

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.11.2016

Pronounced on : 05.01.2017

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Writ Petition No. 40240 of 2015

Writ Petition Nos. 31288, 32272, 32273, 32274, 32275, 34118,
35844,
35845 and 36736 of 2016

M/S.ADVANTAGE STRATEGIC CONSULTING PVT. LTD
REP. BY ITS DIRECTOR RAVI VISVANATHAN
FLAT 3B BAJAJ APARTMENTS
7/4 NANDANAM EXTENSION MAIN ROAD
CHENNAI-600 035.

...PETITIONER in WPs.40240 of 2015
& 36736 of 2016

KARTI P.CHIDAMBARAM
REP BY HIS POWER OF ATTORNEY
MR.N.R.R. ARUN NATARAJAN
C527 JAGANATHAN SALAI
PERIYAR NAGAR CHENNAI

...PETITIONER in WP.31288 of 2016

C.B.N.REDDY

...PETITIONER in WP.32272 of 2016

MR.RAVI VISVANATHAN

...PETITIONER in WP.32273 of 2016

MRS.PADMA BHASKARARAMAN

...PETITIONER in WP.32274 of 2016

MR.MOHANAN RAJESH

...PETITIONER in WP.32275 of 2016

MR.S.BHASKARARAMAN

...PETITIONER in WP.34118 of 2016

1.AUSBRIDGE HOLDINGS & INVESTMENTS PVT.LTD.
REP. BY ITS DIRECTOR
TF-4 CORDDEL APARTMENT NO.29
PYCROFTS GARDEN ROAD CHENNAI-600 006.

2.KWALITEIT FLORITECH PVT. LTD.
REP. BY ITS DIRECTOR REGD. OFF: 3C
EL DORADO NO.112 NUNGAMBAKKAM HIGH ROAD
CHENNAI-600 034.

3.CHESS GLOBAL ADVISORY SERVICES PVT.LTD.
(FORMERLY KNOWN AS CHESS
HEALTHCARE SOLUTION PVT. LTD)
REP. BY DIRECTOR REGD.OFF:3C
EL DORADO 112 NUNGAMBAKKAM HIGH ROAD
CHENNAI-34.

4.HEALTH FIRST CONSULTANCY P.LTD
REP. BY ITS DIRECTOR
HAVING OFFICE AT 3C EL DORADO
NO.112 NUNGAMBAKKAM HIGH ROAD
CHENNAI-600 034.

5.KAPALEESWARAR ESTATES P.LTD.
REP. BY ITS DIRECTOR REGD.OFF:3C
EL DORADO NO.112 NUNGAMBAKKAM HIGH ROAD
CHENNAI-600 034.

6.KRIYA FMCG DISTRIBUTORS P.LTD.
REP. BY ITS DIRECTOR REGD.OFF:38
NATTUMUTHU STREET TEYNAMPET
CHENNAI-600 018.

7.ADVANTAGE STRATEGIC CONSULTING PVT.LTD.
REP. BY ITS DIRECTOR REGD.OFF:3B
BAJAJ APARTMENTS III BLOCK
7/4 NANDANAM EXTN. MAIN ROAD
CHENNAI-600 035.

8.KAIMAKADOO ESTATES P.LTD.
REP. BY ITS DIRECTOR REGD.OFF:3C
EL DORADO NO.112 NUNGAMBAKKAM HIGH ROAD
CHENNAI-600 034.

9.KAYCE FOODS PVT. LTD.
REP. BY ITS DIRECTOR
REGD.OFF:4 SATHYANARAYANA AVENUE
R.A.PURAM CHENNAI-600 028.

...PETITIONER in WPs.35844 & 35845 of 2016

Versus

1.UNION OF INDIA
REP. BY SECRETARY GOVERNMENT OF INDIA
MINISTRY OF FINANCE DEPARTMENT OF REVENUE
NORTH BLOCK NEW DELHI-110 001

2.DIRECTOR OF ENFORCEMENT
DIRECTORATE OF ENFORCEMENT GOVT OF INDIA
MINISTRY OF FINANCE HEADQUARTERS
INVESTIGATION UNIT, 6TH FLR, LOK NAYAK BHAVAN
KHAN MARKET, NEW DELHI-3.

3.THE JOINT DIRECTOR
DIRECTORATE OF ENFORCEMENT
GOVERNMENT OF INDIA 3RD FLOOR
SHASTRI BHAVAN, HADDOWS ROAD, CHENNAI-6.

4.THE ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT GOVT OF INDIA
HEADQUARTERS INVESTIGATION UNIT 6TH FLR
LOK NAYAK BHAVAN, KHAN MARKET, NEW DELHI-3.

... RESPONDENTS in WP.40240 of 2015

1.DIRECTORATE OF ENFORCEMENT

REP BY ITS DIRECTOR, GOVERNMENT OF INDIA
6TH FLOOR, LOK NAYAK BHAWAN, KHAN MARKET
NEW DELHI-100 003

2.DR.RAJESHWAR SINGH

DEPUTY DIRECTOR DIRECTORATE OF ENFORCEMENT
GOVERNMENT OF INDIA 6TH FLOOR
LOK NAYAK BHAWAN KHAN MARKET NEW DELHI-100 003

3.MR.KAMAL SINGH

ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT
GOVERNMENT OF INDIA 6TH FLOOR
LOK NAYAK BHAWAN KHAN MARKET
NEW DELHI-100 003

... RESPONDENTS in WP.31288 of 2016

THE ASSISTANT DIRECTOR
O/O. THE JOINT DIRECTOR
DIRECTORATE OF ENFORCEMENT
CHENNAI ZONAL OFFICE 2&3 FLR.
MURUGESA NAICKER COMPLEX 84 GREAMS ROAD
CHENNAI 600 006.

... R1 in W.Ps.32272, 32273, 32274,
32275 & 34118 of 2016

1.FINANCIAL INTELLIGENCE UNIT-INDIA

REP. ITS BY DIRECTOR
MINISTRY OF FINANCE DEPARTMENT OF REVENUE
6TH FLOOR HOTEL SAMRAT KAUTILYA MARG
CHANAKYAPURI NEW DELHI-110 021.

2.MR.G.S.PARMER CONSULTANT

FINANCIAL INTELLIGENCE UNIT-INDIA
MINISTRY OF FINANCE DEPARTMENT OF REVENUE
6TH FLR HOTEL SAMRAT KAUTILYA MARG
CHANAKYAPURI NEW DELHI-110 021.

3.DIRECTORATE OF ENFORCEMENT

REP.BY ITS DIRECTOR GOVERNMENT OF INDIA
6TH FLOOR LOK NAYAK BHAWAN KHAN MARKET
NEW DELHI-110 003.

... RESPONDENTS in W.Ps.35844 & 35844 of 2016

1.THE JOINT DIRECTOR

DIRECTORATE OF ENFORCEMENT
CHENNAI ZONAL OFFICE 2ND AND 3RD FLOOR
MURUGESA NAICKER COMPLEX NO.84 GREAMS ROAD
CHENNAI-600 006.

2.THE ASSISTANT DIRECTOR

DIRECTORATE OF ENFORCEMENT
CHENNAI ZONAL OFFICE 2ND AND 3RD FLOOR
MURUGESA NAICKER COMPLEX NO.84 GREAMS ROAD
CHENNAI-600 006.

