

13.10.2026
Item No.16
BR

WPA 4002 of 2026
Loknath Prasad Gupta
-vs-
Union of India and Ors.

Mr. J.P. Khaitan, Sr. Adv.,
Mr. Pratyush Jhunhunwala,
Ms. Sakshi Singhi,
.... For the petitioner

Mr.Taraknath Jaiswal,
... for the respondent

1.The petitioner has filed the present Writ Petition challenging inter alia, the impugned transfer proceedings initiated under Section 127 of the Income Tax Act, 1961 (hereinafter referred to as the said Act) including the purported notices dated 19th September 2025 and 10th November 2025 and the purported Order dated 20th January 2026 passed by respondent No. 2 under Section 127(2) of the said Act. The petitioner contends that the impugned order is arbitrary, illegal, without jurisdiction and has been wrongly transferred in excess of jurisdiction from the respondent No. 3 in Kolkata to respondent No. 5 in Delhi.

2.Apropos the fact of the case are as follows:

a. The petitioner is regularly assessed under the provisions of the said Act. The petitioner is the managing director of Raja Udyog Private Limited. A leading FMCG company in Eastern India, engaged in manufacture of biscuits under the brand name “Raja Biscuits” having turnover exceeding Rs. 550 crore.

b. The petitioner resides in Kolkata with his family and is regularly assessed to Income Tax at Kolkata since inception. The books of account of the said businesses are maintained at Kolkata. The Auditors, Tax consultants and legal advisors are all based at Kolkata and all statutory compliances including under the companies Act, Goods and Services Tax Act and Income Tax Act are made at Kolkata. All proceedings including appeals, etc. under the said statutes are at Kolkata and are dealt with by professionals at Kolkata. Refunds under the Income Tax Act due to the petitioner have been determined at Kolkata and the petitioner is awaiting the actual receipt.

c. The said Raja Udyog Group with subjected to search and seizure proceeding in 1993. Subsequent thereto, the group was again subjected to search and seizure proceeding in 2000. Owing to such search and seizure proceedings initiated under Section 132 of the said Act, the cases of the

petitioner and his group have been centralized in the central circle at Kolkata. National Savings Certificates and Fixed Deposit Receipts seized in course of search are still lying with the Income Tax authorities at Kolkata and the petitioner has been repeatedly requesting for return thereof.

d. In November, 2022, the petitioner gave a business advance of Rs. 2.82 crore through banking channels to GMZ Commodities India Pvt. Ltd. But since the transaction did not materialize, the said company returned the money through banking channels in the same financial year 2022-23. Rs. 2 crore was returned within two months in January, 2023, Rs. 70 lakh in February, 2023 and Rs. 12 lakh in March, 2023. The said transaction was thus a temporary short term business advance in the ordinary course of commercial dealings which was fully returned. In such type of cases, where money is advanced and returned because the transaction did not materialize, no interest is charged.

e. According to the revenue, a search and seizure operation under section 132 was conducted on December 12, 2023 against one M/s. NML Group, to which GMZ Commodities India Pvt. Ltd. is said to belong.

f. On February 12, 2024, a summons under Section 131(1A) was issued to the petitioner by the Delhi Investigation Wing enquiring about transactions, inter alia, with GMZ Commodities India Pvt. Ltd. for the period from 1.4.2016 to 31.01.2024 when the petitioner by letter dated February 19, 2024 furnished the ledger account in respect of the aforesaid temporary short term business advance given and returned in the financial year 2022-23.

g. After one and a half years, on September 2, 2025, a notice under section 133 (6) was issued to the petitioner by the Assessing Officer of GMZ Commodities India Pvt. Ltd., namely Assistant Commissioner of Income Tax Central Circle-2, Delhi, in connection with assessment of said company for assessment year 2024-25. The petitioner's authorized representative travelled to Delhi and appeared before the said officer on September 10, 2025 and duly complied with the said notice. Upon enquiry been made by the officer as to whether there had been any transaction with the said company on April 2, 2023 during the financial year 2023-24, the petitioner after careful verification, by a letter dated September 15, 2025, informed the said officer that there was no transaction at all during the financial year 2023-

