



2026:DHC:9012-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 6th October, 2026

CNR No. DLHC010414432025+ **W.P.(C) 9365/2025****LALIT**

.....Petitioner

Through: **Mr. A.K. Babbar, Adv.**

versus

**UNION OF INDIA MINISTRY OF FINANCE THROUGH ITS
SECRETARY & ORS.**

.....Respondents

Through: **Mr. Gaurav Gupta, SSC with
Mr. Shivendra Singh, Mr. Yojit
Pareek, JSCs with Mr. Vedansh
Anand, SPC with Mr. Shivam
Kumar, GP**

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE DR. JUSTICE ADITI CHOUDHARY****J U D G M E N T****REPORTABLE****DINESH MEHTA, J.(ORAL)**

1. The case in hand is an apparent case of misuse of Permanent Account Number and the petitioner, who appears to have fallen prey to such fraud has been visited with a huge demand.
2. The petitioner claims to have obtained Permanent Account Number AKGPL3356C out of anxiety to secure an identity proof issued by government, though his income was never taxable. The petitioner has been

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working as a small contractual employee either as a security guard or as a cook at the relevant time (01.04.2015 to 31.03.2019). As per the facts pleaded before the AO, the Petitioner worked in Hotel Ashoka through an agency called Suraksha Security Agency and thereafter in Vigyan Bhawan through another agency known as M/s. Mass Management Services Pvt. Ltd. as a cook.

3. The petitioner came to receive a notice under Section 148A(b) of Income Tax Act, 1961 (hereinafter referred to as '*the Act of 1961*') on 26.02.2024, alleging that as per the Risk Management Strategy, formulated by CBDT, the Petitioner (assessee) had made cash payment to one Montage Enterprises Pvt. Ltd. of Rs.24,86,63,500/-. The notice also showed a cash sale of Rs.24,62,01,485/- under Permanent Account Number AKGPL3356C.

4. On receipt of the aforesaid notice, the petitioner proceeded to file a police complaint on 07.03.2024 at PS Greater Kailash G.K.-I, New Delhi, so also with the Cyber Cell, Saket, New Delhi on 30.05.2024, but said complaints bore no fruit.

5. The petitioner filed a reply to the aforesaid notice and asserted that he had earned no taxable income, had not entered into any transaction mentioned in the notice and that somebody had misused his PAN details. In his reply, the petitioner had also asked for various information relating to the transactions and copies/details of the transactions. Said information was never supplied to the petitioner and an assessment order dated 17.03.2025 came to be passed in which and the amount of Rs. 49,48,64,985/- was treated as petitioner's turnover and 8% of the same was determined as his income for the relevant assessment year i.e. 2017-18.



6. Apart from raising the demand of about Rs. 3,91,06,511/-, the Assessing Officer has also recorded satisfaction to initiate penalty proceedings against the petitioner for misreporting of income; non-compliance of the statutory notice, non-maintenance of books of account and for failure to get the books of account audited.

7. Mr. Babbar, learned Counsel for the petitioner, argued that the impugned assessment order and the proceedings initiated against the petitioner are wholly void without jurisdiction. He further argued that the petitioner has been made a victim of identity theft and somebody has misused his PAN credentials and in spite of the fact that he had proved beyond doubt that somebody had misused his PAN details and that he had no nexus or business connection with Montage Enterprises Pvt. Ltd. (which was engaged in the business of packaging material) whereas the petitioner does the small job of a cook or security guard, the Assessing Officer had arbitrarily and vindictively created the demand paying no heed to the petitioner's response to notice under Section 148A(b) of the Act of 1961.

8. Learned counsel submitted that, though the copies of the complaint filed before the police were produced before the Assessing Officer and a request was also made that the proceedings be kept in abeyance until the investigation was over or that an inquiry be made in this regard, the Assessing Officer refused to consider such request as it was not within his domain to carry out such inquiry.

