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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 304/2016 & C.M.Nos.1241-1242/2016**

M/S SRJ INFRATECH PVT LTD AND ORS

..... Petitioners

Through Mr.Shekhar G.Devasa with
Mr.Manish Tiwari and Mr.Arvind
Mohan, Advocates.

versus

DIRECTOR DIRECTORATE OF ENFORCEMENT AND ORS

..... Respondents

Through Mr.Sanjay Jain, Additional Solicitor
General with Ms.Suparna Srivastava
and Mr.Manu Dev Sharma,
Advocates for UOI.

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Date of Decision: 13th January, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present petition has been filed by the petitioners seeking quashing of the provisional attachment order dated 23rd September, 2015 passed by the Directorate of Enforcement, Ministry of Finance, Department of Revenue, Lucknow Zonal Office.
2. Petitioners also seek quashing of the show cause notice dated 20th October, 2015, whereby they have been called to indicate the

source of their income and also show cause as to why the provisional attachment order be not confirmed.

3. Learned counsel for the petitioners submits that the provisional attachment order is in flagrant violation of Section 5 of the Prevention of Money-Laundering Act, 2002 (hereinafter referred to as the “PML Act”), as he submits that no order of attachment can be made in relation to a Schedule Offence if the report under Section 173 of the Cr.P.C does not reflect the name of the petitioners.

4. He points out that the CBI in its supplementary report under Section 173 (8), Cr.P.C in FIR no. RC 220 2012 E 0003 dated 18th January, 2012 has stated that Smt.Rajni Jain, Director of M/s SRJ Infratech Pvt. Ltd., Moradabad and Smt.Seema Varshney, proprietors, M/s S.S. Industries, Moradabad are not being charge-sheeted as sufficient evidence has not come forth during investigation to substantiate their involvement in the case.

5. On the other hand, Mr.Sanjay Jain, learned Additional Solicitor General has referred to ECIR No.02/PMLA/LZO/2012, 03/PMLA/LZO/2012 and 08/PMLA/LZO/2012 all dated 14th April, 2012 issued by the Directorate of Enforcement, Lucknow Zonal Office, Lucknow, to show that the petitioners have not been given a clean chit.

6. In the opinion of this Court, mixed questions of fact and law are involved in the present case. Moreover, as a show cause notice has already been issued as to why the provisional attachment order be not confirmed, this Court is of the view that the ends of justice would be met if the petitioners are permitted to take all their pleas and defences in the adjudication proceedings, which are pending under Section 8 of

the PML Act.

7. It is pertinent to mention that, by virtue of Section 5(4) of the PML Act, there is nothing which prevents the person interested in the enjoyment of the immovable property from such enjoyment.

8. Consequently, the present petition alongwith the applications are disposed of with a direction to the Adjudication Authority to dispose of the proceedings pending before it within a period of three months.

MANMOHAN, J

JANUARY 13, 2016
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