



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

1.

**CWP-9194-2021 (O&M)**

Reserved on 1<sup>st</sup> August, 2025

Date of Decision: 4<sup>th</sup> September, 2025

*PAWAN KUMAR GOEL AND ANOTHER*

.....***Petitioner(s)***

V/s.

*PRINCIPAL COMMISSIONER INCOME TAX, PANCHKULA AND OTHERS*

.....***Respondent(s)***

2.

**CWP-5238-2022 (O&M)**

*PAWAN KUMAR GOEL*

.....***Petitioner(s)***

V/s.

*PRINCIPAL COMMISSIONER INCOME TAX, PANCHKULA AND OTHERS*

.....***Respondent(s)***

**CORAM:** **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**  
**HON'BLE MR. JUSTICE KULDEEP TIWARI**

**ARGUED BY :-**

Ms. Munisha Gandhi, Senior Advocate, assisted by  
Mr. Himanshu Arora, Advocate and  
Ms. Selena Chalana, Advocate  
for the petitioners-Assessee.

Mr. Vaibhav Gupta, Standing Counsel and  
Mr. Vidul Kapoor, Standing Counsel,  
for the respondent-Income Tax Department.

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**ASHWANI KUMAR MISHRA, J.**

1. These two petitions are connected and have been heard together. They are, thus, being decided by this composite judgment. For the sake of convenience, the facts are being extracted from *CWP-9194-2021* and is taken as the lead case.

2. Petitioner-Pawan Kumar Goel is a resident of Panchkula and is running his business in the name and style of M/s. Chemical Resources, S.C.O. No.76, Swastik Vihar, NMDC, Sector-5, Panchkula. Survey action

was initiated against petitioner by the Income Tax Department under Section 133-A of the Income Tax Act, 1961 (hereinafter referred to “the Act of 1961”). It was subsequently converted into search and seizure operations under Section 132 of the Act of 1961 at the residence/office and business premises of the petitioner from 06.09.2016 to 08.09.2016. Writ Petition i.e. *CWP-8261-2017* titled as **Pawan Kumar Goel Vs. Union of India and others** came to be filed by petitioner challenging such conversion of survey into search and seizure.

3. The Court noticed that petitioner had cooperated with the Income Tax Department during survey action and had voluntarily disclosed existence of cash to the tune of ₹2,09,89,090/- in his safe and keys were handed over to the officials of the Income Tax Department with an explanation that such amount of cash was received by way of advance in a business transaction. The Court further noticed that the summons issued to petitioner was vague and therefore, the decision to convert survey into search and seizure was violative of the procedure contemplated in law, inasmuch as no satisfaction was recorded either with regard to non-cooperation of petitioner or that any bonafide suspicion had arisen that income had been concealed by petitioner. The Court consequently allowed the Writ Petition in the following terms on 22.05.2019:

*“For the reasons above, we have no hesitation to conclude that the present petition deserves to succeed. The impugned action of the respondents is quashed. The consequential benefits would flow to the petitioner forthwith. Ordered accordingly.”*

*(emphasis supplied by us)*

4. The Division Bench's judgment dated 22.05.2019, has attained finality with dismissal of department's appeal before the Hon'ble Supreme Court.

5. The present Writ Petition has been instituted challenging the notice dated 30.03.2021 issued under Section 142 (1) of the Act of 1961 as well as notice dated 31.03.2021, issued under Section 148 of the Act of 1961 issued by the DCIT/ACIT(Cen)-2, Chandigarh, on the ground that it is in derogation of the judgment of this Court rendered in *CWP-8261-2017*. A further prayer is made to restrain the respondents from initiating any further proceedings under the garb of aforesaid notices dated 30.03.2021 and 31.03.2021.

6. In the connected Writ Petition i.e. *CWP-5238-2022*, the petitioner has assailed notice dated 07.03.2022 issued to him for the assessment years 2016-2017 and 2017-2018 under Section 142 of the Act of 1961 also on the ground of it being in teeth of the judgment rendered by this Court in petitioner's earlier Writ Petition i.e. *CWP-8261-2017*. A prayer is also made to restrain the respondents from proceeding any further pursuant to the such proceedings.

