

(2025) 05 DEL CK 0001

Delhi HC

Case No: Writ Petition (C) No. 10895 Of 2023, Civil Miscellaneous Application Nos. 60224
Of 2023, 74501 Of 2024

Ashok Mittal

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision: May 30, 2025

Acts Referred:

- Constitution of India, 1950-Article 21
- Income Tax Act, 1961-Section 132
- Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015-Section 50, 51(1)

Hon'ble Judges: Sachin Datta, J

Bench: Single Bench

Advocate: Jayant Bhushan, Prabhat Kumar, Rashika Chopra, Amartya Bhushan, Vipul Agrawal, Sakshi Shairwal, Akshat Singh, Gaorang Ranjan

Final Decision: Disposed Of

Judgement

Sachin Datta, J

CM APPL. 30468/2025 (Seeking permission to travel abroad)

1. The present application has been filed by the petitioner/applicant inter-alia seeking permission to travel to abroad; it is submitted that the petitioner seeks to travel to Dubai, UAE for a month, for business and personal purposes.
2. During the course of proceedings, learned senior counsel on behalf of the petitioner, on instructions, submits that the petitioner undertakes to return back to India on or before 10.07.2025.
3. The present petition has arisen in the backdrop of a search and seizure conducted on 07.07.2022, under Section 132 of the Income Tax Act, 1961 by the officials of the respondent/Income Tax Department, at various ventures/properties owned by the

petitioner and his family. During the course of search, allegedly high value cash transactions and undisclosed foreign assets of the petitioner were discovered. It is stated that neither of the aforesaid recoveries were disclosed by the petitioner in his income tax return as required under Section 50 and 51 (1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

4. In the aforesaid conspectus, impugned Lookout Circular dated 13.07.2022 bearing no. F. No. DDIT(INV.)/FAIU-1(3)/2022-23/ (hereinafter referred as 'the LoC') came to be issued against the petitioner by the Deputy Director of Income Tax (INV.), FAIU-1-(3) Income Tax Department/respondent.

5. Learned senior counsel on behalf of the petitioner submit that the proceedings initiated against the petitioner under the Income Tax Act, 1961 have concluded and no adverse findings or incriminating material have emerged.

6. The learned counsel on behalf of the respondent opposes the present application primarily contending that pursuant to the search conducted on 07.07.2022 by its officials, several undisclosed foreign assets in British Virgin Islands, Mauritius, Malaysia, and UAE were discovered amounting to more than 450 crores. It is further submitted that since the petitioner is not furnishing information with respect to aforesaid foreign assets, the respondent awaits response of the 'request for Exchange of Information (EOI) sent by them to the aforesaid countries through the Foreign Tax and Tax Research (FT&TR) Division of the Central Board of Direct Taxes.

7. In rejoinder, the learned senior counsel for the petitioner submits that LoC against the petitioner persists only on account of response pertaining to EOI pending before foreign jurisdictions. It is stated that indefinite continuation of coercive restrictions on the right of petitioner to travel in absence of any concrete, actionable information or tangible progress from respondent is arbitrarily, unreasonable and violative of the Constitutional Rights of the petitioner.

8. A coordinate Bench of this Court in **Atul Punj vs. Union of India & Ors.**, 2025 SCC OnLine Del 18 has observed that **"mere inability to repay loans, absent any criminal wrongdoing or material to show or squandering or siphoning off public money, cannot justify curtailing an individual's right to travel, as guaranteed under Article 21 of the Constitution of India."** The aforesaid judgment has also been affirmed by the Division Bench of this Court in LPA 77/2025 vide order dated 31.01.2025. The relevant portion of Atul Punj vs. Union of India & Ors (supra) reads as under:

"5. A Look Out Circular serves as a preventive measure to restrict an individual from leaving the country, particularly when there are reasonable grounds to believe that such departure may hinder legal proceedings or jeopardize investigations into serious transgressions. While the issuance of an LOC aims to safeguard the interests of justice, it must be reconciled with the constitutional guarantees of personal liberty. The right to travel abroad has

been recognized as an integral aspect of the right to life and personal liberty enshrined under Article 21 of the Constitution of India. This principle was firmly established in the landmark judgments of *Maneka Gandhi v. Union of India* and *Satwant Singh Sawhney v. D. Ramarathnam*, Assistant Passport Officer where the Supreme Court held that restrictions on such a right must be just, fair and reasonable, adhering to the requirements of procedural due process.

