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(11) For the reason recorded above, both the Civil Revisions referred to above are allowed, the orders passed by the Courts below are set-aside and the applications filed by plaintiffs for restraining the defendants and the Arbitrator from proceeding with the arbitration proceedings during the pendency of the suit are dismissed but with no order as to costs.

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S. C. K.

*Before G. S. Singhvi and Nirmal Singh, JJ*

VINOD GOEL AND OTHERS—*Petitioners*

*versus*

UNION OF INDIA AND OTHERS—*Respondents*

C. W. P. No. 963 of 1999

26th September, 2000.

*Income Tax Act, 1961—Ss. 2(21), 116(cc), 132(1) and 133—A—Deputy Director ordering survey at the premises of the petitioners after seizing documents during the search carried out at the premises of the two other firms—Addl. Director, on the discovery of material and incriminating documents, converting the survey into search operation u/s 132—Addl. Director has jurisdiction to exercise the power of the Director General under the provisions of the Act—Search and seizure operation does not suffer from any legal infirmity—Writ dismissed.*

Held that survey ordered by the Deputy Director under Section 133-A of the 1961 Act was, later on, converted into search in continuation of the search carried out at the business premises of M/s Rakesh Kumar, Ashok Kumar and M/s R. K. and Company, Builders and Colonisers, it is not possible to accept the argument of the petitioners that the search and seizure operation carried out at the premises of the petitioners should be quashed on the ground of lack of jurisdiction. No doubt, there is a time gap of about 15 days between the search and seizure operation carried out 9/30, Sadar

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Bazar, Jalandhar Cantt., but in view of the fact that the documents recovered during the said search operation established nexus between the business carried on by M/s Rakesh Kumar, Ashok Kumar and M/s R. K. and Company and the petitioners, the Revenue's plea that the search carried out at the premises of the petitioners was in continuation of the previous search cannot be brushed aside. Even if the petitioners' plea of lack of continuity between the two search operations is accepted, the survey ordered at the premises of the petitioners u/s 133-A of the Act and conversion of the said operation into the search operation on the basis of the authorisation given by the Additional Director cannot be declared illegal.

(Paras 8 and 9)

Further held, that a perusal of the provisions of Section 2(21) and 116 (cc) of the 1961 Act shows that the definition of 'Director General' is exhaustive and inclusion of Additional Director of Income-tax in the said definition would have the effect of entitling the holder of that post to exercise all those powers which can be exercised by the Director General under various provisions of the 1961 Act and the absence of express enumeration of the post of Additional Director in the list of authorities embodied in section 132 cannot lead to an inference that the Additional Director is not entitled to exercise the power of the Director General under that Section.

(Para 19)

A. K. Mittal, *Advocate for the Petitioner.*

R. P. Sawhey, *Senior Advocate assisted by*

Rajesh Bindal, *Advocate for the Respondent.*

### JUDGMENT

*G. S. Singhvi, J*

(1) The petitioners have prayed for quashing of the search warrant issued by the Deputy Director of Income-tax (Investigation)-II, Jalandhar (respondent No. 3) under Section 132 of the Income-tax Act, 1961 (for short, the 1961 Act). They have also prayed for grant of a declaration that the search and seizure operation carried out by at their premises on 23rd December, 1998 was illegal.

(2) The facts necessary for deciding this petition are that on 8th December, 1998, search and seizure operation was carried out by

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the authorities of the Income-tax Department on the premises of M/s Rakesh Kumar Ashok Kumar and M/s R. K. and Company. Builders and Colonisers, 9/30, Sadar Bazar, Jalandhar Cantt. On the basis of the documents collected during the said operation, the concerned authorities of the department felt satisfied that there was some nexus between petitioners and M/s Rakesh Kumar Ashok Kumar and M/s R. K. and Company in the matters relating to property dealing and, therefore, it was decided to survey the premises of the petitioners at 11/12, Grain Market, Jalandhar Cantt. Accordingly, the Deputy Director of Income-tax (Investigation-II), Jalandhar issued authorisation, dated 23rd December, 1998 under Section 132A read with Section 135 of the 1961 Act in favour of Sarvshri S. K. Khanna, G. L. Dhall, M. L. Verma and Dinesh Gupta (All Inspectors of Income-Tax), who conducted survey on 23rd December, 1998. On discovery of incriminating documents, the survey was converted into a search operation under Section 132 (1) of the 1961 Act on the basis of the authorisation given by the Additional Director of Income-tax, Jalandhar. During the course of search operation, books of account and other documents were seized from the premises of petitioners Nos. 1 and 2.