... RESPONDENTS in WP.36736 of 2016

Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Declaration,

W.P.No.40240 of 2015 : Declaring that the Search Warrants dated 1.12.2015 and the search operations conducted by the respondents on 1.12.2015 at the premises of the petitioner company at Flat 3B, Bajaj Apartments, 7/4, Nandanam Extension Main Road, Chennai-600 035 and at the residential premises of the Directors of the petitioner company and the consequential proceedings against the petitioner company and its Directors are ultra vires and in excess of the powers conferred under Section 37 of the Foreign Exchange Management Act, 1999 read with Section 132 of the Income Tax Act, without authority of law, arbitrary, malafide, for a collateral purpose and violative of Article 14 of the Constitution of India.

W.P.No.31288 of 2016 : Calling for the records relating to the impugned summons in ref.No. ECIR/05/DZ/2012 dated 19-08-2016 issued by the 3rd respondent, quash the same and direct the respondents 1 to 3 to forbear from taking any steps of action of proceedings against the petitioner pursuant to the said impugned summons dated 19-08-2016 under the Prevention of Money Laundering Act, 2002.

W.P.No.32272 of 2016 : Calling for the records relating to the summons having Ref. File No. T-3/78 / CEZO /C /2015, dated 09.09.2016 in S.No.255 issued by the Respondent to the petitioner under Section 37 of Foreign Exchange Management Act, 1999 read with Section 131(1) of the Income Tax Act and Section 30 of C.P.C. and quash the same.

W.P.No.32273 of 2016 : Calling for the records relating to the summons having Ref. File No. T-3/78 / CEZO /C /2015, dated 09.09.2016 in S.No.253 issued by the Respondent to the petitioner under Section 37 of Foreign Exchange Management Act, 1999 read with Section 131(1) of the Income Tax Act and Section 30 of C.P.C. and quash the same.

W.P.No.32274 of 2016 : Calling for the records relating to the summons having Ref. File No. T-3/78 / CEZO /C /2015, dated 09.09.2016 in S.No.252 issued by the Respondent to the petitioner under Section 37 of Foreign Exchange Management Act, 1999 read with Section 131(1) of the Income Tax Act and Section 30 of C.P.C. and quash the same.

W.P.No.32275 of 2016 : Calling for the records relating to the summons having Ref. File No. T-3/78 / CEZO /C /2015, dated 09.09.2016 in S.No.254 issued by the Respondent to the petitioner under Section 37 of Foreign Exchange Management Act, 1999 read with Section 131(1) of the Income Tax Act and Section 30 of C.P.C. and quash the same.

W.P.No.34116 of 2016 : Calling for the records relating to the summons having Ref. File No. T-3/78/CEZO/C/ 2015, dated 09-09-2016 in S.No. 256 issued by the respondent to the petitioner

under Section 37 of the Foreign Management Act, 1999 read with Section 131 (1) of the income Tax Act and Section 30 CPC and quash the same.

W.P.No.35844 of 2016 : Calling for the records relating to the communication of the 2nd respondent, having reference F.No.9-13/2015/ FIU/IND dated 16.05.2016 marked to all the Financial Institutions pursuant to purported Investigation being carried by the 3rd Respondent under the Prevention of Money Laundering Act, 2002 against the companies named in the annexure to the said communication and quash the same and consequently direct the 2nd respondent to write to all the financial institutions recalling the communication dated 16.05.2016 directing the said financial institutions to forward the information on the bank account details as well as details of CTSS and STRs of the companies named in the annexure to the said communication to the 1st Respondent and to the 2nd Respondent alongwith their batch ids at the e-mail id given in the said communication.

W.P.No.35845 of 2016 : Forbear the 3rd respondent from carrying any investigation against the petitioners companies mentioned in communication of the 2nd respondent dated 16.05.2016 under the prevention of Money Laundering Act, 2002 without following the procedure established by law and unless the conditions precedent for an investigation under the prevention of Money Laundering Act, 2002 against the said petitioner companies are satisfied.

W.P.No.36736 of 2016 : Directing the respondents to return the small plastic folder containing original Indian Overseas Bank Deposit Receipts No.35160 dated 08.03.2014, 351999 dated 08.03.2014, 351598 dated 08.03.2014 and 351597 dated 08.03.2014 in the name of the petitioner which was seized by the 2nd respondent from the residence of the Director of the Petitioner Mr.C.B.N.Reddy during the search operations on 01.12.2015 under the Panchnama in exercise of power under section 37 of the Foreign Exchange Management Act, 1999.

For Petitioners : Mr.R. Thiagarajan, Senior Advocate
for Mr.R.Parthiban in WP.40240 of 2015
Mr.Gopal Subramaniam, Senior Advocate
for Ms.C.Uma in WP.31288 of 2016

Mrs.Nalini Chidambaram, Senior Advocate
for Mr.R.Parthiban
in WP Nos.32272 to 32275 of 2016
and WP No. 34118 of 2016

Mr.R.Krishnamoorthy, Senior Advocate
for Mr. R. Parthiban
in WP Nos.35844 and 35845 of 2016

Mr.R.Parthiban in WP. 36736 of 2016

For Respondents : Mr. Anand Grover
Special Public Prosecutor
assisted by Mrs. G. Hema,
Central Government standing counsel
in all the writ petitions

COMMON ORDER

By consent of counsel on either side, the writ petitions are taken up for final disposal.

2. The only point raised and argued in all these writ petitions is as regards the maintainability of the writ petitions before this Court. A preliminary objection has been raised by the respondents as regards the maintainability of these writ petitions by contending that the issue involved in these writ petitions relate to 2G Spectrum Case and therefore, this Court has no jurisdiction to entertain these writ petitions. It is further contended on behalf of the respondents that cases pertaining to 2G Spectrum are being monitored by the Honourable Supreme Court of India and no writ petition should be filed in any of the High Courts in the Country. Therefore, the respondents pleaded that these writ petitions can only be dealt with or adjudicated by the Honourable Supreme Court and this Court has no jurisdiction to exercise the power conferred under Article 226 of The Constitution of India to grant any relief in these writ petitions. Thus, the arguments advanced by counsel on either side was mainly confined to whether this Court has got jurisdiction to entertain these writ petitions as the dispute involved in these writ petitions relates to 2G Spectrum scam. Therefore, these writ petitions are taken up for disposal to adjudicate whether the writ petitions are maintainable or not.

WP No. 40240 of 2015:-

3. In this writ petition, it is mainly argued that the receipt of the sum of Rs.26,00,444/- by the petitioner company - Advantage Strategic Company Limited (ASCPL) an Indian Company (AVTL) from another Indian Company (ASCPL) in Indian rupee can be the basis for investigation under the Foreign Exchange Management Act, 1999. It is also contended that if the money laundering involves less than Rs.30 lakhs, it cannot be brought under the purview of Prevention of Money Laundering Act (in short PMLA) and therefore the question of invocation of the provisions of PMLA will arise only if the amount involved is more than Rs.30 lakhs. Even according to the enforcement directorate, the alleged transaction in question is only Rs.26,00,444/- which is less than Rs.30 lakhs and therefore the Enforcement Directorate has no jurisdiction to investigate the case. It is further contended that the FIPB approval was granted on 20.03.2006 to M/s. Global Communication Services Holdings Limited, Mauritius by the then Finance Minister. The payment of Rs.26,00,444/- was made by AVTL to ASCPL on

