



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

% **Date of order: 15th January, 2025**

+ **CONT.APP.(C) 2/2025**

**R K YADAV THROUGH DIRECTOR OF INCOME TAX INV-II
AND ORS**Appellants

Through: **Mr. Shlok Chandra, Senior Standing
Counsel with Ms. Naincy Jain and
Ms. Madhavi Shukla, Junior Standing
Counsel and Mr. Sankalp Sharma,
Advocates**

versus

DINESH KUMARRespondent

Through: **Mr. Sahil Sharma, Advocate**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

CHANDRA DHARI SINGH, J (Oral)

CRL.M.A.2338/2025 (for exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CONT.APP.(C) 2/2025 and CM APPL. 2337/2025

1. The instant appeal under Section 19 of the Contempt of Courts Act, 1971 (hereinafter "the Act") has been filed on behalf of the appellant challenging the impugned order dated 8th January, 2025 passed by the learned Single Judge in the contempt case bearing CONT.CAS(C) No.



242/2018.

2. Briefly stated, a survey under Section 133A of the Income Tax Act, 1961 (hereinafter “IT Act”) was conducted at the premises of one M/s Vishal Iron Works Pvt. Ltd. Thereafter, certain documents were seized as per Section 132 of the IT Act and according to the IT Department, the said documents brought out that the proprietor of the aforesaid company had introduced the respondent herein to the Oriental Bank of Commerce. Accordingly, the bank account of one M/s Krishna Machine Tools was also attached and an amount of Rs. 36,64,912/- was seized.

3. Aggrieved by the same, a Writ Petition bearing W.P.(C) No. 15111/2014 was filed by the respondent herein and vide order dated 7th December, 2017, the concerned Bench of this Court passed a direction to the appellant herein to pass an appropriate order for the release of the seized amount as no notice for the assessment of the seized amount was provided and the time limit stipulated for completion of the search assessments for AY 2004-05 had already expired.

4. Upon non-compliance of the said direction passed in the order dated 7th December, 2017, the respondent herein filed a Contempt Petition bearing CONT.CAS(C) No. 242/2018 before the learned Single Judge and vide order dated 25th October, 2024, the appellant was held guilty of committing wilful disobedience of the directions of this Court.

5. Thereafter, the appellant filed an application seeking modification of the order dated 25th October, 2024. In the said application, the concerned roster learned Single Judge passed an order dated 9th December, 2024,



wherein, it was recorded that the appellant/Department is in the process of filing a Special Leave Petition before the Hon'ble Supreme Court and that it is willing to deposit the entire amount with this Court's Registry. Accordingly, the appellant was directed to deposit the same. However, it was further stated that the said application may be considered before the learned Single Judge, who adjudicated the said contempt case.

6. Accordingly, the learned Single Judge vide the impugned order dated 8th January, 2025 directed the appellant to deposit the entire amount of interest @ 6% per annum accumulated till then with and has further directed to release the amount already deposited alongwith the said interest amount accrued therein to the respondent herein.

7. Aggrieved by the impugned order, the appellant has filed the instant appeal seeking setting aside of the same.

8. Learned senior standing counsel appearing on behalf of the appellant submitted that the impugned order has been passed by the learned Single Judge without taking into consideration the entirety of the matter and the fact that no formal application was filed by the respondent for the release of the amount deposited with the Registry.

9. It is submitted that in absence of any formal application by the respondent, the learned Single Judge had erroneously passed the impugned order by directing the Registrar of this Court to release the entire deposited amount in favour of the respondent.

10. It is further submitted that the learned Single Judge failed to appreciate that the concerned roster learned Single Judge vide order dated 9th



December, 2024 directed the appellant/Department to deposit the entire amount with the Registry of this Court till the appellant exhausts his alternate remedies available under the law.

11. It is submitted that in view of the facts and circumstances of the case, the learned Single Judge has passed the impugned order without any application of mind and the same is contrary to law, therefore, it is prayed that the instant appeal may be allowed.

12. *Per Contra*, learned counsel appearing for the respondent appearing on advance notice submitted that the instant appeal is not maintainable under Section 19 of the Act as the said provision states that the appeal is maintainable only in the case where the learned Single Judge of the High Court has awarded punishment in the contempt proceedings. Hence, it is prayed that the instant appeal may be dismissed.

13. Heard learned counsel for the parties and perused the record, including the contents of the appeal, documents on record as well as the impugned order.

