

ITEM NO.305

COURT NO.2

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA Nos.9 and 11 in WRIT PETITION (CIVIL) NO(s). 176 OF 2009

RAM JETHMALANI & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)
(With appln(s) for directions)

Date: 01/05/2014 These applns. were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr.Anil Divan, Sr.Adv.
Mr.Ram Jethmalani, Sr.Adv.-in person
Ms.Lata Krishnamurthi, Adv.
Mr.Sandeep Kapur, Adv.
Mr.Ranvir Singh, Adv.
Mr.Ravi Sharma, Adv.
Mr.Pranav Diesh, Adv.
Ms.P.R.Mala, Adv.
Mr.Debmaya C.Banerjee, Adv.
for M/S. Karanjawala & Co.,Advs.

For Respondent(s) Mr.Mohan Parasaran, Sol.Genl.of India
Mr.D.L.Chidananda, Adv.
Mr.T.A.Khan, Adv.
Mr.Arijit Prasad, Adv.
Mr.Sarthak M., Adv.
Mr. B.V. Balaram Das,Adv.
For Mrs.Anil Katiyar, Adv.

Mr.Pratap Venugopal,Adv.
Ms.Meenakshi Chauhan, Adv.
Mr.Gaurav Nair, Adv.
For M/S. K.J. John & Co. ,Advs

Mr.Kuldeep S.Parihar, Adv.
Mr. H.S. Parihar ,Adv

Ms. Arti Singh ,Adv

2

Mr. Aniruddha P. Mayee ,Adv

Ms.Anuradha Mutatkar, Adv.
Ms.Anagha S.Desai, Adv.

UPON hearing counsel the Court made the following

O R D E R

On the last date of hearing, Shri Mohan Parasaran, learned Solicitor General of India, had filed an affidavit of one Akhilesh Ranjan, Joint Secretary, FT&TR-1,

Department of Revenue, Ministry of Finance, Government of India. In the said affidavit, it was stated in paragraphs 2 and 3 as under :

"....

2. It is respectfully submitted that the information regarding deposits/outstanding amounts in the accounts maintained by 12 trusts/entities with LGT Bank in Liechtenstein was received by Government of India from the German Tax Authorities in March, 2009 under the Indo-German Double Taxation Avoidance Convention. The 12 trusts/entities involved 26 individuals of Indian origin/nationality. Out of the 26 cases, investigations in 18 cases have been concluded by the Income-tax Department and prosecutions have been launched in 17 case (one tax payer has expired). The names of the 18 individuals against whom investigations have been concluded by the Income-tax Department and prosecutions have been launched in 17 cases (one tax payer has expired) are listed in Annexure-A. The documents and information with respect to these 18 persons is contained in the first sealed envelope.

3. It is respectfully submitted that documents and information about the other 8 persons with respect to whom the investigations were concluded and no evidence of tax evasion in terms of Indian tax laws was found, are contained in the second envelope. This Hon'ble Court has observed in paragraph 76 of the Order dated 4th July, 2011 that there is no presumption that every account holder in banks of Liechtenstein has acted unlawfully. The Court has held that where no wrongdoing has been found, it would be inappropriate for this Court to order the disclosure of such names, even in the context of proceedings under clause (1) of Article 32 of the Constitution. Nevertheless, the documents and information received from the German Tax Authorities with respect to these 8 cases is also being enclosed in the second envelope."

3

Since the investigation is completed in the aforementioned cases, we once again direct the Union of India to furnish the documents and information which is kept in sealed covers 'A' and 'B' to the petitioner within three days' time from today.

In paragraph 57 of the judgment rendered on 4.7.2012 in the case of Ram Jethmalani and Ors. Vs. Union of India & Ors., reported in (2011) 8 SCC 1, this Court had directed to constitute a Special Investigation Team (for short "the 'S.I.T.'") to perform/undertake some of the suggestions noticed in the paragraph. For that purpose, this Court had nominated Hon'ble Mr. Justice B.P. Jeevan Reddy, former Judge of this Court as Chairman and Hon'ble Mr. Justice M.B. Shah, former Judge of this Court as Vice-chairman. It had also been suggested that the S.I.T. would function under their guidance and direction.

Hon'ble Mr. Justice B.P. Jeevan Reddy, for his personal reasons, has expressed his inability to be the Chairman of the S.I.T.. The information furnished by him in a separate cover was taken by us on record on the last date of hearing.

In view of the inability expressed by Hon'ble Mr. Justice B.P. Jeevan Reddy to function as a Chairman of the

S.I.T., we now reconstitute the S.I.T. and request Hon'ble Mr. Justice M.B. Shah to be the Chairman of the S.I.T. and Hon'ble Mr. Justice Arijit Pasayat, former Judge of this Court as the Vice-chairman of the S.I.T.

We now direct the Union of India to issue appropriate notification as directed by this Court in the case of Ram Jethmalani and Ors. (supra) at paragraph 58 as expeditiously as possible, at any rate, within three weeks' time from today.

We now request the Chairman and the Vice-chairman of the S.I.T., so reconstituted, to initiate proceedings as per the suggestions made by this Court in paragraph 57 of the judgment and conclude as expeditiously as possible.

Call the matter on 20th August, 2014 at 4.05 p.m.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Asstt.Registrar