IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 17635 of 2024

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SANJAY VIMAL JAIN
Versus
OFFICE OF THE INCOME ATX OFFICER, WARD 2(1)(3), SURAT

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Appearance:
MR. JAIMIN R DAVE(7022) for the Petitioner(s) No. 1
MR. YASH B SIKKA(17310) for the Petitioner(s) No. 1
MS HIRVA R DAVE(10742) for the Petitioner(s) No. 1
MR KARAN G SANGHANI(7945) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 25/08/2026

ORAL ORDER

(PER : HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI)

1. Heard Mr. Jaimin R. Dave, learned advocate appearing for the petitioner and Mr. Karan G. Sanghani, learned Senior Standing Counsel appearing for the respondent.

2. With consent of the learned advocates appearing for the respective parties, the matter is taken up for final disposal.

3. By way of the petition, the petitioner herein has prayed for the following reliefs:

> *"10. The petitioner, therefore, prays that issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, direction or order and be pleased to:*
>
> *a) To quash and set aside impugned order dated 05.11.2024*

passed under Section 179 of Income Tax Act, 1961 at ANNEXURE-A to this petition;

b) pending admission, hearing and final disposal of this petition, this Hon'ble Court may kindly be pleased to stay and suspend operation and implementation of order dated 05.11.2024 passed under Section 179 of Income Tax Act, 1961 at ANNEXURE-A to this petition;

c) Any other and further relief, which is just and proper, may kindly be granted as may be deemed expedient by this Hon'ble Court in the facts and circumstances of the case.

d) Award cost of the present petition."

4. The petitioner herein is constrained to invoke Article 226 of the Constitution of India whereby the petitioner herein seeks to challenge the order dated 05.11.2024 passed under Section 179 of the Income Tax Act, 1961, (for short, "the Act") whereby, the petitioner in his capacity as Director of M/s Sudarshan Diamonds Pvt. Ltd. is called upon to pay the income tax due of M/s Sudarshan Diamonds Pvt. Ltd. (for short, "the Company") for Assessment Year (for short, "AY") AY 2011-12, AY 2012-13, AY 2015-16, AY 2016-17 and AY 2017-18, wherein the impugned order is passed in breach of the principles of natural justice and without taking into consideration the reply filed by the petitioner herein. The aforesaid has lead to the filing of the present petition having prayed for the reliefs as mentioned herein-above.

5. Mr. Dave, learned advocate submitted that the petitioner herein resigned as Director of the Company and sold his shares to the third party. It is submitted that the petitioner was appointed as Director in April, 2010 and resigned as Director of the company and sold his shares to a third party.

5.1. It is submitted that between the period of 27.12.2018 to 30.05.2023, the assessment orders came to be passed against the Company culminating into income tax liability.

5.2. Upon show-cause-notice having been issued to the petitioner on 04.01.2024 under Section 179 of the Act, the petitioner duly replied to the said show-cause-notice on 12.01.2024 stating that the petitioner was not associated with the Company, when the order based on which the demand had not arisen against the Company were passed. Along with reply, the petitioner also attached supporting the documents indicating the fact that the petitioner resigned from the Company on 01.04.2018 and transferred his share holding to a third person.

5.3. Mr. Dave, learned advocate submits that to the utter shock and surprise, the respondent passed the impugned order dated 05.11.2024 without considering the petitioner's reply and the documents produced by the petitioner. Placing reliance on the aforesaid submissions, it is submitted that the impugned order is required to be quashed and set aside on the aforesaid ground alone, the same having been passed in violation of principles of natural justice.

6. Mr. Sanghani, learned Senior Standing Counsel appearing for the respondent relies on the affidavit in reply filed by the respondent herein. Answering the contention raised by the petitioner herein, it is submitted that though the petitioner filed the reply on 12.01.2024, the impugned order under Section 179 dated 05.11.2024 was passed overlooking the reply of the assessee.

7. Having heard the learned advocates appearing for the respective parties, the present petition is required to be allowed on the short ground that the impugned order passed under Section 179 of the Act dated 05.11.2024 is passed in violation of principles of natural justice, the same having been passed without considering the reply filed by the petitioner and the accompanying documents.

7.1. The aforesaid fact is not being in dispute, hence, the impugned order dated 05.11.2024 passed by the respondent herein under Section 179 of the Act is quashed and set aside. The matter is remanded back to the respondent authority to decide afresh and pass appropriate order following the cardinal principles of natural justice and in accordance with law within a period of 12 weeks from the date of receipt of this order.

8. Accordingly, the present petition is allowed to the aforesaid extent.

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI,J)

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