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

% *Judgment delivered on: 31.08.2017*

+ **CONT.CAS.(CRL) 4/2015**

COURT ON ITS OWN MOTION Petitioner
Through: Mr. Vikas Pahwa, Sr. Advocate (Amicus Curiae) with Mr. Varun Goswami, Amicus Curiae along with Mr. Karan Khanuja, Ms. Kanika Sondhi and Mr. Simran Mehta, Advs.

Versus

RAKESH KUMAR GUPTA Respondent
Through: Mr. Manoj Ohri, Sr. Advocate (Amicus Curiae).
Mr. Rakesh Kumar Gupta, Respondent in person.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J

1. This case concerns the conduct of Mr. Rakesh Kumar Gupta, respondent herein against whom the criminal contempt proceedings were initiated. On 12.02.2015, following orders were passed:

“..... 1. On 15.01.2015, this Court had noted by its order that Sh. Rakesh Kumar Gupta’s intervention application, being No.5779/2008 was rejected. He had, however, sent an e-mail to counsel appearing on behalf of the Revenue, levelling several allegations which were shown to the Court. In the course of hearing, the Court pointed this out to Sh. Rakesh Kumar Gupta, who stated that he would be withdrawing the allegations levelled against the Revenue’s counsel. Having regard to this development, the Court recorded on 15.01.2015 as follows:

“2. Learned counsel submitted that in the light of these allegations they wish for further clarification from CBDT

3. Mr. Gupta is present in Court and he states that he would withdraw the allegations and that he may be permitted to address arguments in the Court instead.”

2. Sh. Gupta had, in the meanwhile, sent a detailed fax to this Court in respect of these pending matters which runs into 100 pages. The Court had, however, not proceeded with that or made any adverse order at that stage given the fact that Sh. Gupta assured the Court that the allegations would be withdrawn. After the conclusion of hearing, on 09.02.2015, Sh. Gupta filed yet another affidavit titled as “Intervener Affidavit”. In the affidavit, after stating that the intervener informed this Court in the hearing that the Income Tax Department had “deliberately presented weak case”, and quoting the order dated 16.10.2014, the following averments were made:

“F. However, no “no joint flow chart” was submitted, despite Income Tax official has submitted documents given by Intervener to them. (As stated in point D above.)

G. Nothing is done to protect Government interest by giving factual facts to Honourable Court. However, there are six pages (unsigned and without detail of who is submitting it, to Honourable Court) in ITA 1428/2006 CIT Vs. Escorts Limited. These pages, completely ignored the facts in favour of tax department.

H. Reason of submitted it (loose six – unsigned pages/documents) in open court, without signature, is that in future, they completely disown these six pages and even removed after wards from Court Records.

*I. Removing of documents after Court Decision was done in others cases of Escorts Limited/Dr. Naresh Trehan – key man Insurance tax evasion cases. (These cases are decided in favour of Tax Payers, by stating that tax payers are allowed Tax planning. In this case Key-man Insurance Booklet was removed, which prove assignment was illegal. Tax department had also not informed, other illegality involved (like fund siphoning by key person by transferring company assets below their fair value (without shareholder permission). Illegal acts are not called Tax planning). In ITA 398/2009 and ITA 484/2009 index Page and Page 3-4 of affidavit (relevant Para 5 Start from Page 3 and ends on Page 4 signed by Sr. Standing Counsel Mr. N.P. Sahni and Jr. Standing Counsel Mr. Ruchesh Sinha. **To help the tax payer, terms was used incomplete assignment instead of illegal assignment. And enclosed At Page 46-48. List of Key man insurances cases lost is given on Page 54 of affidavit.** Now above cases, are pending in the Supreme Court (without giving correct fact).*

J. Reason (of giving unsigned document) is simple, both tax payers and tax official does not want to face Contempt proceeding for deliberately misleading (by incorrect facts) Honourable Court.

K. Above inaction, force Intervener, to informed, all the concerned party about deliberate weakening of case by tax officials/their representative and forgery by tax payers by letter dated 14/1/2015 (forwarding of letter is enclosed As page 49-55 of affidavit).

L. Honourable Court has ample power to take necessary actions to protect Justice and protect Public interest of Government (to gets it

legitimate Taxes). No further actions is necessary from my side.

M. By this intervener affidavit, I withdraw unconditionally my express statement about involvement of Standing Counsel in weakening the department case as directed by Honourable Court.

Statement in my letter

Please refer to above mentioned cases, there is collusion between Tax payers and Government Department officers (including their Standing Counsel/Advocate), they had deliberately presented weak case. So that Government lose these cases for the benefits of Tax payers and for getting bribe for themselves.”