24 and enclosed copied of his complete bank statements for the whole year.

h. On September 19, 2025, the Principal Commissioner of Income Tax (Central), Kolkata-2, issued show cause notice proposing transfer of the petitioner's case to Delhi for coordinated investigation on the allegation that the petitioner was "one of the main assessee" of M/s. NML Group. The petitioner by letter dated September 22, 2025 submitted a detailed response stating, inter alia, that he had no connection with GMZ Commodities/NML Group and there had been no transaction with the said company during the financial year 2023-24.

i. On November 10, 2025, another show cause notice was issued to the petitioner, this time alleging him to be a "related party" of M/s. NML Group. With regard to the temporary short term advance, it was alleged that "It can be seen that it's a reverse accommodation entry which is provided by the Shri Joginder Pal Gupta". It was alleged that the petitioner had not provided any business rationale or logical justification for the amount paid to GMZ Commodities India Pvt. Ltd. and no documentary evidence was provided. That no interest was charged indicated non-genuine nature of the transaction. Reference was made to a survey

report in the case of Joginder Pal Gupta according to which return of advance by GMZ commodities India Pvt. Ltd. to the petitioner was accommodation entries. In the said report, the date of return of Rs. 20,00,000 was wrongly tabulated as 02.04.2023, as against the actual dated of 04.02.2023 as per the petitioner's ledger account as also bank statement.

j. By a letter dated December 3, 2025, the petitioner furnished a very detailed response. The petitioner stated, inter alia that there had been a genuine, fully documented, temporary short term isolated business advance in the financial year 2022-23 which was returned in the same year. It was not a loan and in respect of such commercial advances no interest is charged.

3. Learned counsel appearing for the petitioner submits that there was no transaction at all with GMZ Commodities India Pvt. Ltd. during financial year 2023-24. The petitioner had no business, financial, managerial or shareholding relationship with any entity of NML Group and no director, partner or shareholder of that group was related to the petitioner by business or family. The petitioner's case cannot be transferred for the isolated business advance. There was no incriminating material against the petitioner and the allegations made were mere

surmises/conjectures unsupported by any material whatsoever. The petitioner explained the great inconvenience and hardship that would be caused to him if his case was transferred to Delhi.

4.It is further submitted that the impugned order dated 20.1.2026 passed under Section 127 is based on the allegations made in the show cause notice. The Assessing Officer has treated the survey report as an incriminating document. And has been pleased to dismiss the ground of hardship and inconvenience on the ground that the petitioner had a factory at Delhi and the proceedings can be conducted before him through Video Conferencing and need not have to travel to Delhi physically for appearing before the authorities.

5.It is further submitted that there is no material adverted to in the impugned order to show that the petitioner is a related party of the group searched. The isolated business advance of the financial year 2022-23 made through banking channels and returned within 2-3 months also through banking channels cannot form any basis to transfer the petitioner's case to Delhi. As such no incriminating material, seized or otherwise, has been taken into consideration at the time of passing the impugned order. Thus the impugned order suffers from legal infirmity and perversity and is unsustainable in the eye of law.

6.It is further submitted that the survey report prepared by the Income Tax Authorities cannot be treated as an incriminating material. There is no reflection in the report with regard to previous payment of advance made by the petitioner. The Income Tax Authority only refers to the repayment of such advance made to the petitioner as “accommodation entries.” One of the debits of repayment mentioned in the impugned order runs contrary to the petitioner ledger account and bank statement. The impugned order is also silent with regard to the genuineness and the credit worthiness of the transaction. The impugned order also ignores the aspect that any assessment at Delhi would have to be taken up in appeals, at Delhi entailing huge costs and inconvenience for the petitioner which is contrary to CBDT circular dated February 13.

7.The sole ground relied upon by the respondents for transferring jurisdiction is an alleged isolated accommodation with an entity in New Delhi. A single transaction with a third party entity does not constitute a group link or structural affiliation warranting centralized assessment.

