

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR**

CrlA(S) No.11/2024

MOHAMMAD IQBAL MIR ...APPELLANT(S)

Through: Mr. A. Andrabi, Advocate, with
Ms. Humaira Shafi, Advocate.

Vs.

**ASSISTANT DIRECTOR, SRINGAR ZONE
DIRECTORATE OF ENFORCEMENT ...RESPONDENT(S)**

Through: None.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

**(ORDER)(ORAL)
27.12.2024**

1) On 13.12.2024, learned counsel for the appellant was requested to satisfy this Court with regard to maintainability of this appeal filed under Section 42 of the Prevention of Money Laundering Act (for short "PMLA").

2) The appellant has filed an application bearing CrlM No.1817/2024 and has annexed therewith a copy of communication dated 08.08.2024, issued by the Registrar, Appellate Tribunal, under PMLA, whereby the appellant has been informed that on account of non-payment of fee of Rs.10,000/ his appeal has been treated as null and void.

3) Learned counsel for the appellant has contended that the appellant is aggrieved of the aforesaid communication of the Registrar of the Appellate Tribunal. He has contended that the appellant is a cancer patient and is a pauper, therefore, unable to pay the requisite fee.

4) I have heard learned counsel for the appellant and perused record of the case.

5) It seems that on 16.01.2024, a provisional attachment order in terms of sub-section (1) of Section 5 of PMLA, 2002, came to be passed against the appellant by the Deputy Director, Directorate of Enforcement, Srinagar Zone. The said attachment order has been confirmed by the Adjudicating Authority vide order dated 13.06.2024. Against the said order, the appellant filed an appeal before the Appellate Tribunal under PMLA. However, due to non-payment of the requisite fee, the Registrar of the Appellate Tribunal has refused to entertain the appeal. The question arises as to whether such an order is appealable under Section 42 of the PMLA. Section 42 reads as under:

42. Appeal to High Court. Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law or fact arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said

period, allow it to be filed within a further period not exceeding sixty days.

Explanation.-For the purposes of this section, "High Court" means—

- (i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and*
- (ii) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.*

6) From a perusal of the aforesaid provision, it is clear that the remedy of appeal is available against an order or decision of the Appellate Tribunal to the High Court.

7) In the instant case, the appellant is aggrieved of the communication issued by the Registrar of the Appellate Tribunal and not by any order or decision of the Appellate Tribunal. The communication issued by the Registrar is a ministerial act which cannot be called in question before this Court by invoking the provisions under Section 42 of the PMLA. The appeal, as such, is held to be not maintainable and is dismissed accordingly.

(SANJAY DHAR)
JUDGE

Srinagar
27.12.2024
“Bhat Altaf-Secy”

<i>Whether the order is speaking:</i>	Yes/No
<i>Whether the order is reportable:</i>	Yes/No