



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

% Judgement delivered on: 09.09.2025

+ **W.P.(C) 11005/2024**

RAJ KRISHAN GUPTA AND ORS PETITIONERS

versus

PRINCIPAL DIRECTOR OF INCOME TAX
(INVESTIGATION) -1 NEW DELHI RESPONDENT

Advocates who appeared in this case

For the Petitioners : Mr. Arvind Kumar, Advocate.

For the Respondent : Mr. Sanjay Kumar, SSC, Ms. Monica Benjamin and Ms. Easha Kadian, JSCs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT

V. KAMESWAR RAO, J.

1. The present writ petition is filed by the petitioners seeking a declaration that the search conducted on 11.05.2024 under Section 132 of the Income Tax Act, 1961 (hereinafter, The Act), on the lockers of the petitioners are invalid in law and also appropriate directions for release of the jewellery/ ornaments/valuables etc. seized during the said search.

2. The petitioner Nos. 1 and 2 are husband and wife respectively. Petitioner No. 3 is the son of petitioner Nos. 1 & 2 while petitioner No.4 is



the wife of petitioner No. 3. Petitioner Nos. 3 & 4 have a minor daughter. The petitioners have filed their ITR for AY 2023-24.

3. The facts of the case as borne out from the petition are that a search and seizure was conducted under Section 132 of the Act on 11.05.2024 on Locker Nos. 179, 163 & 175, all located at South Delhi Vaults at W-113, Greater Kailash-2, New Delhi, of which the petitioners are the owners. Search was conducted on Locker No. 179 at South Delhi Vaults on basis of Warrant of Authorisation issued by the respondent in case of petitioner Nos. 1, 2 & 3. This was followed by search on Locker No. 163, on basis of authorisation, issued in case of petitioner Nos. 1, 3 & 4 followed by search on Locker No. 175 at the same South Delhi Vaults, on basis of authorisation to conduct search issued by the respondent, in case of Petitioner Nos. 1 & 3.

4. Details of the search and seizure of the lockers are as follows:

Locker no.	Items found	Value	Item seized or returned
179 TIME:01:40 PM-06:00 PM (Statement of P1 recorded)	Bullion (263.170 gr. Gold) Jewellery (1028.580 gr gold and 54.25 ct diamond)	Rs. 19,18,275 Rs. 88,35,127	Found and seized w.r.t P-1,2,3 (ANN. A2) (Panchnama – pg.52 Annexure B- pg.54 Annexure J- pg.55)
163 TIME:06:10 PM-08:30 PM (statement of P3 recorded)	Bullion (52.500 gr. Gold) Jewellery (1623.966gr gold and 74.76 ct. diamond)	Rs. 3,82,500 Rs. 1,41,01,451	Found and seized w.r.t P-1,3,4 (ANN. A3) (Panchnama- pg. 57)
175 TIME: 08:35 PM	Bullion 2523600 gr Jewellery227.090gr gold	Rs. 1,88,32,950 Rs. 19,86,,913	Found and seized w.r.t. P-1,3



(11.05.24) - 04:35 PM (12.05.24) (statement of P3 recorded)	and 3.75ct diamond)		
	I-phone 13 pro max (belonging to P1		
	Cash	Rs. 4000	Backup of the said mobile was taken by authorizing officer and returned as not seized
	Old silver coins	Rs. 76,495	Both cash and silver coins were not seized and returned by the authorized officer.(ann.C)
			Ann. S
			(Panchnama – pg.63

5. It was contended by Mr. Arvind Kumar, learned counsel for the petitioners that most of these valuables seized are disclosed incomes or are ancestral property. Part of the jewellery belongs to the minor daughter of petitioner Nos. 3 & 4, and some belong to the daughter of petitioner Nos. 1&2, who had given it for safekeeping to her parents, as she is residing out of India.