8.The impugned Transfer Order was passed without providing a meaningful opportunity of hearing, as the objections raised by the petitioner regarding the severe administrative and financial hardship of descending

proceeding in New Delhi were summarily rejected without reason.

9. The statutory power under Section 127 must be exercised judiciously and not as a tool of administrative inconvenience.

10. On both the occasions the search and seizure proceeding took place at the premises in Kolkata and outside Kolkata but after the search and seizure proceeding, the files of the groups including that of the petitioner were centralized with Central Circle in Kolkata and not outside West Bengal. Since the last search and seizure proceeding on 2015 it remained centralized.

11. The petitioner also contend that since the petitioner was never part of the said NML Group, therefore there was no such of search and survey proceedings under the provisions of the Act as a part of the investigation initiated against said NML Group in 2023 or otherwise. The only transaction that the petitioner had with any entity allegedly connected to the NML Group was that of business advance of Rs. 2,82,00,000/- given to GMZ Commodities in the Financial Year 2022-23 pursuant to a business through banking channel which was fully returned in the same Financial Year by the petitioner through proper banking channel as the said business

transaction did not materialize. It is also submitted that no other transaction was made with GMZ Commodities or any other entity allegedly connected to NML Group in any other year save and except the Financial Year 2022-23.

12. Subsequent to the search and seizure proceedings against the NML Group, the petitioner received Summons under Section 131(1A) of the said Act on 12th February 2024 enquiring about the petitioners' transaction with the entities of NML Group.

13. In response to such Show Cause Notice, the petitioner filed a detailed reply on 19th February 2024. Subsequent thereto, the petitioner received a further notice under Section 133(6) on 2nd September 2025 for the Assessment Year 2024-25, for which the relevant previous year was the Financial Year 2023-24 seeking inter alia details of transaction with GMZ Commodities for the Financial Year 2023-24. During the alleged assessment proceedings of GMZ Commodities certain transactions were found between GMZ Commodities and the petitioner.

14. Despite providing the details of all the transactions with NML Group including GMZ Commodities, wherein the petitioner categorically stated that the petitioner had only one transaction

with GMZ Commodities pertaining to Financial Year 2022-23. It was also stated that the petitioner had no transaction with GMZ Commodities or any other entity of NML Group for the Assessment Year 2024-25.

15. The petitioner relies upon a judgment of this Hon'ble High Court in the case of **Lords Distellary and Anr. Vs. Commissioner of Income Tax and Others** wherein the petitioner places reliance upon paragraph 8 of the said judgment dated 7th May 2007. The relevant portion of the judgment are reproduced hereinbelow:

“8. It appears from the facts a notice for transfer was served for conducting “co-ordinated investigation in connection with the search undertaken against Radico Khaitan Limited and other associated cases.” The notice, however, did not disclose the nature of investigation in connection with the search undertaken against Radico Khaitan Ltd. Since the notice did not disclose the nature of investigation and was bald, vague and general in nature, in such circumstances, in my view, it was not possible to file effective reply. Yet, on November 14, 2006, the petitioner filed the written objection. Thereafter, on November 30, 2006, statement of accounts was submitted. It appears from the order impugned that the petitioner had furnished necessary information and had clarified the issues raised by the Revenue. Since admittedly the petitioner had furnished written objection it is to be seen whether it was” considered”. The word “consider” means “to think seriously or carefully; to deliberate” (Chambers 20th Century Dictionary). Perusing the order impugned it appears purchase of liquor by the petitioner to the tune of Rs. 18 Crores during the financial year 2005-06 from

Rampur Distillery an unit of Radico Khaitan Limited was the sole criterion that had prompted the Revenue to issue the impugned order of transfer which, in my view, was more or less was a repetition of the impugned notice dated November 14, 2006. ‘There was no deliberation on the written objection and accounts filed which was not an idle or empty formality. The impugned order is silent in that regard. Mere business transaction, whatever be the volume, cannot be the criterion for transfer in these days of brisk trade and commerce. Simply stating in the order that the transfer is for “co-ordinated investigation” does not fulfill the requirements of Section 127 as it neither deals with the evidence adduced nor contains reasons which are valid and specific. The principles of law laid down in the unreported judgment of the Allahabad High Court in Writ Petition No. 5395 (MB) of 2005 Sahara Airlines Ltd. v. Director General of Income-Tax (inv.)- since reported in (2006) 286 ITR 33, relied on by the Revenue, are not applicable to the facts of the case as it appears from the facts of the said judgment that the reply of the petitioner was evasive. On the contrary in the case in hand, it is not even remotely argued on behalf of the Revenue that the petitioner had suppressed material facts or the reply was evasive.”