(3) The petitioners have challenged the survey as well as search and seizure operation by contending that the action taken by the respondents is *ultra vires* to the provisions of Section 132 and 133A of the 1961 Act. They have averred that the premises at 11/12, Grain Market, Jalandhar Cantt. could not have been raided on the basis of the warrant issued against M/s Ashok Kumar Rakesh Kumar and M/s R. K. and Company and in any case, the documents, which are not connected with the said firms could not have been seized during the search operation.

(4) The respondents have justified the survey as well as search and seizure operation by asserting that the said actions were taken because the competent authority felt that there was valid ground to survey the premises of petitioners Nos. 1 and 2 at 11/12, Grain Market, Jalandhar Cantt. and later on, the same was converted into a search operation because the authority concerned was convinced that there was valid reason to do so.

(5) The first contention urged by Shri A. K. Mittal is that the search carried out at the premises of the petitioners should be declared illegal and void for want of jurisdiction and violation of Section 132

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(1) of the 1961 Act. Learned counsel referred to the warrant Annexure P1 to show that it was issued in the name of M/s Rakesh Kumar Ashok Kumar and M/s R. K. and Company and not the petitioners and argued that without a proper warrant issued by the competent authority, the respondents could not have searched the premises of the petitioners. He further argued that the conditions embodied in Clauses (a), (b) and (c) of Section 132(1) of the 1961 Act have not been satisfied in the present case and, therefore, the search and seizure carried out at the petitioners' premises should be declared illegal. In support of this argument, learned counsel relied on the decisions of this Court in *H.L. Sibal Vs. Commissioner of Income-tax, Punjab and others* (1), *Jagmohan Mahajan and another Vs. Commissioner of Income-tax, Punjab and others* (2), *Manmohan Krishan Mahajan Vs. Commissioner of Income-tax, Patiala and others*, (3). On the other hand, Shri R. P. Sawhney, Senior Counsel appearing for the respondents submitted that from the documents seized during the search carried out at the premises of M/s Rakesh Kumar Ashok Kumar and M/s R. K. and Company a clear nexus in the transactions relating to the property dealing etc. between the petitioners on the one hand and the above said firms on the other hand was revealed and after complying with the provisions of Section 133-A, survey was conducted at the premises of the petitioners and on the discovery of material and incriminating documents, the survey was converted into search operation under section 132. Learned counsel submitted that the search carried out at the premises of the petitioners was consequential to the search carried out at the premises of M/s Rakesh Kumar Ashok Kumar and M/s R.K. and Company and, therefore, no fault can be found with the action of the respondents. He produced the original file of the department to show that after considering the note recorded by the Deputy Director, Income-Tax (Investigation-II), Jalandhar, the Additional Director felt satisfied that it was a fit case for invoking Section 132 (1) (b) and, therefore, he issued warrant of authorisation for conducting search and seizure operation at the premises of the petitioners.

(6) We have given serious thought to the respective submissions. Sections 132(1) (a), (b) and (c) and 133-A(1) and (2) of the 1961 Act which have bearing on the contentions raised by the learned counsel

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- (1) (1975) 101 ITR 112  
(2) (1976) 103 ITR 579  
(3) (1977) 107 ITR 420

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read as under :-

“132. (1) Where the Director General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner, as may be empowered in this behalf by the Board, in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922) or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or
  - (b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or
  - (c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property), then,—
- (A) the Director General or Director or the Chief Commissioner or Commissioner, as the case may be, may authorise any Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-Tax Officer, or
  - (B) such Joint Director or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy

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Director, Assistant Commissioner or Deputy Commissioner  
or Income-tax Officer,

the officer so authorised in all cases hereinafter referred to as the  
authorised officer to—

- (i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept,
- (ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available :
- (iia) search any person who has got out of, or is about to get into, or is in the building, place vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing :
- (iii) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search :
- (iv) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom :
- (v) make a note or an inventory of any such money, bullion, jewellery or other valuable article or things :

xx      xx      xx      xx      xx      xx      xx      xx

133A. (1) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

- (a) any place within the limits of the area assigned to him, or
- (b) any place occupied by any person in respect of whom he exercises jurisdiction, or
- (c) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercise

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jurisdiction in respect of any person occupying such place, at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession—

- (i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,
- (ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and
- (iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceedings under this Act.

*Explanation.*—For the purpose of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept.

- (2) An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.”