6. He further contended that no compliance has been made with clauses (ii) and (iii) of the CBDT Instruction No. 1916 issued on 11-05-1994 whereby following guidelines were issued for strict compliance:

“(ii) In the case of a person not assessed to wealth-tax gold jewellery and ornaments to the extent of 500 gms. Per married lady 250 gms per unmarried lady and 100 gms. per male member of the family, need not be seized.

(iii) The authorized officer may having regard to the status of



the family and the customs and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure. This should be reported to the Director of Income-tax/Commissioner authorising the search all the time of furnishing the search report.”

7. He further submitted that the respondent has issued the authorisation for search without having information in his possession which can be termed as "reasons to believe", as is mandated in clauses (a),(b) or (c) of Section 132 (1) of the Act and that no summons or notice was issued to the petitioners, to produce any documents or books of accounts as a pre-condition to issue notice/summon and hence Section 132(1)(a) of the Act is not attracted. Therefore, it cannot be a case of failure on part of the petitioners to produce or cause to be produced the books of accounts or documents. The petitioners are regular filers of income tax, and have always been compliant in filing their returns timely and properly. He also stated that no authorisation to conduct searches at the residential or business or other premises were issued to the petitioners, which indicates that these searches were done with a pre-determined mind. Additionally, on 11.05.2024 itself, searches were also conducted on various other unconnected lockers at the South Delhi Vaults, suggesting that all these searches are ‘fishing and roving’ searches. Also, due to these searches, the petitioners have been deprived of their Right to Property under Article 300A of the Constitution of India.

8. He relied on the judgment in the case of ***Income-Tax Officer v. Seth Brothers and Ors. (74 ITR 836)*** wherein the Supreme Court observed:



"Since the power conferred, though not arbitrary, is a serious invasion upon the rights and privacy of the taxpayer, the power must be strictly exercised in accordance with law and only for the purposes for which the law authorises it to be exercised. If the action of the officer issuing the authorisation or of the officer designated to make the search is challenged, they must satisfy the Court about the regularity of the action taken. If the action is maliciously taken or for a collateral purpose it is liable to be struck down "

9. This observation, as submitted by him, has been further upheld in the cases of *Pooran Mal v. Director of Inspection (93 ITR 505) & Principal DIT (Investigation) v. Laljibhai Kanjibhai Mandalia (446 ITR 18)* , and further echoed through the following principles laid down by the Supreme Court in *Director General of Income Tax (Investigation), Pune v. Spacewood Furnishers Private Limited (2015) 12 SCC 179*, wherein it was held as under:

"8. The principles that can be deduced from the aforesaid decisions of this Court which continue to hold the field without any departure may be summarized as follows:

8.1 The authority must have information in its possession on the basis of which a reasonable belief can be founded that-

*(a) the person concerned has omitted or failed to produce books of account or other documents for production of which summons or notice had been issued. Or such person will not produce such books of account-- or other documents even if summons or notice is issued to him.
Or*



(b) such person is in possession of any money, bullion, jewellery or other valuable article which represents either wholly or partly income or property which has not been or would not be disclosed.

8.2 Such information must be in possession of the authorized official before the opinion is formed.

8.3 There must be application of mind to the material and the formation of opinion must be honest and bona fide. Consideration of any extraneous or irrelevant material will vitiate the belief/ satisfaction.”

10. Mr. Sanjay Kumar, learned Senior Standing Counsel for the respondent submitted that summons under Section 131(1A) were issued to petitioner Nos. 1 & 3 and their statements were recorded on oath, wherein they could not provide any bills or any other supporting documents in support of the gold and diamond jewellery and gold bullion found. He stated that proper reasons to believe were recorded in writing and approval was taken from the competent authority prior to the search, and preconditions with respect to *bona fide* “reasons to believe” were met, hence, these searches were done in accordance with law. He further submitted that the condition under Section 132(1)(a) is not a mandatory requirement. The three clauses of Section 132(1) are mutually exclusive and every clause is followed by the word 'or'. Therefore, a search can be conducted on fulfillment of any of the three clauses therein.

