

SUPREME COURT OF INDIA

Karnataka Bank Ltd.

Vs.

Secretary, Govt. of India

S.L.P.(Civil) No.3804 of 2002

(B. N. Kirpal and A. Pasayat JJ.)

25.02.2002

ORDER

1. It is contended by the learned senior Counsel for the petitioner that the High Court has wrongly construed the provisions of Section 133(6) of the Income-tax Act and the notice dated 7th July, 2000 under that sub-section could not have been issued asking for information regarding repayment of loans for the periods referred to in the said notice. Learned senior Counsel submits that there was no inquiry which was pending and that the omnibus notice requiring the furnishing of information in respect of the bank's customers is not envisaged by the said sub-section.

2. We are unable to agree with the learned Counsel, Section 133(6), after introduction of the second proviso, reads as follows:

"S. 133. The Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals) may, for the purposes of this Act-

(6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), giving information in relation to such points or matters as, in the opinion of the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), will be useful for, or relevant to, any enquiry or proceeding under this Act :

[Provided that the powers referred to in clause (6) may also be exercised by the Director General, the Chief Commissioner, the Director and the Commissioner :]

[Provided further that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the

rank of Director or Commissioner without the prior approval of the Director or, as the case may be, the Commissioner]"

3. It is clear from the mere reading of the said provision that it is not necessary that any inquiry should have commenced with the issuance of notice or otherwise before Section 133(6) could have been invoked. It is with the view to collect information that power is given under Section 133(6) to issue notice, inter alia, requiring banking company to furnish information in respect of such points or matters as may be useful or relevant. The second proviso makes it clear that such information can be sought for even when no proceeding under the Act is pending, the only safeguard being that before this power can be invoked the approval of the Director or the Commissioner, as the case may be, has to be obtained. In the instant case, the notice dated 7th July, 2000 indicates that it was at the instance of the Director of Income-tax (Investigation) that the information was sought for.

4. We agree with the construction of the Section as placed by the single Judge and the Division Bench of the Karnataka High Court. These Special Leave Petitions are, accordingly, dismissed.

Petitions dismissed.