9. During the course of submissions, learned Counsel for the petitioner drew the Court's attention to page Nos. 80-102 of the paper book and submitted that during the period of 2011-2019, the petitioner had been



working as security guard/cook as a contractual employee in Ashoka Hotel and Vigyan Bhawan. He added that as a contractual employee, the petitioner had worked through various agencies and had given copies of his PAN card and in that process the details might have been copied or stolen. He argued that simply because the TCS records or Form 26AS and annual summary finds mention of the petitioner's Permanent Account Number, the demand cannot be raised against him and the corresponding amount cannot be treated as his turnover/business receipts in absence of any other material evidence.

10. Mr. Gaurav Gupta, learned Senior Standing Counsel, on the other hand, submitted that the petitioner has approached this Court against an assessment order bypassing the statutory remedies. His argument has been that the case in hand involves a host of disputed questions of fact which cannot be gone into by this Court in its extraordinary writ jurisdiction.

11. Heard learned counsel for the parties and perused the record.

12. So far as respondent's preliminary objection regarding the existence of alternate remedy is concerned, we are of the view that having regard to the factual matrix of the case and nature and quantum of demand, the petitioner cannot be relegated to avail remedy of appeal against a huge demand of Rs.3,91,06,511/- given his financial status. Even if his entire demand is stayed by the appellate authority. At the least he would be expected to furnish surety which we are sure, he would be unable to furnish—the remedy of appeal would, therefore, be illusory and inefficacious.

13. The remedy of appeal is not available to the petitioner in any real sense, because as per the guidelines issued by the Central Board of Direct Taxes (Office Memorandum F. No. 404/72/93-ITCC dated 31.07.2017) the standard



condition for granting stay is deposit of 20% of the disputed demand. Interest also continues to run on the unpaid demand under Section 220(2) of the Act of 1961. The petitioner within his limited means cannot arrange for a sum approaching ₹78 lakh merely to avail of interim protection.

14. The right to a fair hearing is an integral part of “procedure established by law” under Article 21 (*Maneka Gandhi v Union of India* reported in (1978) 1 SCC 248) and of the guarantee against arbitrariness under Article 14. The Petitioner replied to the notice, produced his police and cyber cell complaints, and sought the material relied upon. The Assessing Officer did not supply the material to the petitioner and declined to await the outcome of the investigation on the ground that it was not within his domain. An assessment made without disclosing the adverse material and without considering the assessee’s response is vitiated for breach of natural justice and, being founded on no independent inquiry, cannot be sustained.

15. Rather than getting into the intent or motive of the AO, what matters in the instant case is the effect of the exorbitant demand hoisted against the petitioner. A demand of about Rs. 3.91 crore, slapped against a person with no means, that too on the strength of portal data alone, without an answer to his request for particulars, exposes him to recovery proceedings, accrual of interest and penalty proceedings that he cannot meet or contest on the terms the statute lays down. Such a liability is not a neutral fiscal event for him, it results into a continuing cause of anxiety, constant fear of coercive recovery and complete loss of mental peace. That is an additional reason, along with the breach of Article 14 and the inefficacy of the appellate remedy, why we do not relegate him to the statutory forum.



16. It is pertinent to note that the right to life under Article 21 is not confined to bare human existence. It includes the right to live with dignity (*Francis Coralie Mullin v. Administrator, Union Territory of Delhi, reported in (1981) 1 SCC 608*). Hon'ble the Supreme Court has also recognized that mental health is an integral component of the right to life (*Sukdeb Saha v. State of Andhra Pradesh* reported in 2025 INSC 893). Accordingly, where the State's conduct causes avoidable mental anguish to a person of no means, it impinges upon Article 21 of the Constitution of India, and the Court is justified in entertaining the writ and in treating the alternate remedy as illusory.

17. We are therefore, persuaded to exercise our discretionary jurisdiction given that the petitioner before us, is a contractual security guard / cook with meagre means. Even a fraction of the above sum by way of a deposit or surety is beyond him. Without a stay, he would face recovery of a demand of nearly Rs. 4 crore, along with penalty proceedings that the Assessing Officer has already initiated.