3. The affidavit further levels others allegations in paras 5, 6 and 7 against various officials.

In the affidavit, Sh. Gupta further deposed as follows:

“8. Now, kindly see actions of Tax official in these cases. Detail of deliberate wrong actions by Income tax official

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C. Summarized Brief Particulars of the case is already given to Court vide letter/e-mail dated 15/10/2014 & 14/1/2015. There are two issue (of tax evasion pending above ITA/writs) related to false evidence created by tax payers and in the knowledge of Standing Counsel of Income Tax, all the connected Income Tax officials and all concerned Assessee.

Issue One: these parties Escorts Limited, Big Apple Clothing, Dr. Naresh Trehan & AAA Portfolio became owner of EHIRC hospital (Delhi Society by fraud).”

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11. Tax payers as well Tax departments Action of deliberately misleading Hon'ble Delhi High Court is contempt of Court. Papers given by above parties are under oath. And all concerned party (Concerned CIT (at present CIT 3 Delhi, CIT 21 Delhi & CIT Faridabad), Income Tax Counsel and Tax payers) know about forgery, even then hiding it, is clearly contempt of court for malafide reasons."

4. At the outset, when the above fact was pointed out, learned counsel for the Revenue and the assessee pointed to the affidavit and stated that this does not amount to compliance with the previous order. Sh. Gupta was asked whether he wishes to unconditionally withdraw the affidavit and the allegations, to which he agreed conditionally. The condition proposed by him was that even whilst he was willing to withdraw the affidavit and the allegations with respect to the Standing Counsel and the conduct of the case before this Court, he would feel free to press those allegations elsewhere. He also stated that he had no desire and did not wish to withdraw any other allegations against the officers or the officials of the Income Tax Department, the CIT (Appeals) and the department generally, and that the allegations of fraud etc. against the assessee should remain as a matter of record.

5. This Court is of the opinion that given the nature of the conduct displayed by Sh. Gupta, i.e. preferring an application for intervention which was rejected, being Intervener Application No. 5779/2008; thereafter engaging in e-mail communications with the Standing Counsel and levelling allegations against them; addressing e-mails directly to this Court and finally, placing on record an affidavit detailing the allegations even while stating that he would withdraw some of them vis-a-vis the Standing Counsel, but would nevertheless press those allegations against the same individuals elsewhere, prima facie

amounts to criminal contempt punishable in accordance with law. This Court has been informed that two of the Standing Counsels – Sh. Balbir Singh and Sh. Rohit Madan, who had previously appeared, have already recused themselves from the matter. The behaviour outlined above amounts to seeking to prejudice and interfere or tending to interfere with the due course of proceedings in the present appeals, i.e. ITA 1428/2006, ITA 2011/2010 and ITA 1262/2011 and in W.P.(C) 836/2007.

6. This Court is of the opinion that consequently appropriate action and further proceedings under Section 15 of the Contempt of Courts Act, 1971 is warranted. In the circumstances, Sh. Rakesh Kumar Gupta is issued with Show Cause Notice, returnable on 09.04.2015 to give his explanation why he should not be proceeded with under Section 15 of the Contempt of Courts Act, 1971 in respect of the above allegations. The notice shall also annex a copy of this order and the copy of the Intervener Affidavit filed by him. The Registry is directed to register a separate criminal contempt proceeding and file the originals of the Intervener Affidavit which is part of the record in ITA No.1428/2006 in the said criminal contempt proceedings. Besides, the Registry shall place on record a copy of the e-mail and fax communication numbering 100 pages which was addressed by Sh. Rakesh Kumar Gupta directly to this Court. These shall be annexed along with the Show Cause Notice to be served upon Sh. Rakesh Kumar Gupta on the next returnable date, i.e. 09.04.2015. Sh. Rakesh Kumar Gupta is present in Court and has been apprised of this order.

C.M. Nos.2553/2015 & 2554/2015 in ITA 1428/2006

Issue notice. Ms. Suruchii Aggarwal, Sr. Standing Counsel accepts notice.

List on 12.03.2015....”

2. Subsequently, on 12.03.2015, following orders were passed:

“.... 1. Mr. Simran Mehta, counsel for the assessee has handed over a copy of the application, which he submits was sent to him and to Ms. Suruchi Aggarwal, counsel for the revenue by Mr. Rakesh Kumar Gupta. The said application seeks complaint to be lodged before the Chief Judicial Magistrate. This pertains to the conduct of the present case itself. The document particularly contains averments to the effect that the counsel Mr. Simran Mehta and “their associates” and Ms. Suruchi Aggarwal, who appears for the revenue are deliberately not exposing any statements and are in collusion with each other.