7. Petitioner submits that this Court, in *CWP-8261-2017*, has explicitly mentioned that consequential benefits would flow to petitioner as the Income Tax authorities have violated the procedure completely in altering the survey to search and seizure. It is, therefore, submitted that all proceedings initiated against the petitioner inclusive of, but not limited to assessment years, notices, demands, penalty orders/proceedings, pertaining to the search and seizure, have become null and void. According to

petitioner, the direction issued by this Court, to quash all consequential proceedings, has not been carried out in letter and spirit.

8. It is pointed out that a notice was issued to petitioner on 15.12.2016, proposing to centralize his case from DCIT, Circle, Panchkula to DCIT/ACIT Central Circle-II, Chandigarh in view of the CBDT instructions. This notice was responded by petitioner vide his reply dated 26.12.2016 objecting to the proposal for transferring petitioner's jurisdiction from Panchkula to Chandigarh. Ultimately, an order dated 04.01.2017 came to be passed by the Principal Commissioner Income Tax, Panchkula transferring the jurisdiction of petitioner from DCIT Circle, Panchkula to DCIT/ACIT(Cen)-II, Chandigarh. Para 4 and 5 of order dated 04.01.2017 are relevant and are reproduced hereunder:-

*“4. I have given a careful consideration to all the submission to the assessee and examined all facts of the case. The case has also been discussed in details with the counsel for the assessee. After discussion Authorized Representative of the assessee has given no objection for centralization of the case with the Central Circle-II, Chandigarh.”*

*5. Keeping in view the facts of the case, I, the Principal Commissioner of Income Tax, Panchkula, in the interest of administrative convenience as well as for the sake of co-ordinated investigation of the concerned group case, in exercise of the powers conferred by clause (a) of sub-section (2) of Section 127 of the Income Tax, 1961, hereby transfer the jurisdiction over below mentioned case with DCIT/ACIT, Central Circle-II, Chandigarh with immediate effect:-*

<b>Sr. No.</b>	<b>Name &amp; Address of the person/ concern</b>	<b>PAN</b>	<b>Assessing Officer</b>	<b>Circle which to be transferred</b>
1.	Sh. Pawan Kumar Goel, Panchkula	ACTPG3391D	DCIT Circle, Panchkula	Central Circle-II, Chandigarh

**9.** The aforesaid order dated 04.01.2017 came to be passed by the authority exercising its jurisdiction under Section 127(2)(a) of the Act of 1961. It is worth noticing that order dated 04.01.2017, transferring the jurisdiction in respect of petitioner /assessee from DCIT Circle, Panchkula to Central Circle-II, Chandigarh, has not been challenged.

**10.** It is thereafter that notices have been issued to petitioner under Section 142 of the Act of 1961 for the assessment years 2016-2017, 2017-2018 and 2018-2019. Notices have also been issued to the petitioner under Section 148 of the Act of 1961. These notices are the subject matter of challenge in these petitions.

**11.** Petitioner submits that during the pendency of the earlier Writ Petition i.e. *CWP-8261-2017*, the Assessing authority illegally initiated assessment proceedings against petitioner and passed an assessment order under Section 143(3) read with Section 153B of the Act of 1961 on 24.12.2018. A notice of demand was also issued to petitioner on 30.08.2018, but the same was subsequently withdrawn on 09.09.2019. Petitioner claims that he intended to prefer a statutory appeal against the assessment order dated 24.12.2018, but on account of the judgment delivered by this Court on 22.05.2019, the Assessing Officer issued a refund voucher to petitioner. It was for this reason that occasion did not arise for the petitioner to pursue any appeal. Notwithstanding the above, the Income Tax authorities have proceeded illegally and arbitrarily against petitioner, again, vide impugned action.

