

# TAX FLASH NEWS

4 December 2020

## The Hon'ble Supreme Court reiterates its mandate for installation of CCTV and recording devices in the offices of the agencies having power to interrogate/ arrest and directs for a time bound implementation

In a recent judgement<sup>1</sup>, the Hon'ble Supreme Court while referring to earlier directions issued by them has passed an order directing the Ministry of Home Affairs and other State and Union Territories to compulsorily install CCTV cameras and recording equipment in the offices of those agencies who have the power to carry out interrogations and the power to arrest.

### Brief facts

Earlier, on a petition filed for seeking permission to use videography of the crime scene, the Court had made an observation that the investigation agencies in India are not equipped and prepared for use of videography. Accordingly, steps are required to introduce videography during investigation, particularly for a crime scene. In light of the same, the Court had issued various directions to ensure that investigation agencies use videography during the investigation. The gist of the various directions issued by the Hon'ble Supreme Court is as under –

#### 1. Direction vide order dated 3 April 2018

- The Court approved the suggestions made by the Committee constituted by the Ministry of Home Affairs ('MHA') to implement a 'Centrally Driven Plan of Action' for use of videography in crime scheme
- The Court further directed the MHA to set up a Central Oversight Body ('COB'), which would issue appropriate directions so as to ensure that the use of videography during investigation becomes a reality

- The COB to ensure that by 15 July 2018, crime scene videography is introduced at least in some places as per the viability and priority determined by COB
- Further, in order to check human rights abuse, the Court had directed installation of CCTV cameras in all police stations as well as in prisons
- Direction was also issued to formulate an oversight mechanism in every state, whereby an independent committee may study the CCTV camera footage and periodically publish reports of its observations.

#### 2. Direction vide order dated 16 September 2020

- The Court impleaded all the states and union territories to find out exact position of CCTV cameras qua each police station as well as the constitution of the Oversight committee.

#### 3. Direction vide order dated 2 December 2020

- In the said order, the Court had issued guidelines, for the formation of the State level and District level Oversight committee ('SLOC') with respect to its members, the duties and obligations of the committee
- Direction was issued to the State/UT Finance departments to allocate adequate funds for installing CCTVs in police stations

<sup>1</sup> Paramvir Singh Saini vs, Baljit Singh and others [SLP (Criminal) 3543 of 2020]

- Direction has been issued to the Central and State Governments to ensure that CCTV cameras are being installed in each and every police station and also to ensure that no part of the police station left uncovered
- In addition, the Court has also given direction to install CCTV cameras and recording equipment in the offices of the following agencies in a similar fashion to those in the police stations:
  - a) Central Bureau of Investigation ('CBI')
  - b) National Investigation Agency ('NIA')
  - c) Enforcement Directorate ('ED')
  - d) Narcotics Control Bureau ('NCB')
  - e) Department of Revenue Intelligence ('DRI')
  - f) Serious Fraud Investigation Office ('SFIO')
  - g) Any other agency which carries out interrogations and has the power of arrest
- The SLOC and COB shall give directions to all police stations, investigative/enforcement agencies to prominently display at the entrance and inside the police stations/offices of investigative/enforcement agencies about the coverage of the concerned premises by CCTV.

This shall be done by large posters in English, Hindi and vernacular language. In addition to the above, it shall be clearly mentioned therein that a person has a right to complain about human rights violations to the National/State Human Rights Commission, Human Rights Court or the Superintendent of Police or any other authority empowered to take cognizance of an offence.



## Our comments

This seems to be a welcome move more so in terms of the directions issued to various investigating agencies more specifically the DRI and other offices which have the power to arrest, even if the same is below the Commissionerate level. The Hon'ble Court has emphasized on the recordings for use in the determination of human rights violations; however, such violations will be open to interpretation. In any case, as and when the guidelines are fully implemented, we may see a reduction in unnecessary harassment being caused during the investigations.

Further, in the specific context of tax laws where the tax authorities are increasingly becoming aggressive in terms of investigations, it would also help in verification of the statements which are recorded by representatives of assesseees and relied upon at various stages of tax litigation.

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