11.04.2006. At that time, when Mr. Sivasankaran was owning ATVL. The genesis of the Aircel Maxis deal is the complaint filed by Mr. Sivasankar, since it is the case of Mr. Sivasankaran that Mr. Maran abused his authority and compelled him to sell the Aircel Shares to Maxis Communication of Malaysia. Therefore, the payment of Rs.26,00,444/- by AVTL owned by Mr. Sivasankaran to ASCPL on 11.04.2006 cannot be linked to FIPB approval on 20.03.2006. It is further contended that the Enforcement Directorate will have jurisdiction only if a scheduled offence is committed. The occurrence of a scheduled offence called the 'predicate offence' is a condition precedent for initiating investigation into the offence of money laundering under the provisions of PMLA. Predicate/scheduled offences are normally investigated by agencies such as Police, Customs, SEBI, NCB and CBI etc., under the respective Act. In this case, the Central Bureau of Investigation (CBI) is the authority which conducted an enquiry into the grant of FIPB approval. However, CBI is yet to file any report on completion of investigation before any Magistrate under Section 173 of Criminal Procedure Code. According to the petitioner, in the absence of a report by the CBI in the grant of FIPB approval and in the absence of a report under Section 13 of Cr.P.C. the Enforcement Directorate will have no jurisdiction to investigate into circumstances leading to the grant of FIPB approval and consequently into the payment of Rs.26,00,444/- by AVTL to ASCPL.

4. According to the petitioner, the question of placing reliance on the order dated 10.02.2011 by the Honourable Supreme Court to the facts of this case has no application and it will not be a bar for entertaining this writ petition before this Court. According to the petitioner, this Court is empowered to entertain this writ petition under Article 226 of the Constitution of India. There is no charge sheet filed by the CBI pertaining to the grant of FIPB approval which allegedly landed the tainted proceeds in the hands of the accused. It is further contended that charge sheet should have been lodged by CBI in the Court of competent jurisdiction relating to FIPB approval. Unless a police report under Section 173 of Cr.P.C. has been filed by the CBI in connection with FIPB approval, the enforcement directorate cannot commence any investigation into the said transaction because it would be doing so without there being any proceeds of the crime held out by the accused as untainted money. Lastly, it is contended that the order of Supreme Court is dated 10.02.2011. The complaint in Aircel Maxis Case (Maran Brothers) was filed by the CBI on 09.10.2011 and the Enforcement Directorate filed the complaint on 07.02.2012. While so, the order dated 10.12.2011 cannot cover the complaints filed after 10.02.2011. Therefore, according to the petitioner, the reliance placed on the order dated 10.02.2011 to oust the jurisdiction of this Court is untenable and misconceived. It is further stated that the earlier order dated 10.06.2015 passed by this Court in WP Nos. 12464 and 12664 of 2015 will not be applicable to the facts of this Case. Further, the order dated 10.06.2015 is the subject matter of appeal before the Honourable Supreme Court. In the

present case, as the petitioner challenges the authority of the respondents to conduct searches without any authority of law and the officer who issued the warrant of authorisation under Section 37 of the Foreign Exchange Management Act (in short FEMA), the officer who issued the warrant had issued such warrant without any reason to believe that the petitioner had violated the provisions of FEMA. In such view of the matter, the petitioner would contend that the writ petition is maintainable before this Court and it has to be taken up for hearing by this Court for disposal on merits. Further, at the time of hearing on 22.12.2015, this Court directed the respondents to produce the files pertaining on 18.01.2016 but till date the order has not been complied with by the respondent thereby violated the directions issued by this Court. Therefore, the petitioner would only contend that the writ petition itself can be entertained and taken up for adjudication on merits.

5. WP Nos. 32272, 32273, 32274 and 32275 of 2016 have been filed by Mr. CBN Reddy, Mr. Ravi Viswanathan, Mrs. Padma Bhaskararaman and Mr. Mohanan Rajesh, who are directors of the petitioner company. In all these writ petitions, the petitioners have raised similar grounds as stated in WP No. 40240 of 2015 and the arguments adopted in WP No. 40240 of 2015 and WP Nos. 32272 to 32275 of 2016 are identical and common.

6. WP No. 31288 of 2016 has been filed by Mr. Karti P. Chidambaram seeking to quash the summons dated 19.08.2016 issued to him by the respondents under the provisions of PMLA. The main contention of the petitioner in this writ petition is that the summons lack jurisdiction on the part of the Enforcement Directorate directing him to appear in person on 31.08.2016 in connection with file number ECIR/05/DZ/2012 and to produce certain records. According to the petitioner, in response to the summons dated 19.08.2016, he has sent a legal notice dated 29.08.2016 seeking to furnish certain information as to whether the offences for which the summons have been sent to him relates to a scheduled offence and what are the proceeds of the crime and how the petitioner is involved in such activity connected with the proceeds of the crime. Since there was no response to the legal notice, the petitioner earlier filed WP No. 31288 of 2016 to quash the summons contending that he has reasons to believe that such summons have been issued to him are motivated by malice in law and malice in fact on the part of the respondents. It was contended that the petitioner has reason to believe that there is determined campaign made to bring discredit and to harm the reputation of his father Shri. P. Chidambaram, who is now a leading member of the Opposition and former Finance Minister. In the said writ petition, the respondents have not filed their counter however, an affidavit dated 28.09.2016 has been filed by the Assistant Director, Directorate of Enforcement, Government of India praying to dismiss the writ petition. In the earlier writ petition also, a preliminary objection has been raised stating that investigation under PMLA is ongoing and is being conducted to collect the details from various organisations and persons

having knowledge with FIPB approval given on 20.03.2006 to Maxis to acquire the shares of Aircel Limited. The respondents in the said writ petition have also relied on the order of the Honourable Supreme Court dated 10.02.2011 in Criminal Appeal No. 10660 of 2000 and therefore it is contended that the writ petition is not maintainable.

7. According to the petitioner, the Enforcement Directorate cannot rely on the order dated 10.02.2011 passed by the Honourable Supreme Court to oust the jurisdiction of this Court to entertain the writ petition. According to the petitioner, the complaint in Aircel Maxis case was filed by the CBI on 09.10.2011 and the enforcement directorate filed the complaint on 07.02.2012. Therefore, the order dated 10.02.2011 cannot cover the complaints filed after 10.02.2011. Thus, the jurisdiction of this Court to issue writs under Article 226 of the Constitution of India cannot be ousted unless there is a specific order of the Honourable Supreme Court relating to Aircel Maxis case. It is further contended that the Enforcement Directorate has no jurisdiction to investigate the FIPB approval or any of the transactions mentioned above under PMLA in the absence of a predicate/scheduled offence being registered by the CBI. According to the petitioner, the enforcement directorate should first establish before this Court that it has the jurisdiction to investigate the FIPB approval dated 20.03.2016 granted to M/s. Global Communications Holdings Limited, Mauritius. There is no scheduled offence made out by the respondents in connectin with FIPB approval. There has been no complaint or charge sheet filed by the CBI in respect of FIPB approval. Therefore, there is not even any prima facie evidence of the commission of any scheduled offence being made in relation to the FIPB approval and consequently, the question of Enforcement Directorate carrying out any investigation into the alleged proceeds of crime generated through the commission of a scheduled offence will not arise. There can be no proceedings under the PMLA in the absence of a charge sheet alleging the commission of underlying scheduled offence. In this context, reliance was placed on the decision in the case of Mahanivesh Oils and Foods Pvt Ltd., vs. Directorate of Enforcement, reported in 2016 SCC Online Delhi 475 wherein it was held that in cases under PMLA, where the commission of a scheduled offence is not established, there can be no question of the enforcement directorate exercising powers of investigation available only to the prosecuting agency.

