

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shekhar B. Saraf

W.P.A. 3868 of 2022

Kamal Nath

VS

The Principal Commissioner of Income Tax, Kolkata & Ors.

For the Petitioner : Dr. A. M. Singhvi, Senior Advocate
Mr. J. P. Khaitan, Senior Advocate
Mr. Varun Chopra
Mr. Saurabh Bagaria
Mr. Amit Agarwalla
Mr. Aniruddha Agarwalla

For the Respondents : Mr. Tushar Mehta, Ld. Solicitor General
Mr. Balbir Singh, Ld. ASG
Mr. Zoheb Hossain
Mr. Dhiraj Trivedi
Mr. Tilak Mitra
Mr. Soumen Bhattacharjee

Last heard on: December 15, 2022

Judgment on: January 06, 2023

Shekhar B. Saraf, J.:

1. The petitioner is a citizen of India and is duly assessed to tax under provisions of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act').
2. The respondents are Union of India and its various representatives working for gain at the Income Tax Department [hereinafter referred to as 'tax authorities'].
3. The instant petition [being W.P.A. 3868 of 2022] has been filed against the order dated February 23, 2022 [hereinafter referred to as the 'Impugned Order'] passed by the Principal Commissioner of Income Tax, Kolkata – 9 [hereinafter referred to as 'PCIT Kolkata/respondent no. 1'] vide which the petitioner's income tax assessment was transferred from Kolkata to New Delhi under Section 127 of the Act.

Relevant Facts

4. A search operation under Section 132(1) of the Act and survey under Section 133A of the Act was conducted on Praveen Kakkar, Rajendar Miglani, Lalit Chhallani, Prateek Joshi and Himanshu Sharma [hereinafter collectively referred to as 'involved persons'] at Kolkata,

Indore, Bhopal and other places by the Investigation Wing, Delhi. The operation was conducted on April 7, 2019 and subsequent dates.

5. The tax authorities purportedly found certain materials which indicated a nexus of the petitioner with the involved persons in large scale collection of illegal money and desired to centralise the assessment of the petitioner. On September 5, 2019, a show-cause notice [hereinafter referred to as 'the first notice'] was issued with the proposal to transfer the petitioner's case to New Delhi. The petitioner submitted its replies dated September 18, 2019 and October 3, 2019 which specifically denied all such allegations and requested for copies of all documents in relation to the search and survey operations.
6. The tax authorities passed an order dated February 18, 2021 (hereinafter referred to as 'the first order') without considering the replies filed by the petitioner and without giving an opportunity of hearing to the petitioner.
7. This Court, vide order dated January 11, 2022, quashed the first order on grounds of violation of the principles of natural justice, but recorded that it would not prevent the tax authorities from taking action of transfer if cogent material exists and after observing statutory requirements under Section 127(2) of the Act.

8. The respondent no. 1 again issued a show-cause notice dated January 11, 2022 [hereinafter referred to as 'the second notice']. The second notice contained a detailed account of the nexus with the involved persons and relevant material was adduced, on the basis of which the tax authorities indicated that they desired to centralize the assessment of the petitioner for the purposes of coordinated deep investigation, verifications, consequent assessment and administrative convenience. Furthermore, the authorities allowed for filing of reply and notes of submission (February 7 and 17, 2022). The petitioner's advocates personally appeared and were heard on February 9, 2022. Thereafter, after considering these, the respondent no. 1 passed the **Impugned Order**, which the Petitioner has challenged in the instant writ petition.
9. An account of the 'nexus' as provided in the second notice and Impugned Order is given herein-below as it is necessary in determining the outcome of the present petition:

a) Relation with Petitioner – Praveen Kakkar was Officer in Special Duty to the Chief Minister when the Petitioner was the Chief Minister of Madhya Pradesh. Rajendra Miglani was advisor to the Chief Minister. Prateek Joshi worked for the IT Cell of Madhya Pradesh Congress Committee and was in touch with Praveen Kakkar and Lalit Chhallani as per the evidence found in his phone. Himanshu Sharma was in touch with Praveen Kakkar, Rajendra Miglani and Lalit Chhallani as per evidence found in his phone.

b) Documents/Evidence found:

- i. Praveen Kakkar's house had documents which indicated payments made to MLAs and collections to be made by companies.
- ii. Lalit Chhallani's laptop had a file which indicated cash collections and payments.
- iii. Prateek Joshi's diary indicates cash payments made and collected. It is contended to be a subset of Lalit Chhallani's file.
- iv. Himanshu Sharma's laptop and chats had a file which contained details of cash payments made and collected. It is stated to be a subset of Lalit Chhallani's file.