11. Additionally, he submitted that there were reasons to believe that the petitioners have undisclosed income/bullion at these vaults, which was further substantiated in post-search enquiries. In any event, this was since,



firstly, there was not just jewellery but also a lot of bullion found in the lockers: Secondly, the petitioners did not produce any documents at the time of the search to explain the source of these items. Even post proceedings, no documentary evidence was produced or explanation given for the same; Thirdly, the CBDT Circular No. 1916 talks only about small amounts, that too of jewellery and not bullion. This CBDT Circular did not absolve the petitioners from furnishing any explanations/documents, which was not done. Fourthly, the statement of the petitioner no. 3 was recorded on oath under Section 132(4), wherein he had admitted that there is more jewellery besides the jewellery seized from lockers which is kept at the home of petitioners. Therefore, the CBDT circular would not apply to him. He further contended that this statement of the petitioner No. 3 holds contrary to the fact that the search was not conducted at his business/residential premises.

12. Contesting the argument that the searches and seizures conducted for other unconnected lockers would suggest that these are ‘fishing and roving’ searches, Mr. Sanjay Kumar submitted that every locker is an independent premise, and there was a separate warrant for each search, therefore the said searches are not unlawful. The total seizure amount is approximately ₹4.6 crores which includes bullion of ₹2,10,33,725. Further, the jewellery is not just gold but also consists of diamonds.

13. The counsel for the respondent also submitted that the petitioners’ assessment proceedings are pending, hence, they can go in appeal and the present writ petition has been filed without exhausting alternate remedies.



14. Details of the material seized during the search as per the respondent are tabulated as under:

S. No	Locker No.	Jewellery (Gold & Diamond)	Bullion	Total
1.	163	1623.966 gr. Gold & 74.76 ct Diamond valued at Rs. 1,41,01,451/-	52.500 gr. Gold valued at Rs. 3,82,500/-	Gold and Diamond jewellery and gold bullion worth Rs 1,44,83,951
2.	175	227.090 gr. Gold & 3.75 ct Diamond valued at Rs. 19,86,913/-	2523.600 gr. Gold Valued at Rs. 1,88,32,950/-	Gold and Diamond jewellery and gold bullion worth Rs 2,08,19,863
3.	179	1028.580 gr. Gold & 54.25 ct Diamond valued at Rs. 88,35,127/-	263.170 gr. Gold valued at Rs. 18,18,275/-	Gold and Diamond jewellery and gold bullion worth Rs 1,06,53,402

15. Contesting the stance of the petitioners, Mr. Sanjay Kumar, placed reliance on the factors surrounding what would constitute “reasons to believe”, as reiterated by the Supreme Court in the case of *Principal Director of Income-tax (Investigation) v. Laljibhai Kanjibhai Mandalia* [2022] 140 taxmann.com 282 (SC) as under:

“32. In the light of judgments referred to above, the sufficiency or inadequacy of the reasons to believe recorded cannot be gone into while considering the validity of an act of authorization to conduct search and seizure. The belief recorded alone is justiciable but only while keeping in view the Wednesbury Principle of Reasonableness. Such reasonableness is not a power to act as an appellate authority over the reasons to believe recorded.

33. We would like to restate and elaborate the principles in exercising the writ jurisdiction in the matter of search and seizure



under Section 132 of the Act as follows:

(i) The formation of opinion and the reasons to believe recorded is not a judicial or quasi-judicial function but administrative in character;

(ii) The information must be in possession of the authorized official on the basis of the material and that the formation of opinion must be honest and bona fide. It cannot be merely pretence. Consideration of any extraneous or irrelevant material would vitiate the belief/satisfaction:

(iii) The authority must have information in its possession on the basis of which a reasonable belief can be founded that the person concerned has omitted or failed to produce books of accounts or other documents for production of which summons or notice had been issued, or such person will not produce such books of account or other documents even if summons or notice is issued to

(iv) Such person is in possession of any money, bullion, jewellery or other valuable article which represents either wholly or partly income or property which has not been or would not be disclosed;