(7) An analysis of the provisions quoted above shows that the Director General or Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner, who has been empowered in this behalf by the Board may authorise an Officer to undertake search and seizure operation. This is subject to the condition that the concerned authority has reason to believe that any person to whom a summon under section 37(1) of the Indian Income-Tax Act, 1922 (for short, the 1922 Act) or under section 131(1) of the 1961 Act or a notice under section 22(4) of the 1922 Act or under section 142(1) of the 1961 Act was issued to produce

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or cause to be produced any books of account or other documents has omitted or failed to produce or caused to be produced such books of account or other documents as required by such summon or notice or any person to whom summon or notice has been issued will not produce or caused to be produced any books of account or other documents which will be useful for or relief to any proceedings under the 1922 Act or the 1961 Act or any person in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be disclosed for the purpose of the 1922 Act or the 1961 Act. The officer authorised in the manner indicated above can enter and search any building etc. where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept and also seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search. Section 133-A of the 1961 Act begins with a non-obstante clause. It empowers an Income-tax authority to enter any place within the limits of the area assigned to him or place occupied by any person in respect of whom he exercise jurisdiction at which a business or profession is carried on and require any proprietor, employee or any other person, who may be attending in any manner to, or helping in, the carrying on of such business or profession to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place. The officer concerned can also check or verify the cash, stock or other valuable article or thing which may be found at the site.

(8) If the facts of this case are examined in the light of the above analysis of the legal provisions and the assertions made by the respondents that survey ordered by the Deputy Director under Section 133-A of the 1961 Act was, later on, converted into search in continuation of the search carried out at the business premises of M/s Rakesh Kumar Ashok Kumar and M/s R. K. and Company, Builders and Colonisers, it is not possible to accept the argument of Shri Mittal that the search and seizure operation carried out at the premises of the petitioners should be quashed on the ground of lack of jurisdiction. No doubt, there is a time-gap of about 15 days between the search and seizure operation carried out at 9/30, Sadar bazar, Jalandhar Cantt., but in view of the fact that the documents



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recovered during the said search operation established nexus between the business carried on by M/S Rakesh Kumar Ashok Kumar and M/S R. K. and Company and petitioner nos. 1 and 2, the Revenue's plea that the search carried out at the premises of the petitioners was in continuation of the previous search cannot be brushed aside.

(9) We are also of the opinion that even if the petitioners plea of lack of continuity between the two search operations is accepted, the survey ordered at the premises of the petitioners under Section 133-A of the Act and conversion of the said operation into the search operation on the basis of the authorisation given by the Additional Director cannot be declared illegal. A perusal of the file produced by Shri Sawhney clearly establishes that the search at the premises of the petitioners was ordered by the Additional Director on 23rd December, 1998 in continuation of the survey ordered under Section 133-A of the 1961 Act. In his note, the Additional Director observed that Shri Vinod Goel, who was present at the time of survey could not produce any evidence to show that the investment was made from explained sources and there were documents showing his very strange business links with M/S Damini Resorts and Builders (P) Ltd. and there was sufficient number of incriminating documents. The officer concerned then proceeded to record his satisfaction that the documents would not be produced by him in case a summons under Section 131 read with Section 131(1A) of the 1961 Act is issued. The description given in the warrant Annexure P1 may be defective but that cannot be made a ground for declaring search and seizure at the premises of the petitioners as illegal.

(10) We have gone through the judgments relied upon by Shri Mittal and are of the opinion that the propositions laid down in them do not in any manner help the petitioners because each of the three cases was decided on its own facts.

(11) The facts of *H.L. Sibal's case (supra)* show that the premises of the petitioner were search on 19th October, 1974. The warrant issued by the concerned authority was challenged by the petitioner on various grounds including the one of non-compliance of Section 132(1) of the Act. A Division Bench of this Court referred to the decisions of the

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Supreme Court in *Commissioner of Commercial Taxes Vs. Ram Kishan Sri Kishan Jhaver* (4), *Pooran Mal Vs. Director Inspection (Investigation), Income-Tax, New Delhi and others*, (5), *Income-Tax Officer, Special Investigation Circle "B", Meerut Vs. Seth Brothers and others* (6), and held as under :—

“The condition precedent to the exercise of power of issue of authorisation is that the Commissioner of Income-Tax must have the requisite reasons to believe in consequence of some information in his possession. The belief must not be based on some suspicion. He must arrive at the decision in an honest manner. If the conclusions are arrived at on the basis of no evidence or irrelevant evidence, the action would be struck down by the court.”