It is further mentioned in the second notice that there are receipts and payments of such transactions, the details of which were also mentioned on Whatsapp and SMS, which have also been recovered.

c) Suspicious cash transaction linking the Petitioner - In further investigation, Mr. Syed Mohd, in his statement under Section 132(4) of the Act identified himself as the Chief Accountant cum Administrative Officer of the All India Congress Committee. He, under oath, submitted that Rajendra Miglani and Mr. Vijay Damodaran are associates of the petitioner. Furthermore, he submitted that Rajendra Miglani had sent Vijay Damodaran to deposit unaccounted cash (Rs. 20 crores) in the All India Congress Committee's office. Vijay Damodaran confirms, under oath, that

Rajendra Miglani had instructed him to collect cash from the petitioner's residence in Delhi (1, Tughlak Road, New Delhi) and was accompanied by Mr. R. Viswanathan (stated to be the petitioner's secretary).

Therefore, the tax authorities link Rajendra Miglani to the Petitioner.

d) Other Linking Factors

- i) Himanshu Sharma's phone had a note named 'KN Receipts' which had entries of Rs. 1.65 crores. Since he was confirmed to be in touch with the others (Praveen Kakkar, Rajendra Miglani and Lalit Chhallani), the tax authorities found it reasonable to infer 'KN' to be Kamal Nath, that is, the petitioner. Rajendra Miglani's message to Himanshu Sharma also refers to a 'KN'.
- ii) Lalit Chhallani in his statement under Section 132(4) of the Act submitted that he had maintained the account pertaining to cash transactions relating to the Lok Sabha Elections 2019 and the file was found in his laptop. The petitioner was then the president of the Madhya Pradesh Congress Committee.
- iii) After observing All India Congress Committee's ledger, it was found that the entry under 'aid from MPCC' recorded the above mentioned Rs. 20 crores, but on April 8, 2019, which was a day after the raids

made on April 7, 2019 (on the involved persons). The tax authorities contend this mentioning of Rs. 20 crores in the accounts as an after-thought, since the raids were made a day before. The only other cash transaction between the period of April 1, 2013 to October 10, 2019 was of Rs. 15 lakhs paid by All India Congress Committee to Madhya Pradesh Congress Committee. The other entries as unearthed from the phones/laptops/offices of involved persons also do not find mention in the accounts of the All India Congress Committee.

- iv) A file found in Lalit Chhallani's laptop showed receipts from Government departments, etc. and payments to Lok Sabha candidates. The tax authorities also mention one specific payment (of Rs. 15 crores) made to another entity (RKM in Chhindwara), which is recorded in the file.

Rival Submissions

10. After appreciating the facts, at this juncture it would be pertinent to mention the submissions put forth by counsels of both sides.
11. The petitioner put forth the following arguments:

- a. There is no live link of the petitioner with the involved persons and he did not even know three of them. While the petitioner knew two of the involved persons, their relationship was devoid of any financial nexus. Reliance has been placed upon ***R.K. Agarwal v. CIT (2006 SCC OnLine All 1386)***, ***Dilip Kumar Agarwal v. Income Tax (2009 SCC OnLine Cal 702)***, ***P.S. Housing Finance Ltd. v. Union of India (2006 SCC OnLine Cal 830)***, ***Anil Kumar Kothari v. Union of India ([2010] 232 CTR 104 [Gau])*** and ***Global Energy v. Commissioner of Income Tax (2013 SCC OnLine Bom 296)*** to substantiate the contention that financial nexus with persons from whom incriminating materials are found along-with adequate reasons are prerequisites for a transfer of the Impugned order under Section 127 of the Act, notwithstanding the fact that the order is for the purpose of a co-ordinated and effective investigation.
- b. Mere speculation or apprehension, though bona fide, cannot be sufficient grounds for transfer under Section 127 and there has to be a financial nexus with the involved persons. Reliance was placed on ***Rajesh Mahajan v. CIT (2002 SCC OnLine P & H 1533)*** for the said argument.
- c. Neither a search or survey was conducted on the petitioner, nor were incriminating documents found with the petitioner which would require any coordinated investigation and such a transfer