8. In support of his contentions, the petitioner in WP No. 31288 of 2016 relied on the affidavit filed by Shri. P. Chidambaram, former Finance Minister stating that the CBI had already investigated the manner in which FIPB approval was given. After filing of the charge sheet in the Aircel-Maxis case, the agency has filed a status report before the Honourable Supreme Court which was also recorded in the order dated 09.09.2015. It is further stated that the CBI has recorded the statements of various officials, including his statement on 06.12.2014. Thereafter, on 28.08.2014, the CBI has filed the charge sheet in the Aircel-Maxis case. In such

view of the matter, the former Finance Minister, in his affidavit, has stated that no scheduled offence exists in this case. There is no proceeds of crime involved in the present case. The respondents lack jurisdiction to investigate the case under PMLA. It is specifically stated in the affidavit that the entire investigation is being conducted to cause political embarrassment to him and to besmirch his reputation and the reputation of his family members. Relying on such affidavit, it is contended by the petitioner that CBI itself has completed the preliminary enquiry in to the grant of FIPB approval and CBI has not filed any complaint leading to the circumstances relating to issuance of FIPB approval. In such circumstances, in the absence of any predicate offence having been registered by the CBI into the circumstances leading to the grant of FIPB approval, there cannot be any proceeds of crime and consequently the enforcement directorate has no jurisdiction to carry out any investigation under the provisions of PMLA. The enforcement directorate cannot usurp the jurisdiction of the CBI and investigate the grant of FIPB approval. According to the petitioner, there is nothing on record to suggest that as on date, investigation by CBI in the FIPB approval is still continuing. The respondents have not produced any report filed by the CBI. Merely because a minutes of the meeting has been produced by the third respondent, it cannot be contended that CBI is still investigating the case. Unless there is a complaint or charge sheet filed by the CBI, the enforcement directorate has no jurisdiction to commence an investigation under PMLA. When the investigation conducted by the enforcement directorate under the provisions of PMLA into the grant of FIPB approval is not lawful, they cannot rely on the order dated 10.02.2011 to oust the jurisdiction of this Court to hear this writ petition.

9. According to the petitioner, the power under Article 226 of the Constitution of India is enormous and when the fundamental rights of the persons affected, this Court has jurisdiction to entertain and alleviate the grievance of the petitioner. Already, CBI has issued notice to Advantage Strategic Consulting Private Limited relating to receipt of Rs.26,00,444, but has not registered any complaint or charge sheet for a predicate offence. It is also stated that the respondents have failed to show any connection between the alleged underlying scheduled offence and the proceeds of crime generated therefrom on the one hand and the petitioner. According to the petitioner, there is no mention as to how the petitioner is connected with the commission of offence even assuming it is an offence related to 2G spectrum case. The petitioner is neither a Director nor a shareholder of M/s. Advantage Strategic Consulting Private Limited. Therefore, according to the petitioner, it is strange that an FIPB approval granted during March 2006 could be connected to the aforesaid order of transfer and re-transfer of shares during March/October 2011. In fact, CBI has not filed a complaint or charge sheet in respect of FIPB approval, and hence, there is no predicate/scheduled offence made. In the absence of a predicate/scheduled offence, the enforcement directorate would

have no jurisdiction to investigate any aspect of the FIPB approval or rely upon the order dated 10.02.2011 of the Supreme Court of India.

10. According to the petitioner, CBI has already issued a notice to M/s. Chess Management Services Private Limited relating to receipt of US Dollar 103,624 (for the year 2007-09); US Dollar 59,016 (for the year 2009-2011) and US Dollar 32,190 (for the year 2009-2010) but it has not registered any complaint or charge sheet in respect of those transactions. Therefore, it is vehemently contended that enforcement directorate has no jurisdiction to investigate the said transactions or issue summons to the petitioner in connection with those transactions. Even for the notices sent by the CBI on 09.06.2016 and 03.08.2016, M/s. Chess Management Services Private Limited has sent a detailed reply enclosing voluminous documents stating that the company is providing end to end services in the field of legal risk assessment, training, legal updated services, corporate assurance services, legal function structuring etc., In the reply, it was clearly stated about the amount received for the overseas services rendered to other companies mentioned in the summons. After receipt of the reply, CBI has not chosen to file any complaint in connection with the above transactions. Therefore, it is contended that in view of the fact that CBI has not filed charge sheet in respect of the predicate offence in relation to the circumstances leading to FIPB approval or the receipt of Rs.26,00,444/- by M/s. Advantage Strategic Consulting Private Limited or the three transactions concerning M/s. Chess Management Services Limited, no further investigation by the enforcement directorate under the PMLA is warranted or jurisdictionally competent. Therefore, according to the petitioner, the enforcement directorate cannot refer to the investigation being carried out into the transactions mentioned above and prayed for allowing the writ petition.

WP No. 35844 and 35845 of 2016:-

11. These writ petitions are filed praying to quash the unsigned communication dated 16.05.2016 sent by the second respondent, who is the alleged consultant of the first respondent. The notice dated 16.05.2016 has been sent to all the financial institutions under the caption "investigations under the provisions of the PMLA". By the said communication dated 16.05.2016, the second respondent has enclosed a list of 26 companies (which includes the 9 petitioners in this writ petition) with their PAN numbers which are under investigation of a law enforcement agency. According to the petitioners, the communication states that information on the bank account details as well as details of CTRs and STRs, if filed by the financial institutions, is required on top priority. If already STRs/CTRs have been filed by the financial institutions in respect of the 26 entities, the same may be informed immediately along with their batch ids to the Consultant at the e-mail id given therein.

12. According to the petitioners, a perusal of the names of the 26 companies indicate that they are companies where Mr. Karti Chidambaram has direct interest or companies owned by the relatives and friends of Mr. Karti Chidambaram. The petitioner companies are directly connected with Mr. Karti P. Chidambaram who is the son of former Finance Minister of India and presently Member of Parliament. According to the petitioners, even companies with a tenuous link with Karti P. Chidambaram have been targeted and included in the schedule to the impugned communication on the basis of malafide intention and politically motivated targets. Out of the 26 companies to which the notice was sent, four companies do not exist at all and their names have already been struck off by the Registrar of Companies three years ago. Further, the remaining 22 companies have no suspicious financial transactions, however, they were charged for having allegedly committed a scheduled offence as defined under Section 2 (y) of PMLA. According to the petitioners, unless a company is being prosecuted for any scheduled offence or found to be in possession of proceeds of crime, the Enforcement Directorate will have no power to investigate the transactions of the companies. Thus, the entire investigation conducted by Enforcement Directorate against the 26 companies is vitiated by malice of law and without jurisdiction.

13. The petitioners would mainly contend that the communication dated 16.05.2016 is an unsigned communication and it has been sent to all the financial institutions under the caption "investigations under the provisions of the PMLA". In the said communication, the second respondent herein had enclosed a list of 26 companies with their PAN number. The petitioners are aggrieved by the inclusion of their name in the list of entities sent by the second respondent to financial institutions since it has cast serious aspersions on the credibility of the petitioners when they have not indulged in any questionable or suspicious financial transactions and all their transactions are in compliance with the laws of the Country. According to the petitioners, the jurisdiction of the Enforcement Directorate is limited to investigate and prosecute the offence as defined in Section 3 of PMLA. The enforcement directorate cannot conduct a fishing or roving enquiry into the affairs of any person or citizen. The petitioners are entirely in the dark of what is the investigation being carried on against them under the provisions of PMLA. This is obvious from a reading of the schedule attached to the impugned communication. An investigation in respect of a scheduled offence under Section 3 of the PMLA against the petitioners would therefore be grossly violative of their fundamental rights guaranteed under Article 14 of The Constitution of India to enable them to carry on their legitimate business. According to the petitioners, the second respondent is a consultant of the first respondent. The second respondent, who has issued the letter dated 16.05.2016 is not a statutory authority empowered under the PMLA to issue any advisory of this nature. Only an officer of the enforcement directorate has got power to issue advisories of this nature. In such

circumstances, according to the petitioners, the impugned communication has been issued without authority of law and it lacks jurisdiction. In such circumstances, the petitioners seek for quashing the communication which is impugned in these writ petitions.