18. For the discussion foregoing, we entertain the present writ petition to save the petitioner's fundamental rights guaranteed under Articles 14 & 21 of the Constitution of India, as the huge demand of Rs. 3.91 crores is nothing short of threat to his mental and emotional health, which takes away mental peace of a person having no means.

19. On Court's query as to whether the assessment order makes reference of any other evidence or material apart from the details of Form 26AS and annual summary, or whether the Department has conducted any independent inquiry or recorded the statement of owner of said Montage Enterprises Pvt.



Ltd. so as to establish that transactions had taken place with the petitioner, Mr.Gaurav Gupta, learned Senior Standing Counsel could not give any satisfactory reply on the basis of available record. It is, therefore, clear that the impugned assessment order is founded solely on the limbs of information available on risk management strategy or Form 26AS and no independent inquiry has been conducted by the AO.

20. Having gone through the material, we are of the opinion that the petitioner's stand that during relevant period he was having engagement as a contractual employee as security guard/cook with Ashoka Hotel and Vigyan Bhawan is plausible, and there is every reason to accept that he had no nexus with the transactions mentioned in the assessment order. The assessment order on the allegation levelled against the petitioner is *sans* any cogent and incriminating material/evidence against him. The least the AO ought to have done was to issue a notice under section 133(6) of the Act of 1961 to said vendor Montage and ask for further details or record its statements.

21. A simple look at the reply of the assessee and assessment order reveals that the AO has proceeded absolutely arbitrarily and with closed or predetermined mind. In his reply, which the AO has reproduced, the petitioner stated that he had withdrawn amount from his PF account between 2013 and 2018 to meet the needs of funds and that he had got a EWS certificate issued and applied for waiver of school fee for his children. This plea of the petitioner needed some empathy, if not sympathy and objective scrutiny of the matter and detailed examination. Because, these facts clearly suggested that petitioner's defence that someone had misused his PAN number, had some substance.



22. That apart, the petitioner produced all his Bank statements and said Montage was dealing in plastic packaging goods; the AO has not brought on record any evidence to show that assessee has ever indulged in any business, let alone packaging business. Once the petitioner had denied the transactions and rebutted the presumption, the burden was upon the AO to establish that the petitioner had really entered into these transactions.

23. Furthermore, what concerns us the most is, that the AO has not even considered the information in Form 26AS in accordance with law. In the notice dated 26.02.2024 so also in the impugned Assessment Order, the AO has taken the amount of Rs. 24,86,63,500/- as cash payment by the petitioner and the net amount shown in Form 26AS being Rs.24,62,01,485/- after collection of Tax @1% by Montage (Rs. 24,62,015/-) as cash sale and added both the figures to make the total turnover of Rs.49,48,64,985/-. This approach of the AO reveals that he has not even cared to understand the nature of transaction –either he did not understand the basics of accounting or he did not want to. It has resulted in demand against the petitioner being twofold. Though the order in *toto* is wholly void and without jurisdiction inasmuch as the transactions did not relate to the petitioner, but we have analysed the same in order to show the manner in which an assessing officer can agonise an assessee.

24. A Tax Enforcement Officer should strive to achieve high revenue target but he should keep his feet firmly grounded on the floor of reality. His eyes should be sharp to pierce through the fraud but they should not slip away from the facts.

25. As an upshot of discussion foregoing, the impugned assessment order



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dated 17.03.2025 is hereby quashed and set aside.

26. We however leave it open for the respondents to take up the proceedings afresh, in case they find any other cogent and incriminating evidence or material linking the petitioner with the aforesaid transaction of purchase of packaging material or that the petitioner is the person who had in fact transacted in cash with the said Montage Enterprises Pvt. Ltd., as alleged in the order impugned, subject of course to limitation prescribed under law.

27. The writ petition is allowed in the above terms.

**DINESH MEHTA
(JUDGE)**

**ADITI CHOUDHARY
(JUDGE)**

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