under Section 127 is based on extraneous materials. The petitioner's capacity to the investigation can merely be seen as that of a witness. Therefore, the transfer based on vague pleas of 'coordinated investigation' is wholly arbitrary, unreasonable and in violation of Article 14 and 19(1)(g) of the Constitution of India.

- d. The petitioner has no relation with the Rs. 15 crores paid to RKM in Chhindwara or Rs.20 crores cash already accounted for in All India Congress Committee's accounts or the chats unearthed from the involved persons. There exists no link for attributing the incriminating and suspicious materials to the petitioner's personal income tax assessment.
- e. There will be great difficulty and harassment to the petitioner if the said transfer is allowed as his assessments have always been done at Kolkata. The petitioner's permanent residence, accounts staff and authorised representative are also at Kolkata. Therefore, such a transfer would cause immense hardship, financial and otherwise.
- f. Petitioner's objections have not been considered and therefore the Impugned Order is in violation of principles of natural justice.

- g. The Apex Court in ***Ajantha Industries v. Central Board of Direct Taxes*** ([1976] 102 ITR 281 [SC]) held that an order under Section 127 of the Act can be challenged on the ground that it is mala fide or arbitrary or based on irrelevant and extraneous considerations. Furthermore, reasons must indicate that the transfer is necessitated because the current assessing-officer cannot do what the officer to whom it is being transferred can. Ex-facie, the Impugned Order has been passed by taking into consideration irrelevant and extraneous materials and is wholly arbitrary.
- h. Furthermore, the assessments of the involved persons were completed on September 30, 2021. Hence, the direction for concerted or coordinated investigation seems uncalled for and misplaced.
- i. The tax authorities have inadvertently mistaken the initials 'KN' in many chats/documents seized from the involved persons and their mobiles phones, to be referring to the petitioner.
- j. The respondents, in their compilations, have gone beyond their written pleadings, second notice and Impugned Order vide their affidavit-in-opposition:

A. expanding the nexus from the involved persons to thirty-four persons;

B. contending that the petitioner's assessment should be transferred since he has no earnings or bank account in Kolkata;

C. introducing new correspondence and evidence in relation to the Rs. 20 crores transferred to the All India Congress Committee.

12. The tax authorities submitted the following arguments:

- a. The transfer order under Section 127 of the Act is more in the nature of an administrative order rather than a quasi-judicial order. The Impugned Order was passed after adhering to the provisions of the Act and requirements of the law. The petitioner was granted sufficient opportunity to present his case and the issues raised by him were thoroughly considered. A well-reasoned order was passed only after following the due procedure and having found a nexus. The petitioner cannot have a right to choose his assessing authority. Reliance has been placed upon ***Chaudhary Skin Trading Company v. Pr. Commissioner of Income Tax-21*** ([2016] 290 CTR 533), ***Charan Pal Singh v. Commissioner of Income Tax***

and Another (2008 307 ITR 132), Kamlesh Rajnikant Shah v. Principal Commissioner of Income Tax ([2022] 138 Taxmann.com 59 [Gujarat]), Pannalal Binjraj and Another v. Union of India (1957 SC 397), ATS Infrastructure Ltd. v. CIT (2009 SCC OnLine 1627) and The Commissioner of Income Tax Raipur v. Union of India & Ors. ([2013] 358 ITR 341) to buttress the submission that the impugned order is valid and as per principles established in law.