2. The statement of Mr. Gupta, who is present in person in Court, has been separately recorded. He alleges that the revenue’s counsel are in collusion with the assessee. This Court notices that on 15.1.2015 also similar allegations against the conduct of proceedings, were made pointedly against the counsel for the revenue. Mr. Gupta had stated that he would withdraw the allegations and that he may be permitted to argue the case in the Court instead. In the light of the undertaking by Mr. Gupta that he would withdraw the allegations clarifying that he may be permitted to make brief submissions duly supplemented by written notes , the said conduct was ignored. On 12.2.2015, the Court noticed inter alia that even whilst placing on record the affidavit seemingly withdrawing his allegations Mr. Gupta had persisted in levelling serious and scandalous allegations against the counsel for the revenue. These averments – made on affidavit were considered serious enough to warrant initiation of contempt proceedings under Section 15 of the Contempt of Court Act.

3. Having regard to the conduct of Mr. Gupta, reflected in the previous orders of the Court it is apparent that he appears to have a single minded mission of pursuing various counsel – besides the parties, on the allegation of collusion of revenue. Whilst zeal of a litigant or a party’s anxiety to highlight the truth can be appreciated, the persistent conduct of the third party, so much so that it results in various counsel engaged by the revenue feeling inability to conduct their proceedings virtually brings the proceedings to halt. That consequence cannot be permitted. The papers (27 sheets) handed over by Mr. Mehta and copies whereof appear to have been addressed to counsel for the revenue are directed to be placed on record and made over to the appropriate Bench which is seized of the contempt proceedings. The previous order dated 15.1.2015 of the Court enabling Mr. Gupta to address

arguments or make brief submissions is hereby recalled. Mr. Gupta is issued an injunction not to appear or participate in the present appeal or in any proceeding connected therewith.

4. List on 09.04.2015, the date already fixed....”

3. The respondent was given multiple opportunities to file his reply. Since the Court itself had appointed an amicus curiae in the contempt proceedings on 05.04.2016, the respondent’s application being Crl. M.A. 954/2016 for appointment of an amicus curiae was dismissed as not pressed. On 11.01.2017 the Court had recorded *inter alia* as under:

“... 3. At the outset, it may be noted that given the nature of these applications, we had endeavoured to dispose of these applications by oral orders but we were not permitted to do so by the interventions and opposition by the respondent contemnor, who did not permit us to pass orders on these applications making allegations against the court that he was not being heard. He has made protracted submissions. In view of his intemperate and obstructive conduct, we have also been compelled to reserve the orders on these applications.

4. We may also note that Crl. M.A. No. 17318/2016 (page 519) in paras 3 and 4, the respondent contemnor has made the following averments:-

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

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

5. So as to ensure fair representation and access to justice to the applicant, we put forth a suggestion that we would give him a lawyer of ability from the panel which has been

constituted by the Delhi High Court Legal Services Committee. The appellant is categorical that he shall choose a lawyer, who would be permitted to make only legal submissions and he himself would make The factual submissions. This amply manifests that the submissions of the respondent contemnor / applicant that he is unable to engage a legal counsel for want of funds is misconceived. In any case, in order to ensure complete justice, it is directed that respondent contemnor/ applicant to place complete income and assets and liability on record within one week from today.

Order reserved.

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6. By the order dated 12th, February, 2015 passed in ITA No. 1428/2016, notice to show cause was issued to the respondent herein to give an, explanation as to why he should not be proceeded with under Section 15 of the Contempt of Courts Act, 1971. These proceedings were so registered and are being pending for some time. In the meantime, the respondent herein, who is present in person, has placed voluminous affidavits, applications and documents on record.

7. It is pointed out by Mr. Vikas Pahwa, learned Senior counsel and Amicus Curiae and Mr. Varun Goswamij APP for the State appointed as Amicus Curiae that in all pleadings and affidavits on record, the respondent is not only reiterating the pleas which were the basis of order dated 23rd August, 2016 but is making further allegations....”

4. The respondent filed various applications seeking a myriad of reliefs, ranging from affidavits to be filed by counsel representing the Income Tax Department to supply of documents by counsel and by registry of this court;

for early disposal of his applications; to record the Court proceedings in court by phone, camera/electronic device; for taking action against the tax payer for allegedly making incorrect averments before the Court; and to pass an interim award of Rs. 10 cores in his favour. By order dated 25.01.2017, each of the applications were dismissed and costs of Rs. 2500/- were imposed in seven of the applications. Ordinarily, we would not have reproduced the order disposing of these applications, but the nature and the relief sought and the persistent conduct of the respondent, as recorded therein, makes it necessary for us to reproduce the order as under:

*1. By way of the present order, we propose to decide 11 applications being Crl.M.A. Nos. 12118/2015, 12119/2015, 12120/2015, 18534/2015, 7868/2016, 7869/2016, 7870/2016, 17316/2016, 17317/2016, 17318/2016 and 17319/2016 filed by the respondent before us. Before dealing with the individual applications, it is necessary to note a few essential facts relating to the litigation wherefrom the present contempt proceedings arise. It appears that three Income Tax Appeals and one Writ Petition being **ITA No. 1428/2006 CIT v. M/s Escorts Ltd.; ITA 2011/2010 CIT v Big Apple Clothing Pvt. Ltd.; ITA 1262/2011 CIT v. Naresh K. Trehan and W.P.(C) No.836/2007 Escorts Ltd. V. Asstt. Commissioner of Income** are pending before this court. These matters relate to income tax assessment orders and proceedings under the Income Tax Act against the private parties therein. Sh. Rakesh Kumar Gupta, the respondent herein, has no connection with the parties and is also not a party to these proceedings.*

2. Sh. Rakesh Kumar Gupta filed an intervention application being CM No.5779/2008 in ITA 1428/2006 CIT v. M/s. Escorts Ltd. in which he had levelled several allegations against the counsel for the revenue. This application was rejected by the court by the order dated 15th

January, 2005. Similar allegations were made in subsequent affidavits as well as e-mail communications sent to the court as well as to standing counsels as well as affidavits against the counsels for the revenue; which were considered by the court, in the proceedings on 12th February, 2015 in the said matters. Being of the view that the behaviour of the respondent herein amounted to seeking to prejudice, interfere or trying to interfere with due course of proceedings in the above cases, proceedings under Section 15 of the Contempt of Court Act, 1971 were due and warranted, notice to show cause was issued on the 12th February, 2015 to the respondent as to why he should not be proceeded against under Section 15 of the Contempt of Court Act, 1971 with regard to the allegations made by him and the present contempt proceedings came to be registered. The eleven applications which are the subject matter of the present order have been filed in the present contempt proceedings.

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

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

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

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

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

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

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

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

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

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

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

Mr. Simran Mehta got injunction orders (against C/R-1/IV/WB), because C/R-1/IV/WB want to challenge injunction order. If, C/R-1/IV/WB does not comply injunction order, then, Mr. Simran Mehta, may again request Hon'ble Court to start another contempt proceeding C/R-1/IV/WB for non-compliance of Court order.

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

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

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

“10. xxx xxx xxx

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. C/R-1 written various letters to Income Tax department (pinpointing shortcoming in tax department pleading). Missing strong points are summarized in perjury application (page 131-156 of this Contempt proceeding records).

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

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

“ 6. xxx xxx xxx

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

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

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

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

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

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

“2. Tax payers are hiding important facts and giving false statement to win tax cases/

proceeding through unfair means. And harass (C/R-1) in the contempt proceeding.

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

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

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

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

“6. xxx जयते xxx

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

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

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

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

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

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

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

xxx

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

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

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

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

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

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

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

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

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

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

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

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

“b. When application is pending to review order dated 12/3/2016, Hon'ble Court, then Hon'blereferred 12/3/2016 as final order.

12/3/2016 order was partly revised by the presiding Judge bench of Tax case on 27/5/2016.”

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

26. *We may note that on the last date of hearing, in view of the submissions made by the applicant in paras 3 and 4 noted above, we had queried the applicant if we could give him a lawyer of ability from the panel constituted by the Delhi High Court Legal Services Committee. The respondent was emphatic that he shall choose a lawyer but the lawyer would be permitted to make only legal submissions and that he would make factual submissions himself. This in fact manifests that the submission by the respondent that he is unable to plead legal submissions is not correct. We had noted this fact in our order dated 11th January, 2017.*

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

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

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

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

3. There is total blackout (tax department favourable points in ITAT order) on direction (issued dated 14-2-2016 by Director of Income Tax Vig (NZ) to CIT 1 Delhi (supervisor officer

of officer looking AAA Portfolio P Ltd Case). Main issue is summarised in four pages from 197 to 200 of Criminal Contempt 4/2015 case file). And in detail is explained by C/R-1 Page 135 to 140 and 175 to 190.

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

On these averments, he makes the following prayer :

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

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

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

5. There is no record of the respondent having deposited the said costs imposed upon him. In other words, he is in default of the said directions. Subsequently, on 17.05.2017, the Court noted that although on 25.01.2017 the respondent had declined the appointment of a lawyer from the Delhi High Court Legal Services Committee to assist him in the present proceedings, nevertheless on his oral request in the Court, Mr. Manoj Ohri, Sr. Advocate was appointed as an amicus curiae to aid and assist him in addressing the Court on the legal as well as the factual issues.