**12.** The primary ground of challenge to the impugned action is the transfer of jurisdiction of assessee from the assessing authority at Panchkula

to the assessing authority at Central Circle-II, Chandigarh. According to petitioner the transfer of jurisdiction under Section 127 of the Act of 1961 was a direct consequence of the search and seizure, undertaken by the Income Tax Department, against the petitioner and once the petitioner's earlier Writ Petition was allowed, and all consequential actions were quashed by the Division Bench of this Court, it was not open for the Income Tax Department to have either transferred the jurisdiction of the assessee nor the Central Circle-II, Chandigarh, could have issued notices under Sections 142 and 148 of the Act of 1961.

**13.** Petitioner's claim is opposed by learned counsel for the Income Tax Department contending that the action of the competent authority in transferring the jurisdiction of assessing authority under Section 127 of the Act of 1961 is an independent exercise undertaken for administrative convenience and cannot be construed as an action consequential to the search and seizure. It is urged that petitioner himself had acquiesced to the transfer of jurisdiction and since the specific order whereby such transfer was made i.e. order dated 04.01.2017, is not under challenge, as such, no relief can be granted to petitioner.

**14.** In reply, learned senior counsel for petitioner submits that the consent of petitioner recorded in the order dated 04.01.2017, for transfer of jurisdiction, was obtained on account of duress and cannot be said to be a voluntarily act on part of petitioner. It is further pointed out that in the written objection filed by petitioner to the notices, the issue of transfer of jurisdiction was specifically challenged.

15. We have heard Ms. Munisha Gandhi, learned Senior counsel for petitioner assisted by Mr. Himanshu Arora, Advocate and Mr. Vaibhav Gupta, learned counsel for the respondent-Income Tax Department, and perused the materials on record.

16. Ms. Munisha Gandhi, learned senior counsel for the petitioner, has placed reliance on the judgment of the Hon'ble Supreme Court in **Chairman-cum-M.D., Coal India Ltd. and others Vs. Ananta Saha and others**<sup>1</sup> to contend that it is well settled that if initial action is not in consonance with law, the subsequent proceedings would also not be sustainable. Reliance is also placed upon the legal maxim “*sublato fundamento cadit opus*” which means that ‘when a foundation is removed, superstructure falls.’

17. Ms. Gandhi has also placed reliance on the Division Bench of the Bombay High Court (Nagpur Bench) in **The Commissioner of Income Tax-I, Aaykar Bhavan, Civil Lines, Nagpur Vs. Lalitkumar Bardia, Prop. Aditya Jewellers, 2<sup>nd</sup> Floor, Golden Palace, Dharampeth, Nagpur**<sup>2</sup>. In this case, the assessee was assessed at Rajnandgaon (Madhya Pradesh). A search was conducted on the premises of the assessee. For the purposes of facilitating a detailed and co-ordinated investigation, an order came to be passed on 06.07.1999 under Section 127 of the Act of 1961, transferring the then petitioner/assessee's case from Rajnandgaon (M.P.) to Nagpur, Maharashtra. The order under Section 127 of the Act of 1961 transferring the assessee's case to Nagpur was quashed by the Madhya Pradesh High Court on 17.09.1999. Notices under Section 158 BC of the Act of 1961

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<sup>1</sup> (2011) 5 SCC 142

<sup>2</sup> Income Tax Appeal 27 of 2006 decided on 11.07.2017

were also issued on 22.09.1999 i.e. after the transfer of case of the respondent-assessee on 06.07.1999. The Court held that once the order under Section 127 of the Act was quashed by the High Court, it ceased to exist. The transferred authority at Nagpur accordingly ceased to have any jurisdiction to assess the assessee as there was no order of transfer of assessee's case to Nagpur. It was in this context that the Court observed that even acquiescence or participation in such unauthorized proceedings, will not confer jurisdiction upon the transferred Assessing authority. The Bombay High Court in such circumstances observed as under:

*"20. Transfer of proceedings u/s.127 of the Act cannot be retrospective so as to confer jurisdiction on a person who does not have it. Section 127 of the Act does not empower the Authorities under the Act to confer jurisdiction on a person who does not have jurisdiction with retrospective effect. In fact, the explanation under Section 127 of the Act clearly provides that all the proceedings under the Act which are pending on the date of such order of transfer and all the proceedings which may be commenced after date of such order of transfer would stand transferred to the Assessing Officer to whom the case is transferred by Section 127(1) of the Act. This provision makes it clear that though transfer would come into effect from the date the order of Commissioner passed under Section 127(1) of the Act, the proceedings already commenced would not abate and continue with new Assessing Officer, who assumes charge consequent to transfer subject of course to the pending notices 21 itl127.06.odt being within jurisdiction of the Officer issuing the notices. It is not a provision which validates without jurisdiction notice issued by an Income Tax Officer. If the submission of the Revenue on the above account is to be accepted, then an order which is without jurisdiction could be bestowed with jurisdiction by passing an order of transfer with retrospective effect. Section 127 of the Act does not validate*

*notices/orders issued without jurisdiction, even if they are transferred to a new Officer by an Order under Section 127 of the Act.”*

**18.** Learned Senior Counsel lastly placed reliance upon a Division Bench judgment of the Calcutta High Court in **Principal Commissioner of Income Tax Vs. Divine Light Finance Ltd.**<sup>3</sup>. In this case, the Court has held as under:-

*9. Where an authority or court lacks inherent jurisdiction in passing a decree or order, the decree or order passed by such authority or court would be without jurisdiction, non est and void ab initio. Lack of territorial jurisdiction of the Commissioner of Income Tax - IV who passed the order dated 19.01.2016 under Section 263 of the Act, 1961 to exercise supervisory jurisdiction goes to the root of the matter and strikes at his very authority to pass the said order. Such defect is basic and fundamental and, therefore, the order passed by the aforesaid C.I.T having no territorial jurisdiction over the respondent/assessee, is nullity. Order or decree passed by a court having no jurisdiction, has been held to be nullity by Hon'ble Supreme Court in Kiran Singh Vs. Chaman Paswan AIR 1954 SC 340, Hira Patari Vs. Kali Nath AIR 1962 SC 199, Balwant N Vishwamitra and Others Vs. Yadav Sada Shiv Mull (2004) 8 SCC 706.”*

**19.** *Per contra*, Mr. Vaibhav Gupta, Standing Counsel, appearing for the Income Tax Department contends that the information gathered from search and seizure (though declared illegal) cannot be excluded from evidence for the purpose of determining income of the assessee and the consequential liability to pay tax. It is urged that the illegality of survey or search does not vitiate the evidence collected in such search and seizure.

Analogy is sought to be drawn to submit that quashing of search and seizure will not efface the evidence collected in such proceedings nor valid action taken against the assessee in the form of transfer of his assessing authority can be invalidated. In support of his submissions, he places reliance upon the following judgments:-

1. ***Pooran Mal Vs. Director of Inspection (Investigation) of Income-Tax, New Delhi and Others***<sup>4</sup>
2. ***Commissioner of Income Tax Vs. Kamal and Company***<sup>5</sup>
3. ***Income Tax Officer Vs. U.K. Mahapatra & Co. and others***<sup>6</sup>

**20.** On the aspect of re-opening of the assessment, learned counsel for the respondents places reliance on the following judgements:-

1. ***New Delhi Television Vs. DCIT***<sup>7</sup> ;
2. ***Raymond Woolen Mills Ltd. Vs. Income Tax Officer***<sup>8</sup> ;
3. ***Hemjay Constructions Vs. Income Tax Officer***<sup>9</sup> ;
4. ***BDR Builders and Developers Vs. ACIT,***<sup>10</sup> and
5. ***PCIT Central Vs. Maharaji Education Trust***<sup>11</sup>