- b. No prejudice will be caused to the petitioner if such transfer is made as the petitioner is a highly influential person and holds a residence at Delhi. Furthermore, he has no bank accounts in Kolkata, but holds two bank accounts in Delhi. His entire work revolves around the cities of Bhopal and Delhi. Therefore, the contentions raised by the petitioner of harassment being caused in light of the transfer, are evidently unsubstantiated and rest on flimsy grounds.
- c. The nexus provided in the Impugned Order suffices to justify the transfer under Section 127 of the Act. The entire link begins building itself with the trail of unaccounted money (Rs. 20 crores) which was picked up from the petitioner's residence at Delhi, but accounted for, only after raids held at different places. Documents seized and statements given by the involved persons further

consolidate the link. The entire reality can only be discovered by way of a centralised and effective investigation.

Analysis

13. It is paramount to define the law with regards to Section 127 of the Act, in terms of the object behind the section and the scope of judicial interference. The Apex Court in ***Pannalal (supra)*** explained the purpose and objective of the predecessor to Section 127 of the Act, which was Section 5 (7-A) of the earlier Act. The Court states that the power to transfer is not naked, arbitrary or uncontrolled. It is to be guided by the purpose of the Act viz. the charge of income tax, assessment and collection thereof, and is to be exercised for more convenient and efficient collection of tax. The Court further underlines that there is no absolute right to be assessed in a particular area or locality. While inconvenience may be caused, it is subject to the exigencies of tax collection. The Court held that reasons, even if briefly recorded, will suffice as long as the assessee is given an opportunity to present their views. However, it is pertinent to note that the right to represent one's opinions/views is subject to permissible limitations and is not absolute. Hence, the said right can be curtailed on occasions where its exercise would frustrate the core object of the Act.

14. The Apex Court in **Ajantha Industries** distinguished **Pannalal (supra)** as Section 127 had been introduced. The relevant paragraphs are extracted below:

“9. This judgment was rendered by this Court on 21-12-1956, and we find that in the 1961 Act Section 127 replaced Section 5(7-A) where the legislature has introduced, inter alia, the requirement of recording reasons in making the order of transfer. It is manifest that once an order is passed transferring the case file of an assessee to another area the order has to be communicated. Communication of the order is an absolutely essential requirement since the assessee is then immediately made aware of the reasons which impelled the authorities to pass the order of transfer. It is apparent that if a case file is transferred from the usual place of residence or office where ordinarily assessments are made to a distant area, a great deal of inconvenience and even monetary loss is involved. That is the reason why before making an order of transfer the legislature has ordinarily imposed the requirement of a show-cause notice and also recording of reasons. The question then arises whether the reasons are at all required to be communicated to the assessee. It is submitted, on behalf of the Revenue, that the very fact that reasons are recorded in the file, although these are not communicated to the assessee, fully meets the requirement of Section 127 (1). We are unable to accept this submission.

10. *The reason for recording of reasons in the order and making these reasons known to the assessee is to enable an opportunity to the assessee to approach the High Court under its writ jurisdiction under Article 226 of the Constitution or even this Court under Article 136 of the Constitution in an appropriate case for challenging the order, inter alia, either on the ground that it is mala fide or arbitrary or that it is based on irrelevant and extraneous considerations. Whether such a writ or special leave application ultimately fails is not relevant for a decision of the question.*

11. *We are clearly of opinion that the requirement of recording reasons under Section 127(1) is a mandatory direction under the law and non-communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee.”*

It was only in the context of stating and communicating the reasons for transfer, that the Apex Court noted that the orders under Section 127(1) are not ‘purely administrative’. It does not indicate that the threshold of reasoning required at this stage is to the extent of reasoning provided in judicial or even quasi-judicial orders. A look at later judgements will further consolidate this proposition.