(12) In *Jagmohan Mahajan Vs. Commissioner of Income-Tax, Punjab and others* (*supra*), this Court relied on the proposition laid down in *H. L. Sibal's case* (*supra*) and held that search conducted on the premises of the petitioner on the basis of blank warrant of authorisation issued by the Commissioner of Income-Tax was wholly illegal. The Division Bench further held as under :—

“There could not be a more serious outrage being committed on the statutory safeguard provided by Parliament than a general warrant of authorisation being issued by the Commissioner without filling in the name of the person whose premises are sought to be searched. The issue of such warrant conclusively proves that the officer who signed it was not satisfied that such a warrant should issue, but merely gave such a general warrant out of some lurking suspicion based either on rumours or on something less serious than that. The Commissioner betrayed the confidence reposed in him by the drastic provision of section 132 and threw all sense of propriety and responsibility to the winds on mere suspicion or pretence. In these circumstances, the search warrant utilised for making a search of the premises in the possession of the petitioners was illegal. Under section 132(5) of the Act, proceedings could be initiated against a person only if money, bullion,

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(4) (1967) 66 ITR 664

(5) (1974) 93 ITR 505

(6) (1969) 74 ITR 836

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jewellery, etc. has been validly seized under sub-section (1) of that section. Since the very basis on which action under section 132 (1) could be found was missing in this case, no enquiry could be held against the petitioners under section 132 (5)."

(13) In *Manmohan Krishan Mahajan vs. Commissioner of Income-Tax, Patiala (supra)*, the Court reiterated the rule laid down in *Jagmohan Mahajan's case (supra)* and held that the general warrant was illegal.

(14) We may also, referred to the two decisions relied upon by this Court in *H. L. Sibal's case (supra)*. In *Income-Tax Officer, Special Investigation Circle "B", Meerut vs. Seth Brothers and others (supra)*, their Lordships of the Supreme Court interpreted the ambit and scope of Section 132 of the 1961 Act and observed as under :—

"The Act and the Rules do not require that the warrant of authorisation should specify the particulars of documents and books of accounts: a general authorisation to search for and seize documents and books of account relevant to or useful for any proceedings complies with the requirements of the Act and the Rules. It is for the officer making the search to exercise his judgment and seize or not seize any documents or books of account. An error committed by the officer in seizing documents which may ultimately be found not to be useful for or relevant to the proceedings under the Act will not by itself vitiate the search, nor will it entitle the aggrieved person to an omnibus order releasing all documents seized. The aggrieved party may undoubtedly move a competent court for an order releasing the documents seized. In such a proceeding the officer who has made the search will be called upon to prove how the documents seized are likely to be useful for or relevant to a proceeding under the Act. If he is unable to do so, the court may order that those documents be released. But the circumstance that a large number of documents have been seized is not a ground for holding that all documents seized are irrelevant or the action of the officer is *malafide*."

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(15) In *Pooran Mal vs. Director of Inspection (Investigation), Income-Tax, New Delhi (supra)*, a Constitution Bench of the Supreme Court upheld the vires of Sections 132 and 132-A of the 1961 Act and laid down the following propositions :—

- (i) The provisions of section 132 are evidently directed against person who are believed on good grounds to have illegally evaded payment of tax on their income and property. Therefore, drastic measures to get at such income and property with a view to recover the Government dues would stand justified in themselves. When one has to consider the reasonableness of the restrictions or curbs placed on the freedoms mentioned in article 19(1) (f) and (g), one cannot possibly ignore how such evasions eat into the vitals of the economic life of the community. It is a well-known fact of our economic life that huge sums of unaccounted money are in circulation endangering its very fabric. In a country which has adopted high rates of taxation a major portion of the unaccounted money should normally fill the Government coffers. Instead of doing so it distorts the economy. Therefore, in the interest of the community it is only right that the fiscal authorities should have sufficient powers to prevent tax evasion.
- (ii) Search and seizure are not a new weapon in the armoury of those whose duty it is to maintain social security in its broadest sense. The process is widely recognised in all civilized countries.
- (iii) It is now too late in the day to challenge the measure of search and seizure when it is entrusted to income-tax authorities with a view to prevent large scale tax evasion. Indeed, the measure would be objectionable if its implementation is not accompanied by safeguards against its undue and improper exercise. As a broad proposition it is now possible to state that if the safeguards are generally on the lines adopted by the Criminal Procedure Code they would be regarded as adequate and render the temporary restrictions imposed by the measure reasonable.
- (iv) An innocent person who is merely in custody of cash, bullion or other valuables, etc., not knowing that it was concealed income is likely to be harassed by a raid for the purpose of

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search and seizure. That cannot be helped. Since the object of the search is to get all concealed incomes, any person who is in custody without enquiring about its true nature, exposes himself to search. Sub-section (4) of section 132 shows the way how such an innocent person can make the impact of the search on him bearable. All that he has to do is to tell the true facts to the searching officer explaining on whose behalf he held the custody of the valuables. It will be then for the Income-tax Officer to ascertain the person concerned under sub-section (5).