**21.** Learned counsel for the respondents lastly places reliance upon judgment of the Division Bench of this Court in **Main Land Finance Pvt. Ltd. VS. PCIT Faridabad**<sup>12</sup>, wherein the Co-ordinate Bench of this Court has held as under:-

*6. At this stage, reference can be made to the judgment passed in Genus Electrotech Ltd. vs. Union of India, (2017) 86 taxmann.com 39 (Gujarat), wherein the High Court of Gujarat was examining the power under Section 127 of the Income Tax Act, which are concerned with larger public interest on one end*

<sup>4</sup> 1974 (93) ITR 505 (Large Bench) Supreme Court

<sup>5</sup> 2009 (308) ITR 129 Rajasthan High Court

<sup>6</sup> Civil Appeal No. 5067 of 2009, decided on 29.07.2009

<sup>7</sup> 2020 (424) ITR 607, Supreme Court

<sup>8</sup> 1999 (236) ITR 34, Supreme Court.

<sup>9</sup> 2019 (419) ITR 39, Gujarat

<sup>10</sup> 2024 NCDHC 3459, Delhi High Court

<sup>11</sup> 2024 (468) ITR 634, Delhi High Court.

<sup>12</sup> 2023 NCPHHC 122886

*and personal inconvenience on the other. However, as long as such powers are exercised bona fide, for public purpose and in the interest of Revenue, the role of the Court to dissect such reasons and to come to a different conclusion would be extremely limited. The orders passed for transfer under Section 127 of the Act are administrative orders and the Court has to examine that such orders can only be interfered if, the transfer has been made in wholly arbitrary ground. Reference has been made to a decision given in Shree Ram Vessel Scrap (P) Ltd. vs. CIT, (2013) 32 taxmann.com 120/215 Taxman 203 (Guj).”*

**22.** We have perused the judgment dated 22.05.2019 of the Division of this Court in the petitioner's earlier Writ Petition i.e. CWP-8261-2017. The primary challenge in the Writ Petition was to the action of the Income Tax Department in converting the survey into search and seizure. Such conversion was found to be invalid and consequently the search and seizure proceedings were quashed. In the operative portion, the Division Bench held the search and seizure conducted by the Department at the petitioner's premises between 06.09.2016 to 08.09.2016 to be bad in law and resultantly quashed it. The consequential benefits were directed to flow to petitioner, forthwith.

**23.** On the basis of submissions raised at the bar on behalf of the rival parties, we find that following questions arise for our consideration in these two Writ Petitions :-

*(I) Whether the order dated 04.01.2017, transferring petitioner's case to Central Circle-2, Chandigarh from Panchkula, is a consequence of the search and seizure carried out against the petitioner or is it an order passed in exercise of administrative exigency, independently ?*

(II) *Whether impugned notices issued under Sections 142 and 148 of the Income Tax Act, 1961 are liable to be quashed on the ground of it being in derogation of order dated 22.05.2019 of Division Bench of this Court in CWP-8261-2017 ?*

(III) *As to whether flow of consequential benefits, consequent upon quashing of search and seizure operation, would invalidate the transfer of jurisdiction effected vide order dated 04.01.2017 ?*

24. Section 127 of the Act of 1961, as it stood then, reads as under:-

**Power to transfer cases.**

**127.** (1) *The Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.*

(2) *Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner—*

(a) *where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners to*

*whom such Assessing Officers are subordinate are in agreement, then the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;*

*(b) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorize in this behalf.....”*

**25.** This Court has held the transfer of jurisdiction under Section 127 of the Act of 1961 to be an administrative action taken by the competent authority. Such order of transfer can always be passed in the interest of administrative convenience of the Department or in public interest. Ordinarily such exercise of jurisdiction can be interfered with only where passing of such order is malafide or is not for public purpose or in the interest of revenue.