(v) Such reasons may have to be placed before the High Court in the event of a challenge to formation of the belief of the competent authority in which event the Court would be entitled to examine the reasons for the formation of the belief though not the sufficiency or adequacy thereof. In other words, the Court will examine whether the reasons recorded are actuated by mala fides or on a mere pretence and that no extraneous or irrelevant material has been considered;

(vi) Such reasons forming part of the satisfaction note are to satisfy the judicial consciousness of the Court and any part of such satisfaction note is not to be made part of the order

(vii) The question as to whether such reasons are adequate or



not is not a matter for the Court to review in a writ petition. The sufficiency of the grounds which induced the competent authority to act is not a justiciable issue:

(viii) The relevance of the reasons for the formation of the belief is to be tested by the judicial restraint as in administrative action as the Court does not sit as a Court of appeal but merely reviews the manner in which the decision was made. The Court shall not examine the sufficiency or adequacy thereof'

(ix) In terms of the explanation inserted by the Finance Act, 2017 with retrospective effect from 1-4-1962, such reasons to believe as recorded by income tax authorities are not required to be disclosed to any person or any authority or the Appellate Tribunal."

16. He stated that the *bonfide* "reasons to believe" were duly recorded in the case of the petitioners. He further placed reliance on the case of ***S. Narayanappa v. CIT, AIR 1967 SC 523***, wherein the Supreme Court held as under:

"The existence of the belief can be challenged by the assessee but not the sufficiency of the reasons for the belief. Again the expression "reason to believe" in Section 34 of the Income-tax Act does not mean a purely subjective satisfaction on the part of the Income Tax Officer. The belief must be held in good faith it cannot be merely a pretence. To put it differently it is open to the Court to examine the question whether the reasons for the belief have a rational connection or a relevant bearing to the formation of the belief and are not extraneous or irrelevant to the purpose of the Section."

17. To substantiate his argument, he also relied on ***Income-Tax Officer v. Seth Brothers and Ors*** (supra) wherein the Supreme Court observed:



“8. The Section does not confer any arbitrary authority upon the Revenue Officers. The Commissioner or the Director of Inspection must have, in consequence of information, reason to believe that the statutory conditions for the exercise of the power to order search exist. He must record reasons for the belief and he must issue an authorisation in favour of a designated Officer to search the premises and exercise the powers set out therein....

If the action of the officer issuing the authorization, or of the designated officer is challenged the officer concerned must satisfy the Court about the regularity of his action. If the action is maliciously taken or power under the Section is exercised for a collateral purpose, it is liable to be struck down by the Court. If the conditions, for exercise of the power are not satisfied the proceeding is liable to be quashed. But where power is exercised bona fide, and in furtherance of the statutory duties of the tax officers any error of judgment on the part of the Officers will not vitiate the exercise of the power. Where the Commissioner entertains the requisite belief and for reasons recorded by him authorises a designated officer to enter and search premises for books of account and documents relevant to or useful for any proceeding under the Act, the Court in a petition by an aggrieved person cannot be asked to substitute its own opinion whether an order authorising search should have been issued. Again, any irregularity in the course of entry, search and seizure committed by the officer acting in pursuance of the authorisation will not be sufficient to vitiate the action taken, provided the officer has in executing the authorisation acted bona fide.”

18. In reply to the submissions made by the learned Senior Standing Counsel for the respondent, learned counsel for the petitioners, Mr. Arvind Kumar stated that no adequate opportunity was given to the petitioners for presenting documents/copies of bills to justify the source of bullion and jewellery etc. since the searches were conducted in quick succession, on the same day. They requested this Court to call for the recorded “reasons to believe”, by the authorised officer. He reiterated that these searches were



conducted with a pre-determined mind and no opportunity/notice/summon was given to the petitioners to present their case.