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27. The right to travel abroad, being an essential component of the right to personal liberty under Article 21 of the Constitution, cannot be curtailed arbitrarily or indefinitely. Restrictions such as an LOC must pass the test of proportionality and necessity, ensuring that they are imposed only when supported by credible material. In the present case, while the State's interest in investigating allegations of financial impropriety is undeniable, this Court finds that the absence of tangible material on record of the Petitioner's intent to abscond or tamper with the investigation tilts the balance in favour of permitting conditional travel.

28. The LOC against the Petitioner is primarily stemming from the financial defaults of the company for which the Petitioner served as Director. In the absence of conclusive findings after five years of investigation and with the Petitioner's continued cooperation, the prolonged restrictions on his right to travel cannot be justified. Furthermore, the Petitioner has expressed his willingness to furnish security to mitigate flight risk. However, keeping in mind the nature of allegations levelled against the Petitioner, in the opinion of the Court, blanket quashing of the LOC at this stage would be premature. Therefore, in order to balance Petitioner's right to travel abroad and the State's interest in ensuring his availability for investigation, this Court is inclined to permit the suspension of LOC against the Petitioner by the Respondents to allow him to travel to the United Kingdom for a period of 15 days commencing from 1st February, 2025 i.e., till 15th February, 2025, subject to following conditions:.....”

9. Considering the observations made by the co-ordinate Bench of this Court in **Atul Punj vs. Union of India & Ors** (supra), the petitioner shall be allowed to undertake the proposed travel, subject to the following terms and conditions: -

i. The petitioner shall furnish a security of Rs. 1 crore in the form of an FDR, which shall be submitted to the learned Registrar of this Court.

ii. The petitioner shall disclose on an affidavit the list of all his moveable and immovable in India (including those jointly owned by the petitioner alongwith his family members); the affidavit shall also contain an undertaking that no third-party rights whatsoever shall be created in respect of the said properties till the petitioner returns to India; an undertaking on affidavit shall also be filed by the co-owners (if any) undertaking to offer the said properties by way of security as a pre-condition for the petitioner's travel abroad and also affirming that no third party rights whatsoever shall be created in respect thereof. Where assets are in the form of shares/securities, the undertaking must disclose full details thereof, including particulars of the concerned Depository Participant.

iii. The original title documents of the immovable properties owned by the petitioner in India shall be deposited; where the title documents are not available with the petitioner, the location thereof and reasons for non-availability of the same shall be clearly disclosed, and true copies of the relevant title documents shall be filed alongwith the affidavit to be filed by the petitioner.

iv. The petitioner shall disclose all his assets held by him or the companies / entities controlled by him (directly or indirectly) in any foreign country (whether movable or immovable), along with documents showing payment of consideration to acquire the same, as also the original title documents thereof. The same shall be furnished alongwith affidavit to be filed by the petitioner. Where the petitioner is the 'Ultimate Beneficial Owner' of any asset/bank account/trust/corporate entity etc., the same shall be specifically disclosed in the said affidavit.

v. The petitioner shall disclose all his foreign bank accounts (whether singly or jointly) and shall also furnish the bank statements in respect thereof, for the period since the date of the opening of the said bank account/s till date. The petitioner shall also not operate any foreign bank account/s while travelling abroad.

vi. The passports of the petitioner's son or daughter shall be deposited in the Court with appropriate undertaking on affidavit to submit the said passport as security for the petitioner's travel.

vii. The petitioner shall file a detailed affidavit disclosing his complete itinerary, including the place of stay at location/s abroad as well as telephone numbers and residential/ hotel addresses. He shall also file an undertaking that he shall strictly adhere to the itinerary mentioned in the affidavit and not visit any other stations. He shall also furnish a copy of the air ticket purchased by him before the Registrar General;

viii. The petitioner shall also provide the contact numbers that he would use during the period of stay abroad, and at least one of the said contact numbers will be kept operational at all times, subject to all fair exceptions, including the period he is on board the aircraft;

- ix. The petitioner shall file an undertaking before the Registrar that he shall return to the country on 10.07.2025. The petitioner shall intimate the Registrar General of this Court before leaving and within 72 hours of his return;
- x. The petitioner shall file a self-attested copy of his passport along with a copy of his visas, on his return to India;

10. In case any of the aforesaid conditions are violated, the aforesaid FDR and movable and immovable properties owned by the petitioner (either individually or jointly) shall be liable to be forfeited. Besides, the same shall be construed as wilful disobedience of the order/s of this Court.

11. The permission to travel abroad given in this order shall be subject to all other applicable conditions and shall not be deemed as a direction to any other authority.

12. The application is disposed of in the above terms.

13. List before the Joint Registrar (Judicial) for verification of documents 02.06.2025.

W.P.(C) 10895/2023

14. List before Court on 10.07.2025.