached Sequel Logistics to claim their goods. Therefore, Sequel Logistics is before this Court only to protect its employee and reputation in the market, which shows that these goods were handed over to Sequel Logistics under the consignee–consignor agreement for delivery, not related to any election purpose.

34. So far as the action of the Income Tax Department is concerned, much stress has been given by Shri Parashar, learned counsel, that there is a satisfaction note by the authority to believe that these consignments are undisclosed income and property of Mr. Amit Sharma. The basis of this satisfaction is that these ornaments were recovered from the



possession of Mr. Amit Sharma, and he has failed to furnish a valid explanation and the necessary documents. As discussed above, there is no dispute about the employer-employee relationship between Sequel Logistics and Mr. Amit Sharma and the seizure of 37-38 consignments by the SST, during the election period, from the Vehicle of Sequel Logistics, in which Mr. Amit Sharma was travelling. There is no satisfaction note by SST or by the District Grievance Committee about the relationship between these articles and the election. The SST or District Grievance Committee was only required to inform the Income Tax Department about the release of these articles. Therefore, handing over of these articles to the Income Tax Department is, *per se*, illegal.

35. According to the Income Tax Department, these cases fall under Section 132A of the Income Tax Act. Under Section 132A(1)(c), where the Income Tax Officer in consequence of information in his possession has reason to believe that any assets represent either wholly or partly income or property which has not been disclosed for the purpose of Income Tax Act by any person in whose possession and control such assets have been taken into custody by officers under any other law for the time in force. The Authority is required to record the reasons to believe that such assets belong to a person from whose possession they were taken into custody; however, such reasons to believe shall not be disclosed to any person, authority or tribunal, as held by the Apex Court in the cases of *Spacewood Furnishers Pvt. Ltd. & M/s N.K. Jewellers (supra)*. We are of the considered opinion that when it is a case of Mr. Amit Sharma, he is an employee of Sequel Logistics and transporting these 37-38 jewellery boxes from the consignor of Indore to the consignees of Ratlam, then he is not supposed to disclose, either wholly



or partly, his income or property. The documents which were in his possession relating to transportation, viz, bills and invoices, etc, were produced. Much emphasis has been given with respect to the non-production of the e-way bill by Amit Sharma. The absence of e-way bills does not vitiate the transportation in this case, as the movement of jewellery and the same is exempt under Rule 138(14)(a) of the CGST Rules, 2017. The Income Tax Authority ought to have called these 38 consignees/jewellers to explain their income relating to these assets. Interview of the world, we are of the considered opinion that there is absolutely no basis for proceeding against Amit Sharma under section 148 of the Income Tax Act. Hence, all the proceedings initiated under section 148 of the IT Act against Amit Sharma are hereby quashed. However, the IT Department shall be at liberty to initiate the proceedings against 37 jewellers or consigners based on the information collected so far, especially the statement of Amit Sharma. The Issue No.2 is answered in favour of the petitioner, Shri Amit Sharma.

**ANSWER TO ISSUE NO. 3**

36. M/s Arihant Jewellers filed an application for the release of jewellery weighing 1785.12 grams valued at Rs. 1.06 crore, claiming ownership of such assets. The said application was not considered because it was liable to be filed before the concerned Assessing Officer, and accordingly, some advice was given to him vide letter dated 08.02.2024. In support of the aforesaid stand, Shri Parashar, learned counsel for the Income Tax Department, has produced a copy of Circular dated 16.10.2023 and submits that it must be read along with Section 132B of the Income Tax Act. It is also submitted that such a request must be made within thirty days from the date of seizure under



the scheme of the Act; therefore, the application has rightly not been entertained.

37. When the case of Mr. Amit Sharma was centralized, then all the applications submitted by others relating to the case of Amit Sharma ought to have been entertained by the same Assessing Officer, i.e. Deputy Commissioner of Income Tax, Central – 2, Indore, in order to avoid any conflict of orders. The Deputy Commissioner of Income Tax, Central – 2 while dealing with the seizure of these consignments on a believe that these consignments belong to Mr. Amit Sharma and he has denied the ownership, then whosoever claiming the ownership is liable to intervene in the same proceedings before the Centralized Officer for entertaining any application for release or deciding the claim of the ownership. The CIT of the Income Tax Department has enough power to centralise any proceeding of any assessee under Section 127 of the Income Tax Act.