WP No. 36736 of 2016:-

14. This writ petition has been filed by M/s. Advantage Strategic Consulting Private Limited for a Mandamus directing the respondents to return the small plastic folder containing Indian Overseas Bank Deposit Receipts No. 35160 dated 08.03.2014; 351999 dated 08.03.2014, 351598 dated 08.03.2014 and 351597 dated 08.03.2014 in the name of the petitioner which was seized by the second respondent from the residence of the Director of the petitioner Mr. C.B.N. Reddy during the search operations on 01.12.2015 under the Panchanama in exercise of power under Section 37 of FEMA, 1999. The very same petitioner has filed WP No. 40240 of 2015 mentioned above for the relief of declaration. According to the petitioner, they are engaged in the business of consultancy with professionals in the field. The petitioner has set up a subsidiary in Singapore. The petitioner has been regularly filing FLA statement being the form of annual return on foreign liabilities and assets showing the summary of foreign assets and liabilities. Thus, all the assets and liabilities of the petitioner and its Singapore subsidiary are in the form of records with Reserve Bank of India and Registrar of Companies. While so, without any reason to believe that the petitioner has violated any of the provisions of FEMA, an unauthorised search was conducted by the enforcement directorate on 01.12.2015 in their office premises by abusing the powers conferred under Section 37 of FEMA merely based on a news paper information. Challenging the manner in which such search has been conducted, the petitioner has already filed WP No. 40240 of 2015 contending that the enforcement directorate has conducted the search in total violation of the provisions of Section 37 of FEMA.

15. In the present writ petition, the petitioner would contend that during the course of search in the residence of Mr. C.B.N. Reddy, Director of the petitioner company, among other documents, the officials of the enforcement directorate have seized one small plastic folder containing Original Indian Overseas Bank Deposit Receipts No. 35160 dated 08.03.2014; 351999 dated 08.03.2014, 351598 dated 08.03.2014 and 351597 dated 08.03.2014. According to the petitioner, since the search itself was illegally conducted, they have filed WP No. 40240 of 2015 before this Court in which this Court, by an order dated 20.12.2015 directed the respondents to file the records on 18.01.2016. However, the respondents have not produced the files as directed by this Court. The petitioner has sent a legal notice dated 14.12.2015 on behalf of Mr. C.B.N. Reddy addressed to the second respondent seeking to return the plastic folder containing the above original deposit receipts, but there was no response. On 23.09.2016, another

notice was sent to the second respondent reiterating the very same demand for return of the documents, but there was no response. The petitioner was therefore constrained to file an application dated 30.09.2016 before the respondents under Section 37 (3) read with Section 132 (8), 8A and 10 of the Income Tax Act seeking return of the plastic folder containing the original Indian Overseas Bank Deposit Receipts seized on 01.12.2015. As there was no response to such application the petitioner has come up before this Court with this writ petition for a Mandamus as mentioned above.

16. In all these writ petitions, the respondents/Directorate of Enforcement has filed affidavits opposing the averments contained in the writ petitions. The affidavits filed in these cases are almost identical and similar. In one such affidavits filed in WP No. 31288 of 2016, it is stated by the respondents that the writ petitions are not maintainable and therefore they have raised a preliminary objection as regards maintainability of these writ petitions before this Court. According to the respondents, the investigations done by the department relates to 2G spectrum scam case and the Aircel-maxis case. Therefore, only the Honourable Supreme Court has jurisdiction to decide whether the present case is related to investigation carried on with respect to the financial irregularities committed by Aircel Maxis or not.

17. The respondents placed reliance on the order passed by the Honourable Supreme Court on 16.12.2010 in CPIL vs. Union of India reported in 2011 (1) SCC 560 wherein the Honourable Supreme Court directed that progress reports based on the investigation conducted by the CBI and ED were to be produced before it on 10.02.2011. Subsequently, in the very same case in CPIL Vs. Union of India reported in (2011) 1 SCC 560 the Honourable Supreme Court has directed that a first information report be registered in the context of irregularities committed in the grant of licenses during the period between 2001 and 2006-2007. On 04.01.2011, the CBI registered a Preliminary Enquiry Registration Report bearing No. PE-DAI-011-A-001. On 10.02.2011, the Honourable Supreme Court in the case in CPIL vs. Union of India reported in (2013) 8 SCC 18 directed that no Court shall pass any order which in any manner impedes the investigation being carried out by the CBI and Directorate of Enforcement. In the order dated 11.04.2011, the Honourable Supreme Court in the very same case in CPIL vs. Union of India (2012) 3 SCC 117 issued further direction stating that any prayer for staying or impeding the trial court could only be made before it. According to the respondents, whether or not a particular case is referable or relateable to 2G Spectrum case, it has to be decided only by the Honourable Supreme Court. In this context, the respondents relied on the decision of the Delhi High Court in the case of ETHL vs. Registrar General, Delhi High Court in WP No. 70 of 2012, wherein by an order dated 24.02.2012, the Delhi High Court refused to entertain the writ petition on the ground that Supreme Court is monitoring the investigation with respect to 2G spectrum scam.

18. Pursuant to the directions issued by the Honourable Supreme Court, the CBI and Enforcement Directorate have filed status report before the Honourable Supreme Court in relation to the investigation under PE/DAL/2011 A 0001 on 01.09.2011, 28.09.2011, 10.10.2011. Subsequently, on 09.10.2011, CBI registered a first information report in RC DAL 2011 A 0022 which pertains to the Aircel Maxis case. The Honourable Supreme Court continued to monitor the investigation after registration of the FIR against Aircel-marxis recorded in the orders dated 07.11.2012, 19.11.2012, 17.04.2013, 01.05.2014. Therefore, according to the respondents, the continuous filing of status reports on the investigation of the 2G spectrum cases before the Honourable Supreme Court establishes that the Honourable Supreme Court is seized of the cases and no other Court, including this Court, has no jurisdiction over such investigation carried on by the respondent.

19. It is also brought to the notice of this Court that on 29.08.2014, CBI has filed charge sheet against Mr. Dayanidhi Maran before the Special Court having jurisdiction over the case. This case relates to the investigation carried on relating to grant of FIPB approval in relation to the take over of Aircel Limited by Maxis Bhd., through Global Communication Services Holdings Limited, the approval of which was given by the then Finance Minister. On 20.04.2015 and 09.09.2015, further status reports were filed before the Honourable Supreme Court relating to the on-going investigation in the 2G case. Further, the learned Special Judge hearing the 2G Spectrum Case, in its order dated 17.09.2016, upheld its jurisdiction in the Airtel Maxis case holding it to be a case involving 2G spectrum scam. Such an order dated 17.09.2016 passed by the learned Special Judge was upheld by the Honourable Supreme Court on 17.10.2016.

