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

+ W.P.(C) 2288/2026, CM APPL. 11047/2026 & CM APPL. 11048/2026

RAJIV SAXENA

.....Petitioner

Through: Mr. Sachit Jolly, Sr. Adv. with Mr.Rajat Manchanda, Ms. Megha Gaur, Mr. Sohum Dua, Mr. Deepanshu Bharti, Mr.Abhyudaya Shankar Bajpai & Ms. Sakshi Sharma, Advs.

versus

DEPUTY DIRECTOR INCOME TAX (INV)Respondent

Through: Mr. Siddhartha Sinha, SSC with Ms.Easha Gurung, JSC.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

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18.02.2026

W.P.(C) 2288/2026 & CM APPL. 11048/2026 (stay)

1. The present petition under Article 226 of the Constitution of India has been filed, *inter alia*, praying that impugned notice dated 07.08.2023 so also the impugned order dated 19.01.2026 passed by the respondent under Section 10 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (*hereinafter referred to as 'Act of 2015'*) be quashed and set aside.
2. Mr. Jolly, learned Senior Counsel appearing for the petitioner apprised the Court about the background facts and informed that the



petitioner was brought to India by the Directorate of Enforcement and thereafter his passport was revoked on 30.05.2019 due to which, he could not go back to his ordinary place of residence *i.e.*, Dubai. He submitted that the petitioner has been made to stay in India since 30.05.2019, as his passport has been revoked. While informing that his appeal against revocation of the passport is pending consideration before the Appellate Authority under the Passports Act, 1967 since 2019, learned Senior Counsel argued that it is because of the arbitrary act and action of the passport authorities and the Directorate of Enforcement that the petitioner is forced to stay in India.

3. While highlighting the grievance about the breach of petitioner's Fundamental Rights of going back home and thus right to carry on trade and to live with dignity, learned Senior Counsel for the petitioner argued that on the one hand, the respondent has forced the petitioner to stay in India and on the other, have treated him to be a resident of India by using his forced stay to their advantage and invoking provision of Section 6 of the Income Tax Act, 1961 (*hereinafter referred to as 'Act of 1961'*) to bring him within the definition of resident. He argued that in the guise of such unwarranted, rather unconstitutional confinement, initiating the proceedings under the Act of 2015 is illegal and arbitrary.

4. As an ancillary fact, while apprising the Court that considering the petitioner to be a non-resident, the Authorities of Income Tax (of the very same Department) have assessed the petitioner's income under the Act of 1961, for the Assessment Years 2010-11 to 2020-2021, he argued that the officers of very same department cannot take two diagonally opposite views qua the petitioner's residential status to suit their own cause and whims.



5. Learned Senior Counsel also submitted that though the petitioner had filed a detailed preliminary objection about the invocation of the jurisdiction by the Authorities under the Act of 2015, more particularly, about the applicability of the Act of 2015 (as he has been forced to reside, rather stay in India for the reasons beyond his control) the same have been decided cursorily and with premeditated mind. He expressed his anguishment that the judgment of this Court rendered in the case of ***Commissioner of Income Tax vs. Suresh Nanda*** reported in [2015] 375 ITR 172 (Del) which squarely favours the petitioner's stand has been brushed aside by the respondent.

6. Mr. Sinha, learned Senior Standing Counsel for the respondent, on the other hand submitted that the impugned order dated 19.01.2026 passed by the respondent is a detailed order, in which he has dealt with and considered all objections raised by the petitioner. He argued that Section 6 of the Act of 1961 does not make any distinction about the voluntary or involuntary or so called forced stay in India. He argued that since the petitioner has been residing in India since 30.01.2019, he has to be treated as a resident in India perforce Section 6 of the Act of 1961. He argued that hence, there cannot be any doubt about the applicability of the Act of 2015. He vehemently argued that as of today, only notice seeking information about the assets generated and acquired abroad has been issued and no order has been passed. Hence, no interference is warranted, as the petition is premature.

7. Learned Senior Standing Counsel for the respondent tried to distinguish the case in hand *vis-a-vis* the case of ***Suresh Nanda (supra)*** by reading paragraph no.27 of the said judgment to contend that in the case of ***Suresh Nanda (supra)***, the Court had clearly noted that the revocation of



passport of the said petitioner had been held to be illegal, whereas in the instant case, the revocation still holds the field.

8. Having heard learned Counsel for the parties, we are of the view that against the rejection of the objections which goes to the root of the matter, no remedy has been provided under the Act. That apart, the objections so raised by the petitioner have not been decided in accordance with law and the facts of the instant case warrants adjudication on the issue of jurisdiction first, else the petitioner would have to face rigmarole and harassment of the proceedings under the Act of 2015. In case it is held that the petitioner cannot be treated to be a resident of India within the meaning of Section 6 of the Act of 1961 in the wake of the fact situation of the extant case, we are of the view that the proceedings against him cannot continue any further.

9. That apart, the petitioner's Fundamental Rights under Articles 14, 19(1)(g) & 21 appear to be under threat. The matter, therefore, definitely requires consideration, for which, we deem it appropriate to issue notice to the respondent and call for a reply from them.

10. Issue notice. Mr. Sinha, learned Senior Standing Counsel for the respondent accepts notice, he is allowed six weeks' time to file a reply. Rejoinder thereto be filed within three weeks thereafter.

11. Meanwhile, the proceedings against the petitioner in furtherance to the notice dated 07.08.2023 shall remain stayed.

12. List this case on 29.04.2026.

DINESH MEHTA, J.

VINOD KUMAR, J.

FEBRUARY 18, 2026/kk