15. In ***Chaudhary Skin Trading Company (supra)***, a division bench of the Delhi High Court has explicated on the level of reasoning required for a transfer order under Section 127 for it to be sacrosanct from judicial scrutiny. Relevant paragraph is extracted below:

*“11. As far as the rationale to transfer, i.e., conduct of coordinated post search investigation and meaningful assessment goes, we are of the opinion that like in the case of first contention, the assesseees have failed here as well. **The kind of reasoning required by an order under Section 127 cannot be compared or likened to a quasi judicial order that has adverse consequences. One can understand if additions are made on sketchy or bare minimum reasons, they cannot be upheld.** However, what is proposed by an order under Section 127 is the transfer of one or several assessments from one circle to another, to that extent inconvenience undoubtedly ensue; however, to say that this leads to grave prejudice if detailed reasoning were not given is something that the Court cannot countenance. The consequence would only be that the assesseees' contentions would have to be taken into account by another Assessing Officer who would also have before him or her all other related assessments. **In these circumstances, the Court is unprepared to hold that the brief reasons relied upon by the revenue does not amount to reasons at all or that they are vague.** **In such exercise in every case where an order under Section 127 is challenged, there are two interests - those of the assesseees who invariably plead inconvenience and hardship and that of the revenue which would inevitably cite public interest. The Court's***

task is to unravel whether in fact the revenue's contentions are correct and if so reject the assessee's contentions. On the other hand, if there is no real public interest and if there are no reasons even the briefest one, the order cannot be sustained.

Conversely, if there is reasoning and the public interest is discernable, as in this case, the only result can be rejection of the assessee's contentions.”

Emphasis Added

16. The tax authorities further relied on **ATS (supra)**, wherein the Delhi High Court has also averred along similar lines as **Chaudhary Skin Trading Company (supra)**. Relevant paragraph of **ATS (supra)** is extracted below:

“11. *In this conspectus and analysis of the law it will be relevant to note that — firstly there is no fundamental right of an assessee to be assessed at a particular place. Under Section 124 the assessment must be carried out at the principal place of business but when powers under Section 127 are invoked, territorial nexus becomes irrelevant. Secondly, the determination of the venue of the assessment would be governed by the greatest effectivity for collection of taxes. Thirdly, the decision to transfer cases cannot be capricious or malafide. If the venue is changed from year to year, or periodically for no apparent reason, it would not manifest an instance of exercise of power which is not available, but an example of an abuse of power in the manner in which it is exercised. Fourthly,*

whilst the convenience of the assessee should be kept in mind, it would always be subservient to the interests of adjudication and collection of taxes.”

17. The Gujarat High Court in ***Kamlesh (supra)*** has reiterated the above-stated legal position. The additional understanding the Court put forth is that assessments of persons not subjected to search operations can also be transferred. The relevant paragraphs are stated below:

“24. We may only observe that the transfer order passed under Section 127 of the Act is more in the nature of an administrative order rather than a quasi-judicial order and the assessee cannot have any right to choose his Assessing Authority, as no prejudice can be said to have been caused to the assessee depending upon which authority of the department passes the Assessment Order.

The assessee can only be concerned with getting an opportunity of hearing before the concerned Assessing Authority and adduce his evidence and make his submissions before the concerned Assessing Authority. The Income Tax department has recently introduced a scheme of Faceless Assessments with a view to avoid personal hearing and physical interaction of the assessee and the Assessing Authority altogether. The assessee need not even know the name of the Assessing Authority who will deal with his case.

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26. Having regard to the position of law as discussed above and also the other materials on record, we are of the view that we should not interfere with the impugned order of transfer passed by the respondent in exercise of powers under Section 127(2) of the Act. The power of transfer of cases may have to be exercised in proper cases when sufficient materials on record justify such action. As held by this Court in the case of Hindustan M.I. Swaco Limited MANU/GJ/1013/2016MANU/GJ/1013/2016: (2016) 72 taxmann.com 14 (Guj.), **"this is, however, not to suggest that the transfer of cases for effective investigation and coordination can be resorted to only in cases of assessee, who are subjected to search operation. Such requirement may arise in other circumstances also"**.

27. Before we close this judgment, we must observe that the question whether circumstances warrant transfer or not is a matter for consideration and the decision by the Commissioner. The Commissioner in the case on hand upon due consideration of all the relevant aspects of the matter is satisfied that the case of the writ applicant should be transferred for the purpose of effective and coordinated investigation and assessment. Thus, we are of the opinion that looking at facts and circumstances of the case, where administrative exigencies can be adequately/comprehensively addressed, such a discretion should not be interfered with under Article 226 of the Constitution. We do not find any

patent error of law or any error apparent on the face of the record. The impugned order cannot be said to be ex facie perverse.”