- (v) Though in a very rare case a tax evader may comply with a requisition, the Director of Inspection who has reliable information that the assessee has consistently concealed his income derived from certain financial deals may be justified in entertaining the reasonable belief that the assessee, if called upon to produce the necessary documents, will not produce the same. It cannot, therefore, be said that clause (b) of section 132 (1) has over-reached itself.”

(16) By applying the ratio of the decisions of the Supreme Court to the facts of this case, we hold that the search conducted at the premises of petitioner Nos. 1 and 2 is not vitiated due to violation of Sections 132 and 132-A of the 1961 Act.

(17) The second argument of Shri Mittal is that the impugned search and seizure be declared as nullity because the Additional Director of Income-tax is not empowered to authorise the conduct of such operation. Learned counsel referred to Section 116 and substantive part of sub-section (1) of Section 132 of the 1961 Act and argued that even though the Additional Directors of Income-tax and the Additional Commissioners have been included in the list of income-tax authorities w.e.f. 1st June, 1994, they cannot exercise power under Section 132 (1). Learned counsel pointed out that the expressions Deputy Director and Deputy Commissioner appearing in Section 132(1) of the 1961 Act have been substituted by the expressions Joint Director and Joint Commissioner by Finance (No. 2) Act, 1998, but the expression Additional Director has not been included in the list of authorities enumerated in that Section and, therefore, the said authority is not empowered to authorise the conduct of search and seizure operation

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under Section 132. On the other hand, Shri R. P. Sawhney referred to Section 2(21) of the 1961 Act and argued that the inclusion of the Additional Director of Income-tax in the definition of Director General is sufficient to clothe the former with the power conferred upon the Director General under Section 132 of the 1961 Act.

(18) We have considered the respective submissions. Sections 2(21) and 116 (cc) of the 1961 Act which have bearing on the decision of the issue relating to the competence of the Additional Director read as under :—

2(21) “Director General or Director” means a person appointed to be a Director General of Income-tax or, as the case may be, a Director of Income-tax, under sub-section (1) of Section 117, and includes a person appointed under that sub-section to be a Additional Director of Income-tax or a Joint Director Income-tax or an Assistant Director or Deputy Director of Income-tax.

116. There shall be the following classes of income-tax authorities for the purpose of this Act, namely :—

(a) to (c) xx      xx      xx      xx      xx      xx      xx

(cc) Additional Directors of Income-Tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals).”

(19) A perusal of the above extracted provisions shows that the definition of Director General is exhaustive and inclusion of Additional Director of Income-tax in the said definition would have the effect of entitling the holder of that post to exercise all those powers which can be exercised by the Director General under various provisions of the 1961 Act and the absence of express enumeration of the post of Additional Director in the list of authorities embodied in Section 132 cannot lead to an inference that the Additional Director is not entitled to exercise the power of the Director General under that Section.

(20) We are further of the view that the insertion of clause (cc) in Section 116 of the 1961 Act has no bearing on the interpretation of

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the expression Director General appearing in Section 132 which, as mentioned above, shall be governed by the definition of the said expression in Section 2(21) of the 1961 Act.

(21) No other point has been argued.

(22) For the reasons mentioned above we hold that the search and seizure operation conducted at the premises of petitioner Nos. 1 and 2 does not suffer from any legal infirmity requiring interference by this Court.

(23) Hence, the writ petition is dismissed.

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**R. N. R.**

Before V. M. Jain, J

BHUSHAN THAPAR—*Petitioner*

*versus*

M/S GANESH STEEL CORPORATION  
AND OTHERS—*Respondents*

*Cr. Misc. No. 6601-M of 2000*

16th November, 2000

*Code of Criminal Procedure, 1973—S. 311—Trial Magistrate dismissing application for leading additional evidence—Mere delay in the disposal of the criminal complaint or that in the earlier proceedings the counsel for the complainant had given an undertaking to conclude the evidence within 2 dates could not be taken as ground to disallow the production of additional evidence—Under the changed circumstances, the complainant could not be debarred from producing additional evidence—Petition allowed.*

*Held*, that the application u/s 311 Cr. P. C. filed by the complainant could not be dismissed only on the ground that this would delay the disposal of the criminal complaint or that in the earlier proceedings, the counsel for the complainant had given an undertaking that only 2 opportunities would be required to complete the evidence on behalf of the complainant. The case was still at the stage of defence evidence, when the application u/s 311 Cr. P. C. was filed by the