20. It is the vehement contention of the respondents that on 07.02.2012, the Enforcement Directorate recorded an Enforcement Case Information Report bearing No. ECIR/05/D/2012 and commenced investigation in to Aircel-Maxis Case under the provisions of PMLA. The enforcement directorate filed a complaint dated 08.01.2016 (Enforcement Directorate vs. Dayanidhi Maran) before the Special Court. As per the complaint, the investigation relates to FIPB approval in the Aircel Maxis acquisition which interalia involves the investigation relating to payment of Rs.26,00,444/- by the parent company of Aircel Limited to Advantage Strategic Consulting Private Limited. In this context, the enforcement directorate has also sought permission of the Special Court to file supplementary complaints under PMLA on the basis of the outcome of the on-going investigation. Therefore, the investigation, which is questioned in these writ petitions relates to and arising out of FIPB approval in the Aircel Maxis case which has been held to be a 2G spectrum scam case. Further, the learned Special Judge, in the order dated 27.02.2016 (ED vs. Dayanidhi Maran) in C.C. No. 1 of 2016 granted leave to the enforcement directorate to continue the on-going investigation and to take action as per law.

21. As far as the summons issued to the petitioners are concerned, they are issued under the same ECIR/05/DZ/2012 recorded in the Aircel Maxis case. The summons relates to specific transaction pertaining to the on-going investigation carried on by the enforcement directorate. The PMLA summonses dated 05.07.2015, 18.07.2016, 31.08.2016 issued to the petitioner in WP No. 31288 of 2016 is in the nature of calling upon the petitioner to furnish certain details relating to the transactions with Advantage Strategic Consulting Private Limited and Advantage Strategic Consulting Singapore Pte. Ltd., details of payments made to companies from Astro All Asia Network Pte., Maxis Mobile Sdn., Bhd., Malaysia and Bumi Armada Borhad, Malaysia to the tune of US Dollar 11,000. It is specifically contended that the summons also relates to the payment of Rs.26,00,444/- made by the petitioner company namely Advantage Strategic Consulting Pvt Ltd.,

22. According to the respondents, the provisions of Section 65 of PMLA provides that the provisions of Criminal Procedure Code shall apply in so far as they are not inconsistent with the provisions of PMLA. Therefore, the CBI as well as the enforcement Directorate are empowered to file supplementary charge sheet pursuant to the outcome of their on-going investigation. It is contended that such investigation is still going on as could be evident from the minutes of the meeting dated 11.11.2016 and 14.10.2016 of the Coordination Committee of CBI, Income Tax Department and Directorate of Enforcement to take stock of the investigation conducted into the Aircel-Maxis case about the FIPB clearance.

23. It is stated that the communication dated 16.05.2016, which is challenged in WP No. 35844 of 2016 was issued to banks and not to petitioner companies. The letter was issued in exercise of powers under Section 12A of PMLA read with the guidelines issued in the notification No.5/2005 dated 01.07.2005. Such letters were sent on behalf of FIU on the basis of request made by the Directorate of Enforcement under the provisions of PMLA. Since those letters were sent by electronic mode, they were not signed. The e-mails have been sent through the official e-mail id of the consultant and not from a personal e-mail id and therefore it has the force of law.

24. As regards the allegation of the petitioners that a predicate offence has not been made out, it is stated by the respondents that the conclusion of the on-going investigation may or may not result in a predicate offence and therefore, such an averment made on behalf of the petitioners is premature. At this stage, it is too early for the petitioners to allege that the investigation did not disclose a predicate offence. When the investigation is in progress and it is yet to reach a finality, the petitioners cannot be allowed to contend that a predicate offence has not been made out and therefore the investigation carried on by the respondent is vitiated. Therefore, the respondents prayed for dismissal of the writ

petition on the ground that this Court has no jurisdiction to entertain them and no relief could be granted to the petitioners.

25. For the reply filed by the Enforcement Directorate, the petitioners have filed a common affidavit repudiating the contentions advanced on behalf of the respondents. In the affidavits filed on behalf of the petitioners, they would mainly contend that the investigation carried on by the enforcement directorate is not relatable or referable to the investigation carried on to implement the directions issued by the Honourable Supreme Court. The enforcement directorate is not currently investigating the petitioners under PMLA and FEMA as a part of its investigations into 2G spectrum scam which is being continuously monitored by the Honourable Supreme Court. Even as per the summons dated 09.09.2016 issued to the petitioners under Section 37 of FEMA, 1999 read with Section 131 (1) of Income Tax Act, 1961 and Section 30 of the Criminal Procedure Code, reference was made only to the file No. T-3/78/CEZO/C/2015 and such summons does not state that the attendance of the petitioners is required in connection with the investigation carried on under FEMA or PMLA. Therefore, it is contended that the petitioners are in no way connected with the investigation carried on with respect to 2G Spectrum Case. The petitioners are no way relevant for such investigation. The order of the Honourable Supreme Court relating to 2G Spectrum investigation will not bind them in any manner to file the present writ petitions before this Court and only to avoid the petitioners to ventilate their grievance before this Court by invoking the inherent jurisdiction conferred under Article 226 of The Constitution of India, it is alleged that the investigation carried on against the petitioners is relatable to 2G Spectrum case. The petitioners are in no way connected with the charge sheet filed by the CBI as against Mr. Dayanidhi Maran on 29.08.2014 before the Special Court. Pending CBI investigation relating to FIPB approval, there is no predicate or scheduled offence or there was no proceeds of crime involved as against the petitioners. There is nothing on record to show that the petitioners are being investigated in connection with 2G Spectrum case. Further, the names of the petitioners is not shown as accused for any predicate offence pertaining to 2G Spectrum Scam or Aircel-Maxis case. No where it has been stated why the petitioners are being investigated, especially when CBI has not named the petitioners as accused in any predicate offence pertaining to the 2G Spectrum or to the Aircel-maxis transaction. Therefore, the investigation carried on by the enforcement directorate against the petitioners has no nexus or connection to the order passed by the Honourable Supreme Court and consequently, the writ petition before this Court filed by the petitioners is maintainable. The instant summons issued to the petitioners cannot be used against them to conduct a roving or fishing enquiry. The order dated 10.02.2011 passed by the Honourable Supreme Court directing that no court should pass any order which would impede the investigation being carried out by the CBI and ED cannot apply to the first information reports filed subsequently by the CBI

and the enforcement directorate in Aircel-maxis case as those first information reports were not in existence when the order dated 10.02.2011 was passed. The enforcement directorate has no locus standi to conduct the present investigation under the PMLA against the petitioners in the absence of jurisdictional facts and consequently, the summons issued to the petitioners has to be set aside as they were unconstitutional, without jurisdiction and illegal. The CBI has not mentioned the names of the petitioners in the charge sheet filed in Aircel-maxis case. It is further stated that the enforcement directorate has not followed the procedures established under law before initiating the investigation against the petitioners under PMLA or FEMA. The offence under Section 3 of the PMLA is a non-cognisable offence. Section 45 (1) (a) of the Act was introduced by way of amendment under Act 20 of 2005 by which the words "every offence punishable under this Act shall be cognisable" were specifically omitted. Therefore, when the offence under Section 3 of the Act is non-cognisable, then the respondents would have no jurisdiction to investigate the offence without an order of the Magistrate. In such circumstances, the petitioners prayed for allowing the writ petitions as prayed for.