**26.** We may observe that order dated 04.01.2017 came to be passed after affording an opportunity of hearing to petitioner. This order records that the representative of the assessee had conveyed no objection to

centralization of the case with the Central Circle-II, Chandigarh. Neither the order dated 04.01.2017 is challenged nor there is any specific challenge to the observation and finding contained therein with regard to the order being based on petitioner's consent.

**27.** The consent on the part of the representative of the assessee for centralization of his case with Central Circle-II, Chandigarh, is sought to be explained by learned senior counsel for the petitioner, on the ground that such 'no objection' was not voluntary and had otherwise been objected to by the assessee in reply to the show cause notice. We are, however, not impressed by such stand of petitioner, in objecting to his own no objection for centralization of its case. In the event such consent was imposed upon the representative of petitioner, it was always upon for petitioner to have challenged the order dated 04.01.2017 in appropriate proceedings. Once it has not been done so, it would not be open for the petitioner to indirectly assail the order on the ground of it being a consequence of search and seizure.

**28.** It would be worth noticing that even at stage of filing of the Writ Petition, there is no prayer made for quashing of the administrative decision of the competent authority taken on 04.01.2017, for centralization of petitioner's case with Central Circle-II, Chandigarh. This aspect is relevant and has to be kept in mind.

**29.** So far as the petitioner's contention about invalidity of order dated 04.01.2017, in light of the judgement of this Court in *CWP-8261-2017* is concerned, we find that the consequence of search and seizure under the Income Tax Act, 1961 has to be direct and which is

specifically provided for in the statutory scheme itself. Ordinarily, search and seizure operation would result in passing of an order under Section 153A of the Act of 1961. For such purposes, shelter can be taken to Section 153B of the Act of 1961. In the present case, no action, referable to Sections 153A or 153B, has been undertaken. The direction by this Court while interfering with the search and seizure to extend benefits consequent upon invalidation of search and seizure would only include such action which is a direct consequence of it and not something which is claimed to be connected to it or flowing from it on the basis of a process of reasoning.

**30.** In our assessment, Section 127 of the Act of 1961 is an independent provision conferring administrative power on the competent authority to transfer jurisdiction for administrative exigency etc. and exercise of such jurisdiction cannot be said to be a direct consequence of search and seizure.

**31.** The view that we propose to take finds support from the principle laid down by the Hon'ble Supreme Court in *Income Tax Officer Vs. U.K. Mahapatra and Co. and Others (Supra)*, wherein reliance is placed upon previous decision of the Court in *Pooran Mal Vs. Director of Inspection (Investigation) of Income-Tax, New Delhi and Others (Supra)*. The Supreme Court held that even assuming the search and seizure were in contravention of Section 132 of the Act, still, the material seized during such search and seizure was liable to be used subject to law before the Income Tax authorities, against the person from whose custody it was seized. It can thus be reasonably deduced that quashing of search and seizure would not render inadmissible an information gathered during such

proceedings. On similar analogy, we are inclined to hold that the administrative action taken by the Department to transfer assessee's jurisdiction under Section 127 of the Act of 1961 will not be automatically invalidated when search and seizure is quashed.

32. The Division Bench of Rajasthan High Court in *Commissioner of Income Tax Vs. Kamal and Company (Supra)* has reiterated the position in law that the material collected during search and seizure will continue to be admissible notwithstanding setting aside of search and seizure. The observations made by the Court, in Para 11, is relevant and reproduced hereunder:-

**11.** *Considering the judgment of the Hon'ble apex Court in two cases referred above we find that the material collected during the course of illegal search can be made use of thus if the ratio decidendi of the judgments of the Hon'ble apex Court is applied then it becomes clear that even in the case of illegal survey, material collected can be used for additions. While delivering the judgment the Hon'ble apex Court was cautious about the fact that material collected is coming out from illegal search and yet material collected was allowed to be used by the AO. The same analogy applies here for the reason that so far as the procedure-undertaken by the AO is concerned, it remains same in regard to use of material either collected in search or in survey. The inventory of stock was prepared by the Inspector during the course of illegal survey and material was then used by the AO for making additions. Hence in those circumstances, we are of the opinion that in view of the two judgments of the Hon'ble apex Court, Revenue was entitled to use material collected during the course of illegal survey."*

33. Though, it may be said that administrative exigency necessitating transfer of jurisdiction under Section 127 of the Act of 1961

included the facilitation of search and seizure yet, in our considered view, centralization of jurisdiction with Central Circle Charge, Chandigarh remains an independent administrative action which cannot be said to be a direct consequence of search and seizure or to render it illegal once the search and seizure is quashed.