14. At this juncture, it is pertinent to mention that a preliminary objection has been raised on behalf of the respondent that the instant appeal is not maintainable in terms of Section 19 of the Act. For convenience, Section 19 of the Act is reproduced hereunder:

*“Section 19 of the Contempt of Courts Act, 1971 -
(1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt—
(a) where the order or decision is that of a single Judge,*



*to a Bench of not less than two Judges of the Court;
(b) where the order or decision is that of a Bench, to the Supreme Court:*

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

- (2) *Pending any appeal, the appellate Court may order that—*
- (a) *the execution of the punishment or order appealed against be suspended;*
 - (b) *if the appellant is in confinement, he be released on bail; and*
 - (c) *the appeal be heard notwithstanding that the appellant has not purged his contempt.*
- (3) *Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).*
- (4) *An appeal under sub-section (1) shall be filed—*
- (a) *in the case of an appeal to a Bench of the High Court, within thirty days;*
 - (b) *in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.”*

15. In order to understand the settled position of law regarding the appeals against the orders in contempt proceedings, it is pertinent for this Court to understand the interpretation of Section 19 of the Act. Therefore, it is apposite to mention the case of ***Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda, (2006) 5 SCC 399***, wherein the Hon'ble Supreme Court has categorically observed that the appeal under Section 19 of the Act is maintainable only against an order in which punishment has been awarded to the contemnor. The relevant extracts of the same is as follows:



“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

1. I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

2. II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

3. III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

4. IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.

5. V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136



of the Constitution of India (in other cases).”

16. In view of the aforesaid extracts of the case-law, the position of law pertaining to Section 19 of the Act is that the appeal against the orders passed in the contempt proceedings cannot be maintainable if such an order is devoid of any punishment or guilt imposed upon the contemnor. Therefore, in the instant case, the instant appeal under the said provision is maintainable before this Court only if the impugned order awarded punishment or held the appellant guilty of the contempt proceedings.

17. The said position of law has also been discussed by the Co-ordinate Bench of this Court in the case of *Sarojini Nagar Jhuggi Jhopri Vikas Samiti v. Suresh Kumar, 2022 SCC OnLine Del 3669*, wherein, it was observed that an appeal under Section 19 of the Act is maintainable only when a contempt order records the guilt of the contemnor or punishment thereof. It was further observed that Section 19 of the Act has a very limited scope and that it is dependent only upon a contemnor being guilty or being punished and not in any other case.

18. At this juncture, it is apposite for this Court to examine the findings of the impugned order. The relevant paragraphs are reproduced hereunder:

“6. In summary, the respondent cannot be allowed to go behind the main order dated 07.12.2017 and challenge its legality. According any consideration to such plea, after twenty years of litigation, is beyond the scope of contempt proceedings, and if entertained, shall be judicial blasphemy. Today, in the course of arguments, it has been pointed out that the principal amount has been deposited sans interest for the applicable period. This



is clearly not palatable. Therefore, by way of a last opportunity and without prejudice, the respondent/Department shall deposit the entire amount of interest @ 6% per annum that has accrued till date, making concession towards the statutorily prescribed grace period of 120 days.

7. The amount already deposited by the applicant/respondent shall be released to the non-applicant/petitioner forthwith. Likewise, the amount of interest, on deposit in terms of the aforesaid directions, shall also be released forthwith.

8. Failing compliance of this order, the Principal Director of Income Tax (Inv)-II, New Delhi shall appear before this Court through video conferencing at 4 pm to explain as to why the directions of this Court have not been complied with and why he should not be punished in accordance with law.”

19. Upon perusal of paragraph nos. 6, 7 and 8 of the impugned order, it is observed that the learned Single Judge has merely passed a direction to the appellant to deposit the entire interest amount with this Court's Registry and to release the already deposited amount alongwith the said interest amount accrued therein in favour of the respondent. Furthermore, upon failure to comply with the said direction, the learned Single Judge sought for the appearance of the Principle Director of the appellant-Department to explain *qua* non-compliance of the said direction. Moreover, it is an admitted position of facts that in the impugned order, the learned Single Judge has neither held that the appellant guilty of the contempt proceedings, nor did he pass an order on punishment in that regard.

20. Taking into consideration the contents of Section 19 of the Act as well



as the case-laws mentioned hereinabove, this Court is of the considered view that an appeal under Section 19 of the Act, challenging the order passed in the contempt proceedings, is maintainable only when such an order records or imposes any punishment or guilt of the contemnor. However, upon perusal of the impugned order, it is clear that the learned Single Judge has merely directed the appellant to release the amount already deposited along with the interest accrued thereupon @ 6% p.a. till date while making concession towards the statutorily prescribed grace period of 120 days in favour of the respondent and therefore, the same cannot be construed to be punitive in nature.

21. Therefore, in view of the foregoing discussion, this Court is of the view that the instant appeal is not maintainable against the impugned order dated 8th January, 2025 passed by the learned Single Judge of this Court in Cont.Cas(C) No. 242/2018.

22. Accordingly, the instant appeal is dismissed along with the pending applications, if any.

CHANDRA DHARI SINGH, J

MANOJ JAIN, J

JANUARY 15, 2025

Rt/mk

Click here to check corrigendum, if any