

Delhi High Court Restrains Income Tax Dept From Acting On Show Cause Notice Issued To Kapil Sibal, Says Deal With His Objections First

The Delhi High Court on Thursday restrained Income Tax authorities from acting on the show cause notice issued to Rajya Sabha MP and senior lawyer Kapil Sibal on March 11 in relation to assessment proceedings pending against him.

"Having heard the learned counsels of the parties, we are of the view that since the impugned notice has been challenged on jurisdiction as well as on the breach of principles of natural justice, it would require some amount of deliberation," said the division bench of Justice Rajiv Shakti and Justice Tara Vastava Ganju.

Issuing notice on Sibal's petitions, the court asked the IT authorities to file a counter affidavit. "In the meanwhile, the concerned officer will stay his hands vis-à-vis the show cause notice dated 11.03.2023," said the court.

The bench added that the concerned officer will first dispose of objections preferred by Sibal against the initiation of proceedings. "In this context, the concerned officer will issue a notice to the petitioner which would indicate the date, venue and time of the hearing," said the court, adding the officer will pass a speaking order qua the objections preferred by Sibal and a copy of the same will be furnished to him.

The court further said, "In case the petitioner is aggrieved by the decision taken by the concerned authority, he would have liberty to take recourse to an appropriate remedy."

It listed the matter for hearing on September 14.

The order was passed in the petition which is directed against notice dated 17.5.2021 issued by the IT department under Section 153C of the Income Tax Act, 1961, concerning AY 2013. Six petitions have been filed by Sibal.

Senior Advocate P Chidambaram, who represented Kapil Sibal, said the the authorities seem to be in "great" hurry to conclude the assessment proceedings.

The court was informed that a search concerning World Window Group was conducted in May 2018 and in so far as Sibal is concerned, the notice under Section 153C of the Act was issued six years later in May 2021.

"Pursuant to the said notice, the petitioner (Sibal) filed his return on 16.06.2021. A request was made on 03.11.2021 seeking a copy of the satisfaction note and reasons/material based on which notice under Section 153C had been issued. This request was reiterated by petitioner on 01.03.2023," Chidambaram submitted.

The court noted that the satisfaction note was furnished to Sibal on March 09 this year and material or reasons were furnished to him on March 10.

"The record also shows that one day later on 11.03.2023, a show cause notice under Section 142 (1) of the Act was issued qua the petitioner. It is also not in dispute that petitioner has filed his objections to the initiation of proceedings under Section 153C of the Act," it added.

The objections were filed on March 20. The court was told that the officer instead of dealing with the objections fixed a hearing in respect of show cause notice on March 22. "We are informed that the petitioner was represented by an authorised representative who carried a letter of even date which inter alia adverted to the facts that objections preferred by the petitioner had not been disposed of yet," the court recorded in the order.

Chidambaram called it "narrowing and almost effacing of principles of natural justice" and said in the 2020 search, some alleged excel sheets in respect of Sibal were extracted from an electronic device. "This material cannot form basis of proceedings being initiated against the petitioner under Section 153C of the Act. The said material cannot constitute incriminating material so far as the petitioner is concerned," the senior counsel submitted.

Sibal's counsel relied upon Common Cause (A Registered Society) versus Union of India. Advocate Aseem Chawla, who represented the respondent, submitted that concerned officer can proceed on the basis of the material that has been brought to his notice.

Chawla also contended that the judgment in Common Cause case does not apply to proceedings carried out under the Act. In support of his submission, he placed reliance on a judgement of Madras High Court. However, Chawla also said that Sibal himself or through authorised representative can appear before concerned authority whereupon the objections will be disposed of.

(Source: livelaw.in)