

Transfer order couldn't be accepted if it didn't indicate any reason for transfer of case, rules HC

Summary – The High Court of Calcutta in a recent case of Chirag Vincom (P.) Ltd., (the Assessee) held that where order does not indicate any reasons in support of decision to transfer case of assessee despite objection of assessee against transfer, said transfer order cannot be accepted

Facts

- A search and seizure operation under section 132 had been carried out on group of concerns which revealed that the assessee company was related to the group and had transactions with other entities of the group and shared common directors.
- Show-cause notice was issued to the assessee to transfer the case of assessee to Kanpur for a co-ordinated investigation.
- The assessee submitted that the transfer would result in serious financial burden on it since the accounts pertaining to the assessee company were under block assessment for the same assessment year as involved in the search at Kanpur.

Held

- The order, however, reveals that a report had been called from the Assessing Officer and the matter has been carefully perused. The report which, doubtless, went into the decision-making process was not made available to the assessee nor are the contents of the report revealed in the impugned order.
- Reasons are the life blood of a judicial or quasi-judicial order and should indicate a link between the facts and the conclusion or inference drawn from the facts. The reasons furnished by the Commissioner as quoted above are not the links between the facts and the conclusion but the conclusion itself. Reasons are the grounds that impel a person to reach a conclusion on the basis of the facts as noticed and presented. The impugned order carries the conclusion but not any reasons in support thereof. In the above backdrop, it is not necessary to pronounce conclusively as to whether the 'expression opportunity of being heard in the matter' in section 127(1) obliges the concerned official to grant a personal hearing. However, since it is evident that the Commissioner relied on a report, the contents whereof were not made known to the assessee and since the order does not indicate any reasons in support of the decision to transfer the account despite the objection of the assessee company, the order cannot be accepted.