16. The petitioner further places reliance upon paragraph 25 in the case of **Pradeep Kumar Kajaria vs. Union of India** reported at **2025 170 taxmann.com 207 Calcutta.**

“25. The impugned order also lacks cogent reasons to justify the necessity of transferring the Petitioner's case. The reasons cited, such as the presence of "incriminating material" and reliance on CBDT instructions, are vague and unsubstantiated. Moreover, no supporting documentation or prima facie evidence was provided to demonstrate the relevance or existence of such material. The statutory mandate for the

application of mind and proper reasoning under Section 127(2) was not fulfilled”

17. The core issue involved in the present case is as to whether the decision to centralise for coordinated investigation and assessment calls for interference in the exercise of the Hon’ble court’s writ jurisdiction under Article 226 of the Constitution of India.

18. Per contra, the Learned Counsel appearing for the Income Tax Department submits as follows:-

a. Search and seizure operations under Section 132 of the said Act were conducted on at New Delhi based upon “syndicate operating accommodation entry network”. The petitioner was found to be a beneficiary of these bogus transactions.

b. Centralization of jurisdiction is essential to unravel the complete web of tax evasion, to ensure uniformity in assessment and avoid conflicting findings across different jurisdictions.

c. The primary evidence, mastermind and seized documents are situated in New Delhi, making it imperative for the Revenue to conduct unified assessment proceedings under the Central Circle New Delhi.

d. The impugned decision was taken after issuing a show-cause notice, considering the

petitioner's objections and taking into account information received from the investigation authorities at New Delhi concerning transactions with M/s GMZ Commodities India Private Limited and entities stated to be controlled by Shri Joginder Pal Gupta.

e. The transfer is stated to have been considered necessary to facilitate effective and coordinated investigation. Section 127 of the said act empowers the competent income-tax authority, subject to the statutory requirements, to transfer a case from one Assessing Officer to another. Where the transfer involves Assessing Officers not subordinate to the same specified authority Section 127(2) governs the exercise of power and requires compliance with the applicable statutory procedure, including the prescribed agreement between the competent authorities and recording of reasons while affording a reasonable opportunity of hearing, where applicable.

f. Proposed transfer was not founded on a bare or unexplained assertion of administrative convenience. Notices referred to specific alleged transactions, company through which the transactions said to have taken place, investigation concerning entities associated with Shri Joginder Pal Gupta, and alleged payment-

and-return pattern. The petitioner was afforded an opportunity to respond, and the objections were considered before the order was passed.

19. Learned counsel appearing for the Income Tax Authorities submits the alleged transaction trail involving M/s GMZ commodities India Private Limited and entities stated to be connected with Shri Joginder Pal Gupta provides an investigative basis for examining the Petitioner's case in coordination with the relevant central investigation authorities. The transfer order does not, and need not, finally determine the tax liability.

20. In this context the Learned Counsel appearing for the Income Tax Authorities places reliance upon the judgment of this Hon'ble Court in the case of **Mangal Chand & Sons Vs. Central Board of Direct Taxes** reported in **(1985) 155 ITR 344(Calcutta)**, the relevant paragraph 8 of the above is reproduced below:

"8. After considering the submissions made on behalf of the parties and on the facts and in the circumstances of the instant case to be presently discussed, I find that the writ petition cannot succeed. The reason for the proposed transfer of the petitioner's case from Calcutta to New Delhi for facility of co-ordinated investigation was, in my view, sufficient to enable the assessee to make effective representation against the proposed transfer and in fact the petitioner made such a representation both in writing and verbally through a representative before the Board. The petitioner understood the reason for the proposed transfer. In the

reply to the show-cause notice the petitioner did not raise the plea that in the absence of particulars and details of the alleged investigation as to the nature thereof and how the transfer of the petitioner's case would facilitate the investigations, it was not possible for the petitioner to deal with the matter. Such a plea taken in para 7 of the writ petition appears to be an afterthought. In the petitioner's reply to the show-cause notice (Annexure 'B' to the writ petition) it was stated, inter alia, that the petitioner did not have any connection whatsoever in Delhi. But this plea has not been stated on oath in para 4 of the writ petition although the other pleas taken in the said reply have been repeated in that paragraph. In Ajantha Industries' case (supra) the only reason given for the proposed transfer in the show-cause notice issued to the assessee, was 'facility of investigation'. The Supreme Court did not hold that the reason given in the notice to the petitioners was insufficient for which they were deprived of reasonable opportunity of being heard in the matter. The court quashed the order of transfer as no reason was recorded in the order of transfer itself and so no reason was communicated to the petitioner. The Court held that the requirement of recording reasons under section 127(1) is a mandatory direction under the law and non-communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee. The observation of the Supreme Court relied on by Mr. Bajoria has to be considered in the context in which it was made keeping in view the fact that the Court did not hold that the reason given in the show-cause notice was vague or inadequate. In my view in the present case the petitioner understood the reasons for the proposed transfer and got reasonable opportunity of being heard in the matter. Thereafter the reason for the transfer was recorded in the order itself and communicated to the petitioner. It cannot be said that the reason given in the order of transfer, viz., that the

transfer was effected in the interest of proper investigation cannot be said to be no reason or a mere conclusion.

The very object of transfer may sometimes be defeated if the requirement to give detailed reasons is imposed on the transferring authority. Inconvenience of the assessee cannot outweigh the need of the revenue for proper investigation of the case. I, therefore, overrule the contentions raised on behalf of the petitioner and hold that the impugned order of transfer is valid.”

21. A further judgment has been relied upon by the respondent authorities in the case of **Dollar Gulati Vs. Principal Commissioner of Income Tax** reported in **(2024) 162 Taxmann.com 348 Delhi**. In this case the petitioner relies upon paragraphs 36 to 40 are reproduced below:

“36.As it is ostensibly clear that the Revenue before passing the impugned order dated 20 February 2024 has provided the opportunity of hearing to the assessee (Mark Gulati) and considered the assessee’s (Mark Gulati) objections, thus, the order would reflect that the Revenue had duly applied its mind and powers under Section 127 was invoked on the grounds of administrative convenience and meaningful assessment.

37. it is imperative to point out that it is crystal clear in light of the discussion noted above that the powers of Section 127 of the Act can be invoked for public interest and administrative convenience. Furthermore, the ground of ‘coordinated investigation’ is a good ground of transfer as upheld by various decisions quoted above.

38. Furthermore, considering the controversy from another lens of exercising the power of judicial review

vested under Article 226 of the Constitution, we find that the present is not a case where the exercise of statutory powers by the authority can be said to be wholly arbitrary, irrational, without jurisdiction or suffers with mala fide intention.

Conclusion

39. Therefore, in light of the aforementioned discussion and judicial pronouncements, we are hereby not inclined to interfere with the orders dated 20 February 2024 (W.P.C. 4086/2024) and 11 March 2024 (W.P.(C) 4054/2024) passed under Section 127 of the Act.

40. Furthermore, these observations have been made only for the purpose of deciding the challenge which stands raised before us; they should not be construed to be an expression on the merits of the case or otherwise.”

22. A further reliance has been placed by the respondent paragraphs no. 28, 29, 31 and 32 in the case of **Kamal Nath v. Principal Commissioner of Income Tax, (2023) 149 taxmann.com 370** wherein it has been observed that the completion of assessment of some connected person or the fact that an assessee has not itself been subjected to search or seizure, does not by itself preclude a transfer where material gathered from other person indicates a sufficient nexus and the transfer is otherwise law.