38. The application, which was filed by M/s Arihant Jewellers, ought to have been entertained by the Assessing Officer under authorisation under Section 127 of the Income Tax Act for the release of the goods. The Arihant Jewellers was ready to give the bank a guarantee for the release of the jewellery.

39. Shri Bhuwan Gautam, learned Government Advocate has placed reliance upon a judgment delivered by the Apex Court in the case of ***Pooran Mal v/s Director of Inspection reported in (1974) 93 ITR 505 (SC)***, in which the Apex Court has held that whether even though, where search and seizure were in contravention of provision of Section 132, material seized would liable to be sued against the person from whose custody it was seized. It is permissible under Section 132, but, as per the



Income Tax Authority, the present cases fall under Section 132A and not Section 132 of the Income Tax Act. Second proviso to Section 132B says that the asset or any portion thereof as referred in the first proviso shall be released within a period of one hundred and twenty days from the date on which the last of the authorizations of search under Section 132 or for requisition under Section 132A, as the case may be, was executed. As per the first proviso where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset, therefore, the words 'Assessing Officer' means the same Assessing Officer who is dealing with the seized asset, not the Assessing Officer of the person concerned. The Assessing Officer of person concerned may not have any material or record pertaining to the seizure, therefore, they would not be in a position to pass an effective order and if such Assessing Officer passes an order for release and the Assessing Officer, who is dealing with the asset under Section 132 or 132A of the Income Tax Act is of the opinion that such asset belongs to the person from whose possession it has been recovered and not liable to be released till conclusion of the proceedings under Section 148, then there would be a conflicting verdict. As per the first proviso to sub-section (i) of Section 132B(1), the person concerned has to make an application to the Assessing Officer who is dealing with the asset and in whose possession the assets are. Therefore, the application filed by the Arihant Jewellers was liable to be considered by the Assessing Officer, i.e. Deputy Commissioner of Income Tax, Central – 2. Apart from Arihant Jewellers, whoever is the consignee claiming ownership and release, may submit an application before the same Assessing Officer.



40. So far as Arihant Jewellers has filed W.P. No.6810 of 2024 after recording the statement of Mr. Amit Sharma in which he denied the ownership then Assessing Officer than ITO ought to have sent this information to all those persons/jewellers, whose names were disclosed by Mr. Amit Sharma, with the valid documents in order to verify the actual ownership, they only they can submit an application for release within thirty days. The other consignees may not have the knowledge about the centralization of the case of Amit Sharma. The limitation will start from the date of knowledge, and this provision nowhere says that if this application is not filed within thirty days, the same shall not be considered later on. The proceedings are liable to be concluded within 120 days; otherwise, the Income Tax Authorities are liable to pay the interest under sub-section (4) of Section 132B of the Income Tax Act on the amount of money seized, if not released.

41. So far as the centralization is concerned, there is a provision and Circular dated 12.03.2018 for centralization of the cases relating to the search/survey proceedings which have been entered in the ITBA System. The present case has not been entered into an ITBA System; therefore, the application by Arihant Jewellers has not been properly dealt with and considered. Had this been a case referred to ITBA, the application would have been considered by the Deputy Commissioner of Income Tax, Central – 2, dealing with the case of search and seizure. Therefore, the approach of the Income Tax Authority in the present cases cannot be appreciated and since the last two years, the valuable jewellery has been lying with the Income Tax Department; the proceedings under Section 148 have not been concluded till date. Issue No. 3 is answered in favour of Arihant Jewellers.





42. In view of the detailed discussion above, these Writ Petitions are allowed with a direction to the Deputy Commissioner of Income Tax, Central – 2. (Centralized) to release the jewellery consignments. The SST of the Election Commission of India, the District Election Officer, and the Director General of Income Tax have not conducted the proceedings in accordance with SOP / Circulars issued by the Election Commission of India, which has led to the seizure of these consignments and caused losses to the owners as well as consignors. The cost of Rs.50,000/- is awarded in favour of all the writ petitioners payable by the respondents severally and jointly.

Let a copy of this order be kept in the connected writ petitions also.

(VIVEK RUSIA)  
J U D G E

(BINOD KUMAR DWIVEDI)  
J U D G E

Ravi