6. On 04.08.2017, the following order was passed:

“....Mr. Manoj Ohri, learned Senior Counsel (Amicus Curiae) appointed by this Court to aid and assist Mr. Rakesh Kumar Gupta, the respondent, in addressing this Court on his legal and factual issues, has sought a discharge in view of the circumstance that the respondent, is not willing to file an affidavit, containing his unconditional apology, as recorded in the previous order dated 28th July, 2017.

It would be profitable to reproduce the said order dated 28 July, 2017 to appreciate its ambit and importance:-

"Mr. Manoj Ohri, learned Senior Advocate appearing on behalf of Mr. Rakesh Kumar Gupta, the respondent, states that after the latter had addressed the Court in the morning, he had discussed the matter with him in the lunch recess. Now, the respondent wishes to make a submission to the Court.

Mr. Rakesh Kumar Gupta states that he never intended to affront the dignity of this Court or be an impediment in the administration of justice. Hence, he is ready and willing to withdraw all the statements made by him regarding the lawyers of the Revenue Department. He further states that he is ready to file an affidavit in this regard expressing his unconditional apology within a week from today.

In view of the circumstance that the Contemnor wishes to purge the contempt, if any, by filing an affidavit unconditionally withdrawing the allegations levelled against the lawyers representing Revenue department; and to further

state that his . actions were neither wilful nor deliberate nor intended to lower the dignity of the Court or scandalise it in any manner, he be granted an opportunity, so to do.

Renotify on 4th August, 2017".

After Mr. Manoj Ohri, learned Senior Counsel, had sought a discharge, as aforesaid, and the Court had so discharged him, we had asked Mr. Rakesh Kumar Gupta to address us in relation to the Show Cause Notice issued to him by this Court, by way of order dated 12th February, 2015 and, in particular, the foundation of the said Show Cause Notice, namely, the allegations levelled by him against the counsel appearing on behalf of the Revenue Department.

In this behalf, Mr. Rakesh Kumar Gupta states that although he is willing to withdraw some allegations on his own, and has already done so, he is not willing to withdraw all the allegations levelled against the lawyers representing the Revenue Department.

We, therefore, asked Mr. Rakesh Kumar Gupta to address us in relation to the Show Cause Notice issued under Section 15 of the Contempt of Courts Act, 1971.

Mr. Rakesh Kumar Gupta having addressed us for an hour and a half on the 28th July, 2017 before the order referred to hereinabove came to be recorded and having further addressed us for twenty minutes today, expresses his inability to conclude his submissions on account of his illness, characterised as pain in his left eye. Mr. Rakesh Kumar Gupta further articulates in Court that he feels his blood pressure has shot up and he feels the need to use the wash room frequently and is, further, unable to continue his

arguments today. He, therefore, requests that the matter be adjourned for a month and a half in order to enable him to recoup his health and address this Court.

We are constrained to observe that the conduct of Mr. Rakesh Kumar Gupta in the present proceedings, as well as, in the Court has been unreasonable and dilatory. Even as we were dictating this order he has interrupted us a few times.

However, in the interest of justice, as a final opportunity, at the request of Mr. Rakesh Kumar Gupta, we are adjourning the matter to 18th August, 2017.

It is also observed that the respondent has filed multiple replies to show cause notice.

It is, however, made clear to Mr. Rakesh Kumar Gupta that no further opportunity shall be granted in this behalf.

Renotify on 18th August, 2017....”

7. Today, the respondent has been heard in person. He has endeavoured to defend the allegations made by him against the counsel for the Revenue Department. He seeks to defend his refusal to withdraw the charges against the said counsel on the ground that he feels the allegations are justified, and that according to him the complete facts of the case were not comprehensively and ably put before the Court, which was detrimental to Revenue's interest. The respondent has filed not one but five replies to the show cause notice; each of which he terms as an 'interim reply' – a procedure unknown to law. Indeed in his affidavit of January, 2017 he goes on to reiterate his allegations made against counsel who had or were assisting the Court. In para 32 of the said affidavit the respondent states that

three judgments were passed in favour of the tax payers; in the process the Court lost the chance to remove corruption from its corridor. He also expressed the hope that he had expected the Delhi High Court to recommend him for a Bharat Ratna for the huge public service (at the risk of his life) and for removing corruption in justice administration (*sic*). The respondent has also accused counsel for the department stating that they are neither endeavouring seriously to prove the allegations, nor were they appearing before this Court on most of the hearings in the contempt proceedings; that the standing counsel of the Revenue had not followed the latter's written instructions; in the process the counsel are said to have concealed adverse facts from the Court and even lied to this Court. However, these allegations have not been proven by him. The Revenue has had no such complaints against its counsel. Therefore, the allegations are *ex-facie*, unwarranted and even otherwise not proven by the respondent.