23. It is further relied upon paragraph nos. 24, 25 and 31 of **Bhupinder Singh v. Principal Commissioner of Income Tax** reported in **[2025] 181 Taxmann. Com 912 (P&H)** wherein it has been

observed that “where material discovered during search or survey is linked with related entities assessed at different places, the revenue may, after following Section 127, centralize the connected cases where it bona fide considers that doing so is administratively convenient and in the public interest.

24. Learned counsel relies upon a subsequent circular dated 25.4.2014 with regard to the question of transfer and centralization of non-search cases and is required to be considered while examining the petitioners challenge founded upon the earlier Circular dated 11.02.2013. It is further submitted that the petitioner cannot seek to rely upon the earlier circular in isolation, without considering the subsequent administrative instructions issued by the CBDT governing the subject matter. Since it expressly clarifies that the statutory power of transfer and centralization under Section 127 of the Act is not confined exclusively to cases involving search and seizure proceedings. The said Circular specifically contemplates centralization of non-search cases having a nexus with searched persons or entities, where the findings of investigation and the interest of coordinated assessment warrant such transfer.

25. It is further submitted that the impugned order is consistent with the statutory scheme governing transfer of cases and the administrative guidelines

issued by the CBDT, and that the objections raised by the Petitioner on the strength of the earlier Circular deserves to be rejected, since it provides a relevant administrative basis supporting the centralization of non-search cases in appropriate circumstances.

26. Having heard the Learned Counsels for the respective parties and upon perusing the materials available on record, this Court observes that while the Revenue must have full freedom to investigate tax evasion, transferring a corporate assessee's primary jurisdiction across states solely based on a isolated transaction without establishing a structural group connection is disproportionate and causes severe operational prejudice. However, the interest of the Revenue must be protected to ensure that the investigation into the alleged accommodation entry is carried out to its logical conclusion.

27. It is well settled proposition of law that the power of transfer in effect provides for a machinery provision. It must be given its full effect. It must be construed in a manner so as to make it workable.

28. In light of the judgments relied upon in the case of **(2025) 170 Taxmann.com 207(Calcutta) High court of Calcutta** the impugned order of transfer/centralization suffers from arbitrariness, illegality and perversity as the same does not establish

the legitimate necessity for coordinated investigation. The conclusion arrived at by the authorities based upon the investigative materials are unfounded and lacks transparency which constitutes violation of natural justice, equity and good conscience. The respondent authorities have not been able to demonstrate from the incriminating materials as to whether there was any element of interlacing of funds and interconnection of business activities with NML Group, at whose place the search was conducted. Such decision arrived at by the respondent authorities are not sustainable since the same has been decided arbitrarily, in excess of jurisdiction and without proper application of mind and is liable to be quashed and set aside.

29. In view of the above observations, this Court finds that the impugned Transfer Order passed under Section 127 of the said Act by transferring jurisdiction of the petitioner to New Delhi is not tenable in the eye of law and is hereby quashed and set aside.

30. With the above observations the writ petition is disposed of on the following directions:

- a.** Jurisdiction over the petitioner shall remain with the competent Assessing Officer in Kolkata.
- b.** The Income Tax Department, New Delhi is directed to forward all relevant evidence, seized

materials and investigation reports regarding the subject transaction to the Assessing Officer in Kolkata within four weeks from the date of communication of this order.

c. The Assessing Officer in Kolkata shall be fully empowered to issue statutory requisitions, and initiate reassessment proceedings under Section 147 / 148 or invoke any other applicable provisions under the Act based on the materials received.

d. The petitioner is directed to fully cooperate with the local authorities in Kolkata and produce all Books of Accounts banking records and documents required for the enquiry.

e. The petitioner shall cooperate with the investigation and appear before the investigation authorities at New Delhi through virtual mode as and when required.

f. The Assessing Officer at Kolkata shall be at liberty to examine the transaction independently in accordance with law.

g. No coercive action shall be taken against the petitioner for non appearance at New Delhi during the intervening period.

31. With the above observations and directions the writ petition stands disposed of.

32. Since affidavits have not been called for, the allegations made in the instant writ petition are deemed to have been denied and not admitted.

33. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)