ANALYSIS

19. Having heard the learned counsel for the parties and perused the material produced by the respondent, the issue which arises for consideration is whether the petitioners shall be entitled to the prayers made in the captioned petition, inasmuch as to a declaration that the searches conducted on 11.05.2024 in the case of the petitioners at their Lockers no.179,163, & 175 are unlawful and deserves to be held as invalid as to whether the further prayer for release of jewellery and other valuables seized as a consequence to the searches of the above lockers can be considered or not.

20. The submissions of Mr. Arvind Kumar, are primarily –

- (i) that most of the valuables are disclosed to tax or are ancestral property; part of the jewellery belongs to the minor daughter of petitioner nos.3 and 4 and some belong to the daughter of petitioner nos.1 and 2;
- (ii) that before seizing the articles there is no compliance of the CBDT instructions dated 11.05.1994;
- (iii) the respondent had issued the authorization without having the information in its possession which can be termed as ‘reasons to believe’, as mandated under Section 132 of the Act; and
- (iv) no authorization to conduct search at the residential or business premises or any other premises were issued, which indicate that the



searches were done with a pre-determinative mind and the respondent was ‘fishing and roving’.

21. Having noted the broad submissions made and the law as relied upon the counsel for the parties, we shall now proceed to deal with the same.

22. Section 132 of the Act vests Income-Tax authorities with extensive powers to conduct searches and seizures in cases where they have “reasons to believe” that a person has concealed income or evaded tax. The search can be authorised only when “reasons to believe” have been formed by the authorising officer in consequence to relevant information in his possession as to the existence of one or more of the conditions prescribed under clause (a), (b) or (c) of Section 132(1), and a valid search warrant is issued as provided under the law. In the absence of any of such conditions having been fulfilled, a search may be held as unlawful. If the exercise of powers is in good faith, a procedural defect may be overlooked. As per the provision, authorization for search and seizure can be issued on following grounds:

- i. A person has failed to comply with a summons or notice requiring the production of books of accounts or documents.
- ii. A person would not produce books of accounts or documents relevant to any proceeding under the Act.
- iii. A person is in possession of money, bullion, jewellery, or other valuable articles representing undisclosed income or property

23. The authorising officer has additional powers as he may place identification marks on books of accounts or documents or make copies



thereof or make a note or inventory of any seized items. The officer may requisition the services of any police officer or of any officer of the Central Government, to assist in such search and seizure process, which such officer must comply.

24. The authority must have the information in its possession on the basis of which “reasons to believe” can be formed that a person is in possession of any money, bullion, jewellery or other valuable articles, which represents either wholly or partly, income or property which has not been or would not be disclosed to tax. Such information must be in possession of the authorized officer before the opinion is formed. There must be application of mind to the material and formation of the opinion must be honest and *bona fide*.

25. It is a settled position of law that while deciding an issue of this nature, it is necessary for the Court to call for the official records and to see what were the relevant facts, because of which “reasons to believe” were formed by the competent officer.

26. We had called for the relevant file bearing details of the search and seizure under Section 132 of the Act in the case of lockers in South Delhi Vaults, W-113, GK-2, New Delhi, which was conducted pursuant to the approval given by the Director General of Income Tax (Investigation) Delhi on 10.05.2024 on 11.05.2024.

27. A perusal of the file including the satisfaction note reveals that a search and seizure under Section 132 of the Act was conducted in respect of a *benami* Locker no.416 at South Delhi Vaults, W-113, GK-2, New Delhi.



During the recording of the proceedings, the person in whose name the locker existed revealed that all the documentation procedure and rent of the locker was being paid by a third person, who had kept his belongings in the locker. The person in whose name the said locker existed never kept anything belonging to him in the said locker and the keys of the locker were always kept in possession of the third person. It was also stated by the person in whose name the locker existed that her husband was working in the office of the third person and had left the job. The South Delhi Vaults and Credit Limited owns South Delhi Vaults, situated at the above address. It is a company registered under the Companies Act, 1956 and maintains private lockers for use by private persons at various branches. The file suggested that a discreet enquiry revealed that there is a general tendency observed in private lockers inasmuch as though the lockers would appear to be in the name of a person, but the actual beneficiary or owners would be different. In terms of the discreet enquiry conducted in respect of Locker no.416, it was found that there are many other lockers which are *benami* in nature and are owned by 'persons of low means or no means'. It is noted that the rent for these lockers range from ₹50,000/- to ₹3,00,000/- per month depending upon their size. It is also noted that from the file that the petitioners are holding three lockers, which does not fit the financial profiles of petitioners no.1 & 3 or the financial profile of their company. They do not have any substantial financial assets and the company of the petitioners, also does not have any substantial income or profits before tax. This raised suspicion that the petitioners would potentially have wealth, which is unexplained or unaccounted.