**34.** The principles laid down by the Hon'ble Supreme Court in *Chairman-cum-M.D., Coal India Ltd. and others Vs. Ananta Saha and others* (**Supra**) laying down the proposition that once foundation is the knocked off, the superstructure must fall, is too well settled to be questioned, but unfortunately, it has no application in the facts of the present case for the reasons enumerated hereinabove.

**35.** The judgment of the Bombay High Court's Division Bench in *The Commissioner of Income Tax-I, Aaykar Bhavan, Nagpur Vs. Lalitkumar Bardia* (**Supra**) also has no applicability in the facts of the present case. In that case, the order of transfer of jurisdiction under Section 127 of the Act of 1961, dated 06.07.1999, was already quashed by the High Court on 17.09.1999. It was in that context that the Division Bench held that subsequent notice issued by the transferred authority under Section 158 BC of the Act of 1961 was without jurisdiction.

**36.** We have already noticed that the order under Section 127 of the Act of 1961 has not been even challenged by petitioner and is otherwise not shown to be a direct consequence of search and seizure and therefore, the issuance of notice by the transferred authority under Sections 142 and 148 of the Act of 1961, cannot be invalidated. The judgment of Calcutta High Court in *Principal Commissioner of Income Tax Vs. Divine Light*

*Finance Ltd. (Supra)* has also no applicability in the facts of the present case. Once the order or proceedings, challenged before this High Court is quashed, what follows from it as its consequence is only the direct and natural consequence and not an independent administrative action taken in separate proceedings.

**37.** In such circumstances, we cannot accept that the quashing of search and seizure by this Court on petitioner premises, by the Income Tax Department between 06.09.2016 to 08.09.2016, would result in rendering the administrative order dated 04.01.2017, transferring the jurisdiction of assessee from DCIT, Circle, Panchkula to DCIT/ACIT Central Circle-II, Chandigarh to be illegal. In such circumstances, the impugned notices cannot be quashed.

**38.** In view of the deliberations held as above, the questions posed for our consideration are answered as under:-

- (I) *The order dated 04.01.2017, transferring petitioner's case to Central Circle-2, Chandigarh from Panchkula, is an order passed in exercise of administrative exigency, independently and is not a consequence of the search and seizure carried out against the petitioner.*
- (II) *The impugned notices issued under Sections 142 and 148 of the Income Tax Act, 1961 are not liable to be quashed on the ground of it being in derogation of order dated 22.05.2019 of Division Bench of this Court in CWP-8261-2017.*
- (III) *The transfer of jurisdiction effected vide order dated 04.01.2017 would not be invalidated, consequent upon quashing of search and seizure operation.*

**39.** Before concluding, we may however observe that as these Writ Petitions have been entertained and are pending since 2021 and 2022 respectively, during which various orders of assessment etc. have been passed against petitioner/assessee, pursuant to the impugned notices, it would be appropriate to extend an opportunity to the petitioner to challenge such orders of assessment etc. by filing appropriate appeal, which shall be entertained on merits without raising any objection with regard to delay.

**40.** Subject to the observations made hereinabove, both these Writ Petitions accordingly fail and are **dismissed**. No order is passed as to costs.

**41.** All pending applications in this case are disposed of, accordingly.

**[ASHWANI KUMAR MISHRA]**  
**JUDGE**

**[KULDEEP TIWARI]**  
**JUDGE**

**September 4, 2025**  
*Ess Kay*

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>