26. I heard the learned counsels on either side and given my anxious consideration to the rival submissions made. I have also gone through the material records produced by the counsel on either side, including the affidavits filed in support of the writ petitions, counter affidavits filed by the respondents, reply affidavit filed by the petitioners to the counter affidavits filed by the petitioners, written submissions made by both sides.

27. The whole argument made on behalf of both sides pertains to maintainability of the writ petitions before this Court. Mr. Gopal Subramaniam, learned Senior counsel appearing for the petitioners would contend that the respondents will have jurisdiction to carry out investigation under PMLA or FEMA only if a predicate or schedule offence is made out against the petitioners. In the absence of the same, the respondents has no jurisdiction either to commence or carry out the investigation. According to the learned Senior counsel, the respondents would mainly contend that the investigation carried on by the department, which is the subject matter of these writ petitions, relate to and arise out of first information reports registered during the year 2006. The investigation mainly relates to the FIPB approval granted by then Finance Minister of the Country. According to the learned Senior counsel, in the garb of investigation, the officials attached to the enforcement directorate, only to harass the petitioners and their family members and to compel them to subject to their investigation, has issued summons of this nature. Therefore, according to the learned senior counsel for the petitioners, the respondents, without any jurisdiction, have issued the impugned summons. The learned Senior counsel for the petitioners also would contend that even in the year 2015 itself, CBI has filed status report before the Honourable

Supreme Court and nothing much has been stated in those status reports against the petitioners. Further, the then Honourable Finance Minister himself has filed an affidavit before this Court stating that he and other persons have been examined by the CBI and pursuant to such examination, the CBI has not made any complaint or charge sheet thereof. In the absence of a complaint or charge sheet, the question of carrying out any investigation will not arise. Further, in the affidavit, it was clearly stated by the then Finance Minister that FIPB approval was granted by him even during the year 2006 in his capacity as a Finance Minister in accordance with law. Further, the petitioner in WP No. 31288 of 2016 was not a partner or Director in any of the firms to which the summons have been issued by the enforcement directorate and there is no remote connection between the companies to which summons have been issued and the petitioner in WP No. 31288 of 2016. Above all, the learned Senior counsel for the petitioners would contend that the investigation is being carried on to probe the alleged transfer of a sum of Rs.26,00,444/- by the petitioner company - Advantage Strategic Company Limited (ASCPL) an Indian Company (AVTL) from another Indian Company (ASCPL) in Indian rupee for the services rendered by the said company and the question of invoking the provisions of PMLA would arise only if the amount involved is more than Rs.30 lakhs. In such circumstances, according to the learned Senior counsel for the petitioners, the transaction in question cannot be construed to be a transaction within the meaning of 'predicated offence' contained in the PMLA. Consequently, the petitioners have every right to invoke the jurisdiction of this Court under Article 226 of The Constitution of India. While exercising powers conferred under Article 226 of The Constitution of India, this Court has sweeping powers to alleviate the grievance of a Citizen whose fundamental rights have been infringed. In such circumstances, the writ petitioners are justifiable in contending that the writ petitions are maintainable before this Court and consequently he prayed this Court to entertain the writ petitions for being disposed of on merits.

28. On the contrary, Mr. Anand Grover, learned Special Public Prosecutor appearing for the respondents would vehemently contend that since the investigation carried on by the respondents pertains to and arise out of the 2G spectrum case, progress of which is being monitored by the Honourable Supreme Court, no Courts in the Country has jurisdiction any case arising out of and in connection with such investigation carried on by the enforcement directorate. By placing strong reliance on the order dated 10.02.2011 of the Honourable Supreme Court wherein it was directed that no Court shall pass any order which in any manner impedes the investigation being carried out by the CBI and Directorate of Enforcement, the learned Special Public Prosecutor opposed the writ petitions and contend that this Court has no jurisdiction to entertain these writ petitions and the jurisdiction of this Court is ousted. It is further vehemently contended that investigation into the FIPB approval is still going on. Such investigation has been commenced to investigate the irregularities in the 2G

spectrum scam. Even though charge sheet has been filed in the Aircel-maxis case even in the year 2014, in the charge sheet, it has been clearly stated that as far as FIPB approval is concerned, the investigation is yet to be completed. On 27.02.2016, the Special Court where the complaint has been filed, has granted permission and/or leave to file additional charge sheet on the basis of the outcome of the investigation to be done by the department. Above all, since the investigation carried on by the department is being monitored by the Honourable Supreme Court, periodical reports are being filed before the Honourable Supreme Court indicating the progress of the investigation made by the Department. The Honourable Supreme Court has been fully appraised of the proceedings and progress of the investigation being carried on by CBI as well as the Enforcement Directorate. The investigation which the respondent are presently carried on is part of the reports filed before the Honourable Supreme Court and therefore, according to the learned Special Public Prosecutor, the jurisdiction of this Court is specifically ousted to entertain these writ petitions.

29. In this connection, the learned Special Public Prosecutor relied on the complaint filed under PMLA before the learned Special Court in Aircel Maxis Case by the Directorate of Enforcement, New Delhi on 08th January 2016. In the complaint, in para No.14, it has been stated as follows:-

"14. It is most respectfully submitted that after filing charge sheet on 29.08.2014, Central Bureau of Investigation is further investigating the matter of FIPB approval given by the then Finance Minister to GCSHL for the acquisition of shares of Aircel Limited. The charge sheet filed by CBI states inter alia, as under:-

"M/s. Global Communication Service Holdings Ltd., Mauritius had sought FIPB approval for 800 Millions USD for which Cabinet Committee on Economic Affairs (CCEA) was competent to grant approval. However, the approval was granted by the then Finance Minister. Further, investigation is being carried out into the circumstances of said FIPB approval granted by the then Finance Minister. The related issues are also being investigated.

15. It is most respectfully submitted further that investigation, relating to FIPB approval in Aircel-Maxis Deal, is also being carried out by this Directorate under PMLA. Certain investigation in this connection is being carried out relating to the suspected payment of Rs.26,00,444/- by the parent company of Aircel Limited, namely ATVL on 11.04.2006 to a company namely M/s. Advantage Strategic Consulting Pvt Ltd., (ASCPL) under the head of payment of consultancy services.

16. It is revealed further during the course of investigation under PMLA that the profile of ASCPL

reveals, inter alia, that it was incorporated on 12.07.2005 in Chennai. At the time of incorporation, 10,000 shares were issued, which were held by Ms. Padma Viswanathan and Sh. Ravi Viswanathan. This company was brought under the control of the individual and two companies namely Ausbridge Holdings and Investments Pvt Ltd., (Ausbridge) and Kriya FMCG Distributors Pvt Ltd., (KFDPL) subsequently. In the year 2009, Sh. CBN Reddy and KFDPL Ltd., were allotted 19% shares and in the year 2011 Ausbridge was allotted 66.67% shares. It is further submitted that application to FIPB was filed on 30.01.2006 by Aircel Limited and the company Ausbridge was incorporated on 07.01.2006.

17. It is revealed further during the course of investigation under PMLA that ASCPL issued 2 lakh equity shares to Ausbridge in 2011 on payment of Rs.5 lakh i.e., @ Rs.2.5 per share. Whereas, in the year 2008, ASCPL allotted shares at the premium of Rs.77.50 per share. The book value of share of ASCPL was Rs.140.33 on 31.03.2010 and Rs.1219 as on 31.03.2011. The net-worth of ASCPL in the year 2011 appears to be Rs.18 crore approx.