Emphasis Added

18. In ***Commissioner of Income Tax Raipur (supra)***, the Chhattisgarh High Court has given a succinct, but adept guideline with respect to the jurisprudence of Section 127. It held:

“53. Our conclusions are as follows:

(a) The power of transfer under Section 127(2) of the Income Tax Act, 1961 is not a judicial power;

(b) The writ appeal is maintainable against the order of the Single Judge quashing the order passed under Section 127 of the Act;

(c) The notice had indicated the reason for transfer as ‘centralisation’ for ‘co-ordinated investigation’. It is for this reason that order for transfer were made. There was no denial of reasonable opportunity to the Assessses;

(d) The word ‘co-ordinated investigation’ is not vague. It has a definite meaning and the transfer order can not be set aside merely on the ground that the transfer has been done on vague terms.”

19. Therefore, the scope of judicial review is limited to determining **(a)** if the decision making process was proper, or **(b)** the reasons are not wholly

irrelevant/ arbitrary, or **(c)** if the order is passed without jurisdiction or actuated by mala fide. The only factor that is further required to sanctify a transfer order is the presence of a financial nexus of the assessee's assessment which is being transferred in the reasons for transfer given in the order under Section 127.

20. The judgements cited by the petitioners are correct in their understanding of the law. However, they have been applied to different facts and circumstances and are distinguishable. In **Anil Kumar Kothari (supra)**, the transfer order was set aside for non-issuance of notice to the assessee and non-furnishing of reasons. In **P.S. Housing Finance (supra)**, the evidence suggested that petitioner had no relation with the entities from whom incriminating materials were found in addition to the fact that nothing was unearthed from the assessee itself. **In Dilip Kumar Agarwal (supra)**, while the tax authorities transferred the assessment for the purposes of co-ordinated and effective investigation, the notice did not mention such reasons. Furthermore, no evidence existed to establish a business connection of the assessee to their father. The onus was put upon the assessee to prove their lack of connection. On such facts, the Courts have quashed transfer orders passed under Section 127 of the Act.

21. The other judgements cited by the petitioners are also legally sound but distinguishable on facts. In **Global (supra)**, the Court found that no

reasons existed beyond the mere mentioning of the ground of 'co-ordinated investigation' and hence quashed the transfer order. Again, in ***Rakesh Mahajan (supra)***, nothing was found to confirm a financial connection between two family groups. The transfer order also did not deal with the objections raised to the allegations in the show-cause notice. Reasons given were irrelevant to the object sought to be achieved. In light of such factors, the court set aside the transfer order. In ***R.K. Agarwal (supra)*** the court found the transfer order to suffer from a manifest error on the face of the record. The rationale for the same was the lack of application of mind by the authorities as barely any reason was given behind the decision to transfer the assessment, rather than centralisation of assessment of other entities, one of whose director's sister was married to the petitioner. The court inferred the presence of mere whim and fancy, thereby disallowing the transfer order.

22. The purpose of a transfer order under Section 127 is not to subject an assessee to tax liability. Its effect is only to subject an assessee to assessment under another jurisdictional officer. Therefore, such an order involves balancing of the inconvenience to the petitioner and revenue interests (public interest), which should tilt towards the latter if there is some nexus derivable from facts and not mere pleas based on conjecture.

23. The principles that emerge from a reading of the judgements above are as follows:
- A. There is no absolute right to be assessed in a particular territory.
 - B. In a transfer order, the inconvenience of assesseees is balanced against the right of the revenue to carry out effective tax collection (which is public interest).
 - C. The assessee does not possess the right to choose his/her assessing authority.
 - D. The scope of judicial review is limited to determining:
 - i) whether the decision making process was proper, which is to ascertain:
 - (a) if the principles of natural justice were followed, and
 - (b) the requirements of Section 127 were fulfilled,
 - ii) whether the reasons are not wholly irrelevant/ arbitrary,
 - iii) whether the order is passed without jurisdiction or actuated by mala fide, and
 - iv) whether there is any nexus of the assessee, whose assessment is being transferred, with the incriminating material and/or persons on whom incriminating material has been found.

