

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

% Date of decision: March 11, 2022

+ W.P.(C) 4081/2021, CM No. 10777/2022

JAYANT NANDA ..... Petitioner

Through: Mr. R.K. Handoo, Mr. Yoginder Handoo and Mr. Ashwin Kataria, Advs.

versus

UNION OF INDIA, THROUGH: SECRETARY, MINISTRY OF FINANCE, GOI & ORS. .... Respondents

Through: Mr. Devesh Dubey, Adv. for Mr. Anil Soni, CGSC for R-1/IOI Ms.Vibhooti Malhotra, Sr. SC with Mr. Shailendra Singh and Mr. Udit Sharma, Advs. for R-2

**CORAM:  
HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**V. KAMESWAR RAO, J. (ORAL)**

**CM No. 10777/2022 (by petitioner)**

1. This is an application filed by the petitioner with the following prayers:

*“In view of the submissions made hereinabove, it is most respectfully prayed that this Hon'ble Court may be pleased to:*

*a) Allow the present application and permit the Petitioner to travel to UAE and Thailand from March - April, 2022 and/or;*

*b) Pass any other order(s) as this Hon'ble Court deems fit and proper and in the interest of justice and equity.”*

2. The submission of Mr. R.K. Handoo, learned counsel for the petitioner is that the petitioner intends to travel to UAE from New Delhi on March 04, 2022; from UAE to Thailand on March 14, 2022 staying in Thailand till March 27/28, 2022 when he shall again fly to UAE and return back to New Delhi on April 06, 2022.

3. It is his submission that the petitioner intends to travel to UAE as he is a Non-Resident since 1989 and his place of residence is Dubai from where he carries his business, which is spread over various countries and his presence is required for taking various business decisions. He is travelling to Thailand to restart the construction of a hotel / resort on the land owned by his company at a place called Koh Samui, Thailand, which construction was halted due to the COVID-19 pandemic. The submission of Mr. Handoo is that the statement of the petitioner has been recorded by the Income Tax Department. He has submitted all the documents as sought from him. Further, no summons are standing as of today against the petitioner. He stated that on earlier occasions also this Court has granted permission to the petitioner to travel to UAE and also to UK subject to conditions imposed

which the petitioner has scrupulously followed and has always returned back to India.

4. That apart, his wife and daughter are residents of this country and as such he shall return back to India. He contested the submission advanced by the counsel for the respondent No.2 that the petitioner is not submitting the required documents to the Income Tax Authority by stating, that no summons in that regard have been issued. He stated, the security / surety provided to the Registrar General of this Court, pursuant to earlier order(s) continues to be with the Registry of this Court. He prays that as the matter is listed on April 08, 2022 for hearing, the petitioner shall return back to India on or before April 06, 2022.

5. On the other hand, Ms.Vibhooti Malhotra, learned Senior Standing Counsel appearing for the Income Tax Department would contest the application, by stating that the request of the petitioner to travel to UAE and Thailand does not deserve any consideration, inasmuch as the petitioner is under investigation for commission of offences punishable under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ('Black Money Act' hereinafter). The investigations conducted so far indicate that huge unaccounted income was parked outside India and the same was brought back to Indian companies in the name of either the petitioner or entities owned by the petitioner. The investigation conducted also revealed that the petitioner made huge

investments outside India in companies owned / controlled by Dr. Jyostna Suri (petitioner's sister) and family.

6. She also stated that the petitioner may not have actual business outside India and that he is maintaining residence outside India only to maintain his non-resident status in order to avoid tax implications and mandatory reporting of foreign financial assets to the Indian revenue authorities. That apart, she highlighted the fact that the petitioner has not fully cooperated with the investigations being conducted by the respondent No.2. In this regard, she has drawn my attention to the summons dated February 22, 2021 issued upon the petitioner by the answering respondent under the provisions of the Income Tax Act, 1961. That apart, the petitioner is yet to furnish the complete particulars of the requisitions made in the said summons. Though, she does concede during the submissions that no summons are standing against the petitioner as of today. She qualifies the submission by stating that the respondent Authority intends to issue summons to the petitioner for his appearance. It is only pursuant to the order dated May 04, 2021, the statement of the petitioner could be recorded under special COVID-19 protocols on May 17, 2021 at his residence. However, despite repeated assurances, the petitioner has not provided the requisitioned information. Information regarding account of summons, replies of references made to financial institutions in UAE, UK and other foreign jurisdiction under exchange of information treaties are still awaited.

7. She submitted in view of the pending information under summons and reference under the exchange of information treaties, the petitioner's presence is likely to be required in investigation pending under the Black Money Act in the coming future and the investigation conducted against Dr. Jyotsna Suri (the petitioner's sister) has culminated in a criminal complaint filed by the answering respondent under the aforesaid Act and the same is registered as Ct. Case No.1492/2021 pending consideration before the Court of Additional Chief Metropolitan Magistrate, Tis Hazari Courts, New Delhi, and at this critical juncture, the petitioner should not be allowed to travel outside country. She seeks the dismissal of the application.

8. Mr. Devesh Dubey, Advocate appearing for Mr. Anil Soni state that respondent Nos.1, 3 and 4 are only implementing agencies and have no submissions to put forth in this regard.