8. Earlier the respondent's application for inveneror was dismissed by this Court on 23.09.2008 by the following orders:

“This is an application by a person who claims to be an informer. He is seeking intervention in the present appeal. We have heard him at length and we have also heard the learned counsel for the assessee as well as the learned counsel for the revenue.

Without going into the allegations and counter allegations which have been leveled, we are of the view that since this Court has already submitted this appeal and substantial questions of law have been framed, the informer has no role to play. He is neither a necessary nor a proper party. Consequently, his application for intervention is rejected. If he has any grievance, he has other avenues open to him under law. But, intervening in an appeal under Section 260A of the

Income Tax Act, 1961, is certainly not one of those avenues. The application is dismissed.”

9. Mr. Vikas Pahwa, Sr. Advocate (Amicus Curiae) has submitted that the respondent has leveled baseless and wanton allegations against counsel, who were representing their respective departments and were assisting the Court, this amounts to intervention in the administration of justice and constitutes criminal contempt of court. He relies upon the following judgments:

(i) *H. Syama Sundara Rao vs UOI & Ors. 2007 Crl.*

LJ 2626 in which it was held as under:

“Casting aspersions and extending threats by issuing notices to the Advocate for the opposite side containing disparaging and derogatory remarks has the effect of deterring an Advocate from conducting his duties towards his client and embarrassing him in the discharge of his duties and thus amounts to contempt of court on the very same principles which are applicable with regard to the criticism of a judge or a judgment as in each such instance, the tendency is to poison the fountain of justice, sully the stream of judicial administration, by creating distrust, and pressurizing the advocate as officers of the court from discharging their professional duties as enjoined upon them towards their clients for protecting their rights and liberties”

(ii) *Charanlal Sahu vs UOI & Anr. (1988) 3 SCC 255* in

which it was held as under:

“The petition has been couched in unsavory language and the petitioner seems to have made an intentional attempt to indulge in mud-slinging

against the advocates, Supreme Court in particular as also other constitutional institutions. Many of the allegations in his writ petition are likely to lower the prestige of this Court as the apex judicial institution. The petitioner has left out no institution from his attempt of mud-slinging. We have a feeling that while drawing up the petition the petitioner has considered himself to be the only blemishless person and everyone else including social institutions to be blameworthy. We direct the Registry to draw up an appropriate proceeding for contempt and issue notice to the petitioner calling upon him to show cause in person.”

(iii) *Nand Lal Bhalla vs Malik Kishori Lal 1947 Crl. LJ 757* in which it was held as under:

“Where on the allegations of gist of the contempt is not that the Court was insulted or interrupted but that an Advocate was threatened in the performance of his duties, there is no contempt of the Court directly, but there is contempt in as much as an officer of the Court such as an Advocate appearing in his professional capacity was threatened and insulted while in the performance of his professional duties in that Court.”

(iv) *Bhola Nath Chaudhary, Contemnor AIR 1961 Pat 1* in which it was held as under:

“If aspersions were cast upon an advocate of a party it might be that some of them had an effect intending to deter the advocate from continuing his duties for his client and in certain circumstances in embarrassing him in the discharge of those duties. It was observed that

comment upon an advocate which had reference to the conduct of his cases might amount to contempt of court on exactly the same principle which was applicable with regard to the criticism of a Judge or the judgment.”

(v) *Damayanti G. Chandiramani vs S. Vaney* AIR 1966 Bom 19 in which it was held as under:

“Contempt of Court may be said to be constituted by any conduct that tends to bring the authority and administration of Law into disrespect or disregard, or to interfere with or prejudice parties’ litigant or their witnesses during the litigation. It is settled law that disrespect or disregard to an advocate in certain circumstances so as to deter him from discharging his duties would amount to contempt of court.”

10. In *H. Syama Sundara Rao* (supra) this Court had held as under:

“.....17. In Charan Lal Sahu (supra) while hearing a petition stated to be a Public Interest Litigation filed by the petitioner couched in unsavoury language, the Supreme Court observed that the petitioner therein had made intentional attempt to indulge in mudslinging against the advocates, the Court itself and also other constitutional institutions which clearly gave the impression that the petitioner intended to denigrate the Supreme Court in the esteem of the people of India and thus the Court directed drawing up of appropriate proceedings for contempt against the petitioner.

18. Thus, it is crystal clear that casting aspersions and extending threats by issuing notices to the Advocate for the opposite side containing disparaging and derogatory remarks has the effect of deterring an Advocate from

conducting his duties towards his client and embarrassing him in the discharge of his duties and thus amounts to contempt of court on the very same principles which are applicable with regard to the criticism of a judge or a judgment as in each such instance, the tendency is to poison the fountain of justice, sully the stream of judicial administration, by creating distrust, and pressurizing the advocates as officers of the court from discharging their professional duties as enjoined upon them towards their clients for protecting their rights and liberties.