Conclusion

24. This Court had quashed the first order for violation of the principles of natural justice. Post the said quashing, the petitioner has been given

adequate opportunity to make his case before the tax authorities. So far, this Court finds no infirmity in the decision making process. Requirements under section 127(2) are fulfilled as proper opportunity has been granted to the petitioner to represent their case and a reasoned order has been communicated.

25. Upon perusal of the records before me, I find that the respondent no.1 has clearly delineated the reasons of the transfer under Section 127 of the Act in the Impugned Order for a detailed and coordinated investigation of the petitioner. It is to be noted that the files of several other persons have also been transferred under Section 127 of the Act. The petitioner is the only one whose file is still not being transferred because of the writ petition filed before the Calcutta High Court. The various reasons provided are based on concrete material that have been mentioned in the Impugned Order in paragraph 7.

26. One cannot say that the present transfer is based only on surmises and conjectures as it is evident that the name of the petitioner has been taken by some of the persons on whom investigation, search and survey was carried out. Furthermore, the statement of certain persons also indicates that there was transfer of cash to the tune of almost Rs. 20 crores from the residence of the petitioner at Delhi. This money trail raises suspicion. Even though the said cash has been shown in the books of the All India Congress Committee, the source of the funds

from the Madhya Pradesh Congress Committee is required to be looked into by the tax authorities. Furthermore, the recording in the books of the All India Congress committee was done subsequent to the raids conducted by the tax authorities.

27. Moreover, unaccounted cash transactions have been clearly found in the Whatsapp chats and accompanying documents obtained from several persons wherein the term 'KN' has been referred to. These persons were either known to the petitioner or were associates of persons who seem to be extremely close to the petitioner.

28. In view of the above, it is clear that the present transfer is based on cogent material that requires further investigation by the tax authorities. The argument of the petitioner that they are willing to cooperate in the investigation, thereby negating the requirement of the transfer, is of no relevance as the officer conducting the coordinated search in my opinion, is best suited to investigate and carry out the assessment of the petitioner. It is to be noted that at the stage of passing an order under Section 127, after considering objections of the petitioner, the authorities are not required to give out the entire case of the tax authorities. Even if the additional information shared vide the affidavit-in-opposition and compilations are not considered, this Court finds the Impugned Order to satisfy the threshold of an administrative/quasi-administrative order.

29. Thus, it would be incontestable and sufficient to conclude that as long as cogent materials are present, the transfer that has been sought for cannot be held to be mala fide or based on extraneous circumstances. The judgements cited above clarify this point to the hilt. In my view, the administrative/quasi-administrative order passed under Section 127 of the Act does not need to give a detailed explanation and a concrete financial nexus, but is required to bring out certain facts that could indicate that the case warrants further investigation to be carried out by the tax authorities.
30. Moreover, the petitioner is a highly influential person with significant presence in Delhi including an official residence and bank accounts. While his inconvenience would have anyway been overshadowed by the revenue interest in the facts of this case, it would be pertinent to mention the lack of any inconvenience whatsoever.
31. Furthermore, though the assessments of some of the involved persons are complete, that cannot itself be a bar for a transfer order under Section 127 of the petitioner's assessment. Nor can the fact that he has not been subjected to any search or seizure be a bar to transfer. There is enough material garnered from other persons to establish a nexus, concrete enough to seize the judicial hands of this court from entering into the realm of reasonable executive discretion.

32. In the present case, I find that the Impugned Order is unimpeachable and has been done so after following the principles established in law. In light of the same, I find no reason to interfere with the Impugned Order, and accordingly, the present writ petition is dismissed. All interim orders stand vacated. The tax authorities are directed to complete the assessment of the petitioner within the time frame allowed in accordance with law.
33. I would like to show my appreciation for the dexterity of counsel appearing in this matter for both parties. Painstaking effort in research along with consummate court craft of counsel resulted in making my task of penning this judgement far less onerous than usual.
34. Urgent Photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Shekhar B. Saraf, J.)

Later

Learned Advocate for the petitioner prays for stay of operation of this judgement and order.

Such prayer is considered and rejected.

(Shekhar B. Saraf, J.)