9. In rejoinder submissions, Mr. Handoo would submit that the stand which has been taken by the respondents is similar to the one which has been taken at earlier occasions as well, when this Court had permitted the petitioner to travel to UAE and UK, that too after the statement of the petitioner was recorded on May 17, 2021 in terms of the order passed by this Court. He reiterated that thereafter no summons have been issued for the presence of the petitioner. Hence, it is a fit case where the prayers as made in the application need to be granted.

10. Having considered the submissions made by the learned counsel for the parties, it is noted from the record that the investigation is pending against the petitioner since 2020 and a complaint has been filed against the main accused. The summons were issued to the petitioner on February 22, 2021. It is stated by Ms. Malhotra that the petitioner is yet to furnish complete particulars of the requisition as made for in the summons. She does concede that the statement of the petitioner was recorded on May 17, 2021 pursuant to the orders of this Court. She also conceded that no summons are pending against the petitioner as of today. She also stated that the department intends to issue summons in future but no specific date has been given by her.

11. There is no dispute that this Court vide order dated May 24, 2021 had permitted the petitioner to travel to UAE for two months subject to fulfilling the following conditions:

- i. The petitioner shall furnish security by way of an unencumbered property of a value of ₹10 crores or above, or a fixed deposit of the same value before the Registrar General of this Court.
- ii. The petitioner shall furnish liquid security for a sum of ₹1 crore, either in the form of a Bank Guarantee or in the form of a Fixed Deposit or in any other liquid form before the Registrar General of this Court.

iii. The petitioner's sister Dr. Jyotsna Suri shall also stand as a surety and shall execute a surety bond for the petitioner guaranteeing his return to the country within a period of two months from the date of his travel before the Registrar General of this Court.

iv. The petitioner shall also submit an undertaking before the Court that he shall return to this country within two months from the date of his departure.

v. The petitioner shall furnish a full itinerary of his stay at the UAE, including the places he would be staying in UAE/overseas and a functional phone number for all such places.

12. I note from the order dated September 06, 2021 the petitioner was able to travel to UAE on August 28, 2021 and returned to India on September 05, 2021. Further vide order dated September 27, 2021, the petitioner was permitted to travel to UAE and UK for three months subject to the following conditions:-

i. Since the petitioner has already complied with the direction nos.1, 2 and 3 of the order dated 24.05.2021, he will file an affidavit before this Court, undertaking to return to the country within three months from the date of his departure.

ii. The petitioner shall also undertake not to operate his bank accounts in UK during his visit.

iii. The petitioner will also furnish the full itinerary of his stay at UAE and UK, along with his phone numbers, in both UAE and UK, which numbers will be kept operational at all times.

iv. The affidavit incorporating the aforesaid be filed before this Court, at least one week prior to the date of his departure from the country.

13. The paragraph 8 of the order also reads as under:-

*“8. Needless to state, upon the petitioner returning to India after the aforesaid period of three months, the surety furnished by the petitioner, in terms of order dated 24.05.2021, would be duly returned to him or the surety, as the case may be.”*

14. Learned counsel for the respondents have not stated that the petitioner has misused the permission granted by this Court to the petitioner to visit UAE and UK. If that be so, this Court is inclined to allow the present application and permit the petitioner to travel to UAE and Thailand, with a further direction that he shall return to India on or before April 06, 2022, subject to the following conditions:

i. The petitioner shall furnish a security by way of an unencumbered property of a value of ₹10 Crores or more, or a fixed deposit of the same value before the Registrar General of this Court. If the property furnished as a security in terms of the order dated May 24, 2021 has not



been released to the petitioner or to the person, who furnished the same, the said property shall be accepted as a security, provided a fresh valuation report is called for, to ensure the property is valued at ₹10 Crores or more.

ii. The petitioner shall also furnish a liquid security for a sum of ₹1 Crore, either in the form of a Bank Guarantee or in the form of a Fixed Deposit or in any other liquid form before the Registrar General of this Court. If the liquid security for a sum of ₹1 Crore has been provided by the petitioner in terms of the order dated May 24, 2021 has not been returned / refunded, the same shall be accepted, provided the same is in order.

iii. The petitioner shall also submit before this Court an undertaking that he shall return to the country on or before April 06, 2022.

iv. The petitioner's sister Dr. Jyotsna Suri shall also stand as a surety and shall execute a surety bond for the petitioner guaranteeing his return to the country on or before April 06, 2022, before the Registrar General of this Court.

v. The petitioner shall furnish a full itinerary of his stay at UAE and Thailand, including the places where he would be staying in at UAE and Thailand along with a functional phone number for all such places including his personal

mobile number which he shall keep operational and functional at all times.

vi. Till the petitioner returns to the country on or before April 06, 2022, the wife of the petitioner shall not leave the country.

15. The Deputy Director (Investigation) shall duly inform the Immigration Bureau once the aforesaid conditions are met. Needless to say, upon the petitioner returning to India, in terms of the above order, the surety furnished by the petitioner would be duly returned to him or the surety provider as the case may be.

16. This order has been passed in the facts of this case. The application is disposed of.

17. The parties / counsels to appear before the Registrar General on March 14, 2022 at 12:00 noon, for further proceedings.

**V. KAMESWAR RAO, J**

**MARCH 11, 2022/aky**