19. The Courts are under an obligation not only to protect the dignity of the Court and uphold its majesty, but also to extend the umbrella of protection to all the limbs of administration of justice and advocates, while discharging their professional duties, also play a pivotal role in the administration and dispensation of justice. It is thus the duty of the courts to protect the advocate from being cowed down into submission and under pressure of threat of menace from any quarter and thus abandon their clients by withdrawing pleas taken on their behalf or by withdrawing from the brief itself, which may prove fatal not only to the legal proceeding in question but also permit an impression to gain ground that adoption of such tactics are permissible or even acceptable. Failure to deal with such conduct and nip it in the bud shall result in the justice system itself taking a severe knocking, which tendency must be put down as it amounts to direct interference with the administration of justice and is, therefore, a contempt of a serious nature.

20. Coming to the cases referred to and relied upon by the petitioner, in our opinion, the same are not relevant to the facts of the present case. The judgments in the said cases are with respect to act or omission by an advocate which

interrupts the flow of justice or renders a professional unworthy of exercising the privileges of his profession, as also the duty of the members of the bar towards the bench so as to maintain dignity of the court etc. By relying on the said judgments, the petitioner is trying to state that as the reply filed by the respondents contains falsehoods allegedly made at the instance of and legal advice rendered by the counsel, therefore, it is not the petitioner, but the counsel who is guilty of contempt of this Court. We are unable to appreciate the arguments made by the petitioner. Even assuming that false averments were made in the reply by the respondents, the petitioner has the liberty to point out the same to the Court in the course of arguments or by filing appropriate proceedings and the Court would have taken appropriate action, if deemed necessary and proper. However, the Court cannot permit the petitioner to don the mantle of a Judge, level accusations against the counsel for the other side, hold him guilty and threaten him with various consequences during the pendency of the case, as done by the petitioner in the present case.

21. In fact, one of the judgments relied upon by the petitioner, namely, Pratap Singh (supra) only reiterates what has been stated hereinabove with regard to obstructing the court and perverting the course of justice amounting to contempt. In the said judgment, the Supreme Court while holding that initiation of departmental proceedings in terms of circular issued by the Government to the effect that it is improper for Government servant to take recourse to court of law before exhausting normal official channels of redress, amounts to contempt of Court, observed below:

“Para 10: ...There are many ways of obstructing the Court and “any conduct by which the course

justice is perverted, either by a party or a stranger, is a contempt; thus the use of threats, by letter or otherwise, to a party while his suit is pending; or abusing a party in letters to persons likely to be witnesses in the cause, have been held to be contempts.”

(Oswald's Contempt of Court, 3rd Edn. p.87). the Question is not whether the action in fact interfered, but whether it had a tendency to interfere with the due course of justice. The action taken in this case against the respondent by way of a proceeding against him can, in our opinion, have only one tendency, namely, the tendency to coerce the respondent and force him to withdraw his suit or otherwise not press it. If that be the clear and unmistakable tendency of the proceedings taken against the respondent, then there can be no doubt that in law the appellants have been guilty of contempt of Court, even though they were merely carrying out the instructions contained in the circular letter.”

22. In the light of the aforementioned judgments and upon perusing the allegations levelled by the petitioner against the advocate for the respondent Nos.3 & 4, there is no manner of doubt in our mind that the acts of the petitioner in issuing threatening notices to the advocate in the present pending litigation amounts to contempt of court as it is an attempt to pressurize the counsel to withdraw from the legal proceedings or seek discharge from his professional duties in view of the pressure. The said act is nothing but an attempt to thwart and hamper the free flow of the

administration of justice, thus amounts to direct interference with the course of justice.

23. We may now deal with the question of apology. In the course of arguments, the petitioner did apologize to the advocate for the respondents. However, immediately thereafter, the petitioner pressed his arguments in reply to the notice to show cause and stated that he had in fact not committed any contempt. Even in the written submissions handed over by the petitioner in the course of arguments on 2nd November, 2006, the petitioner starts by saying “he has not committed any contempt and in fact it is the advocate for the respondents who has committed professional misconduct, criminal contempt and fraud on judiciary.” Thereafter, the petitioner has reiterated all the averments that he made against the advocate in the notices served upon the advocate as also in the earlier reply to the notice to show cause issued by us. The petitioner was informed by the court that if he thought it proper he may tender an unconditional apology and that he could not add any riders or stipulations to his apology. The petitioner thereafter continued to address us on the contempt and sought to justify his acts. Therefore, the question of dropping the proceedings was ruled out....”