28. This was the basis for the respondent to believe that if summons or notice is issued to the parties including the petitioner nos.1 & 3, they would not produce or cause to produce the books of accounts. The same also was the “reason to believe” that in view of the nature of the activities, it is likely that these persons would be found in possession of money, jewellery or other valuables not commensurate with their known sources of income and as such a need was felt to carry out searches. As noted above, the approval was accorded by the Director General of Income Tax (Investigation), Delhi.

29. The aforesaid forming the basis of the “reasons to believe”, the plea of Mr. Arvind Kumar that no summons or notice was issued to the petitioners to produce documents or books of accounts as a pre condition and as such Section 132(1) (a) of the Act is not appealing.

30. The submission that the petitioners are regular filers of income tax and had always being compliant in filing their ITRs timely and properly, have no bearing in so far as the search which was carried out by the respondent on 11.05.2024, specifically, in view of the reasons to believe recorded by the respondent in their file, which *inter alia*, have been highlighted by us in the above paragraphs. Even the plea that no authorization was obtained to conduct the search at the residential or business premises or any other premises was issued, which indicates that the searches were done with a pre determined mind and were fishing and roving enquiries, does not appeal to us. Surely, the search which has been carried out at South Delhi Vaults, W-113, GK-2, New Delhi, is justified, as can be borne out from the record produced by the respondent.



31. In fact the stand of the respondent before this Court is that pursuant to the search, the respondent had issued summons to petitioners no.1 & 3 and their statement was recorded on oath wherein they failed to produce any bills or any other supporting documents in respect of jewellery and bullion found.

32. A reference was made by Mr. Arvind Kumar to Section 132(1)(a) of the Act to contend that satisfying the three conditions laid out therein is a mandatory requirement. However, we find that the three clauses of Section 132(1) of the Act are mutually exclusive and every clause is followed by the word ‘or’ and therefore, a search can be conducted on fulfillment of any of the three clauses.

33. In any case, it is settled law that formation of opinion and the “reasons to believe” recorded are not a judicial or quasi-judicial function but an administrative function. As such, the sufficiency of the information for forming the reasons to believe is not for this Court to examine in a writ petition. The only scope for judicial review in these matters is to examine if in fact there exists reasons to believe or if such reasons to believe are *bona fide* and not or based on vague facts. In the absence of any case set up on these grounds, any call for interference by this Court, is not warranted.

34. The reliance placed by Mr. Arvind Kumar on the judgment in *Seth Brothers & Others (supra)* to contend that action is not *bona fide*, cannot be accepted. In fact the test laid down by the Court in the above case inasmuch if the action of the officer issuing the authorisation or of the officer designated to make the search is challenged, they must satisfy the Court



about the irregularity of the action taken and if the action is maliciously taken or for collateral purposes, it is liable to be struck down, is not satisfied in the case in hand in view of the facts and the record submitted by the respondent.

35. In view of our decision that the respondent had “reasons to believe” income chargeable to tax has escaped assessment and as such the research and seizure is lawful, the judgment of the Bombay High Court relied upon by the learned counsel for the petitioner in *Echjay Industries Pvt. Ltd. Vs Director of Income Tax-II*, Writ Petition No. 122/2009 would also have no applicability.

36. In light of our discussion above, the petition is dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

SEPTEMBER 09, 2025

rk