11. From the preceding narration of facts, it is evident that the respondent Mr. Rakesh Kumar Gupta has cast aspersions against the integrity of the advocates for the Revenue who, as officers of the Court, have been assisting this Court in the administration of justice. The respondent's intervenor application having been dismissed, his status is that of a *busy body interloper* in the matter pending before the Court. He had on multiple occasions agreed to withdraw the allegations but each time he resiled from honouring it. The learned amicus curiae appointed for him too has dignifiedly withdrawn from the case in view of the respondent resiling from

filing an affidavit tendering an unconditional apology. As noted in the order dated 15.02.2015, even after the dismissal of his intervention application on 15.01.2015, and his statement to the Court that he would withdraw the allegations against the counsel for the revenue, he went on to send a detailed fax to this Court in respect of pending matters which ran into 100 pages.

12. In the light of the aforesaid judgments and upon perusing the allegations levelled by the respondent against the Advocates – respondent nos. 3 & 4 the Court finds that there is no justification for the same. His conduct betrays a wanton disregard of Court procedure and an indulgence in wastage of previous judicial time especially in view of his repeated resiling from withdrawing the allegations against lawyers assisting the Court and offering an unconditional apology. Criminal contempt of court includes publication in writing or of doing of any other act whatsoever, which prejudices or tends to interfere or obstruct in any manner, the course of judicial proceedings or the administration of justice. The respondent has made allegations of impropriety and cast aspersions on the professional integrity of counsel for the Revenue.

13. The respondent has not sought permission for justification of the allegations by contending truth as a valid defence. It is to be noted that such a defence can be permitted by the Court only if it is in the public interest and request for invoking the said defence is bona fide. Even otherwise, despite the ample opportunity given to the respondent after issuance of Show Cause Notice on 12.02.2015, the respondent has not brought anything on the record for the last 30 months to suggest, plead or justify the allegations as being true. Justification by truth is a heavy burden and the respondent's numerous

replies/interim replies are nowhere close to any justification. The allegations against the counsel for the Revenue and aspersions cast upon their professional integrity by the respondent, would deter and inhibit counsel from rendering assistance to the Court and to their client fully and freely. It would also be a serious and constant embarrassment in the legal fraternity and amongst their respective families, between relatives and social circle. Indeed, two standing counsel concerned who had appeared for the Revenue and had assisted the Court had recused themselves from this case.

14. From the preceding discussion, it is clear that after the respondent's intervention application was rejected on 23.09.2008, his continued engagement in communication with the standing counsel for levelling allegations against them, addressing e-mail directly to this Court and placing on record an affidavit detailing the allegations, even after stating that he will withdraw them vis-a-vis the standing counsel but would nevertheless press the same allegations elsewhere constitutes criminal contempt of court. Mr. Gupta has levelled irresponsible and serious allegations against the counsel for the Revenue, including an application to the Chief Judicial Magistrate seeking to register a case against the standing counsel for the Revenue as recorded in the order dated 03.03.2015.

15. The respondent has chosen to represent these proceedings in person despite having been given the assistance of a Senior Advocate as *Amicus Curiae*. The respondent has resiled from his various undertakings. He fully understands the import of these proceedings and is open to the consequences of the same. The actions of the respondent may well have been impelled by his conviction of self-righteousness, however, such delusion as may be, would not mitigate the ill-effects of his deliberate actions which the Court

finds to be contumacious. He would, therefore, have to be held responsible for the same. The Court is of the view that the conduct of the respondent, insofar as he has leveled baseless allegations against counsel who appeared and assisted the Court and as well as for the other reasons specified in the Show Cause Notice, tantamount to substantial interference in the administration of justice. In the circumstances, the respondent Mr. Rakesh Kumar Gupta is found guilty of criminal contempt of court. He is sentenced to simple imprisonment of one week along with a fine of Rs. 2000/-. The fine shall be deposited within one week from today in this Court in the name of Registrar General, failing which he will undergo further simple imprisonment for seven days.

16. In view of the fact that the contemnor has stated that he will prefer an appeal against the sentence, the same is suspended for 60 days, in order to enable the contemnor to prefer a statutory appeal, in accordance with law. If the order is not modified, the same shall come into effect after 60 days from today and the contemnor shall be taken into custody and sent to Tihar Jail to undergo the sentence imposed herein.

17. A copy of this order has been provided to the contemnor, Mr. Rakesh Kumar Gupta.

18. Copy of the order be sent to the Superintendent, Tihar Jail, as well as the Registrar General, Delhi High Court, for necessary compliance.

19. Dasti under the signature of the Court Master.

NAJMI WAZIRI, J.

SIDDHARTH MRIDUL, J.

AUGUST 31, 2017kk