18. It is revealed further during the course of investigation under PMLA that the company ASCPL was already in financial transactions with the other companies namely M/s. Chess Health Care Solutions Pvt. Ltd., M/s Chess Management Services Pvt Ltd., and M/s. Halidon Marketing Pvt Ltd., since the F.Y. 2005-2006. It is most respectfully submitted that further investigation under PMLA is being carried out.

19. It is most respectfully submitted that during the course of investigation from ASCPL under PMLA, it is revealed further that M/s. Vasan Health Care Pvt Ltd., (VHCPL) was incorporated on 22.06.2007. Dr. A.M. Arul is Managing Director and Chairman and Sh. V. Dwarkanathan is his father-in-law. Shares (1.5 lakh) of VHCPL were transferred to ASCPL in the year 2008 at a price which does not prima facie appear to be in conformity with the rate at which the shares were issued to the promoters.

20. It is most respectfully submitted that during the course of investigation under PMLA, it is revealed, inter-alia, that the net worth of 5% equity shares of VHCPL held by ASCPL was Rs.102.65 crore in 2009, Rs.177.22 crore in 2010 and Rs.206.58 crore in 2011. The share of VHCPL reached upto Rs.2358.49 including premium in 2011-2012. The investigation indicates further that M/s. Sequoia Capital India Investments Holdings III, Mauritius (a foreign company) purchased 30,000 shares of VHCPL from ASCPL in the year 2009 for Rs.22.50 crore, at the premium of Rs.7500 per share approx. It is most respectfully submitted that further investigation in this connection is being carried out.

21. The aspects of on going investigation, inter-alia, are receipt and transfer of funds in and outside India from ATVL and Maxis, directly and indirectly to/from the suspected Indian entities. The Hon'ble Court has issued Letters of Request on 01.12.2015 under Section 57 of PMLA to Singapore and UK for investigation outside India. Execution Reports of the Letters of Request are awaited.

22. The complainant craves leave of this Honourable Court to file further supplementary complaint (s) under PMLA on the basis of the outcome of ongoing investigation in and outside India.

30. By placing reliance on the above averments contained in the complaint, the learned Special Public Prosecutor would contend that after filing of the charge sheet, the investigation is still going on. In the charge sheet, it could be evident that the department has sought the leave of the Court to file Supplementary charge sheet under PMLA on the basis of the outcome of the on going investigation. Pursuant to the filing of such complaint, the department is carrying out investigation and on the strength of the leave and/or permission granted by the Special Court to proceed further with the investigation as per law.

31. The learned Special Public Prosecutor would contend that in the earlier round of litigation before this Court, which involved attachment proceedings under PMLA in relation to the Aircel Maxis investigation, by order dated 10.06.2015, this Court dismissed WP No. 12464 of 2015 filed by Kal Communication Pvt Ltd., holding that this Court has no jurisdiction to entertain the writ petition. In the above said order, this Court has noted the investigation done by the CBI regarding the allegations relating to FIPB approval in Aircel Maxis deal in Case NO. RC DAI 2011 (A) 9922. Similarly, the jurisdiction of the Special Court itself has been challenged and by order dated 23.07.2015, the Special Court dismissed an application filed by some of the accused in CBI vs. Shyammal Ghosh, CC. No. 1 of 2012 which was relatable to RC DAI-20110-A-0024. By raising very same averments, the petitioners herein, who are Directors of the company in question, have filed the present writ petitions questioning the authority of the respondent to carry out investigation under PMLA and FEMA. According to the learned Special Public Prosecutor, all the cases related and referable to 2G Spectrum Case is being monitored by the Honourable Supreme Court. The present case also involves investigation being carried out by the enforcement directorate under PMLA and FEMA relating to and in connection with Aircel Maxis case and therefore this Court has no jurisdiction to entertain these writ petitions.

32. Mr. Gopal Subramaniam, learned Senior counsel for the petitioners would contend that there is a serious doubt as to whether at all the investigation presently carried on by the respondents is relatable to 2G Spectrum Case, whether the investigation is still going on and whether it is relatable to

the FIPB approval granted in the year 2006. According to the learned Senior counsel for the petitioners, these details have not been indicated in the summons issued to some of the petitioners. In such circumstances, whether such summons issued to the petitioners could form the basis for ousting the jurisdiction of this Court is his contention. I find no force in such submissions made by the learned Senior counsel for the petitioners. While issuing summons, the respondents need not elaborate or indicate the details as to whether the investigation proposed to be carried out by them is relatable to 2G Spectrum case or not. In any event, in order to show that the investigation is in progress, the respondents have produced the minutes of the meeting of the Coordination Committee of Central Bureau of Investigation, Income Tax Department and Directorate of Enforcement held on 14.10.2016 and 11.11.2016. In the minutes of the meeting held on 14.10.2016, it has been mentioned in clause 6 as follows:-

"6. The CBI Officers mentioned that further investigation in the Aircel-Maxis Case about FIPB clearance issue etc., is still in progress. The ED Officer also mentioned that investigation under PMLA in Aircel-Maxis case is in progress. CBI has requested the Income Tax official to pursue the matter with CIT, Chennai for providing the required documents which are sought by CBI in the Aircel-Maxis Case.

33. Similarly, in the minutes of the meeting held on 11.11.2016, reference was made to the fact that investigation into the Aircel-Maxis case is still in progress.

34. The learned Senior counsel for the petitioners raised an objection for production of the copies of the minutes of the meeting by the learned Special Public Prosecutor on the ground that they were produced before this Court at the fag end of the arguments. Further, it was stated that the minutes of the meeting was not signed by a competent officer of the Enforcement Directorate but only by the Assistant Director of Income Tax. Further, an objection was raised that it is not an authenticated copy produced before this Court.

35. The learned Public Prosecutor only submitted that only to show that the investigation is in progress and to disprove the contentions raised on behalf of the petitioners, he has produced a copy of the minutes of the meeting. In any event, according to the learned Public Prosecutor, the investigation is still going on. At this stage, the learned Public Prosecutor, in a carefully worded submissions, would state that "investigation is going on and the investigation ultimately may or may not result in a predicated offence against the petitioners". Therefore, according to the learned Special Public Prosecutor, at this stage, it is premature for the petitioners to question the manner in which the respondents are conducting the investigation. At any rate, at the instance of the petitioners, the investigation agency need not be restrained from carrying out a lawful investigation which is

being monitored by the Honourable Supreme Court of India. According to the learned Special Public Prosecutor, whether the investigation presently carried on by the respondents is relatable to 2G Spectrum or not can also be decided only by the Honourable Supreme Court of India and this Court has no jurisdiction to decide the same.

36. Yet another argument advanced by Mr. Gopal Subramaniam, learned Senior counsel for petitioners is the respondent has no jurisdiction to carry out any investigation against the petitioners under the provisions of PMLA, unless a predicated offence is made out against them, which is mandatory for carrying out an investigation. This submission of the learned Senior counsel for the petitioners cannot be countenanced at this stage. Unless an investigation is carried out by the department, it cannot be concluded as to whether any predicated offence has been made out or not by the petitioners. Therefore, it is too early on the part of the petitioners to contend that they have not committed any predicated offence warranting an investigation by the respondents. Further, in the complaint made by the Directorate of Enforcement, mentioned above, it has been clearly stated that investigation is required to be carried out relating to the manner in which FIPB approval has been granted by the then Finance Minister. Further, in the complaint, the Enforcement Directorate has sought permission and/or leave to carry out further investigation which has also been granted by the Special Court. Therefore, based on such leave granted by the Special Court, the Enforcement Directorate has got every right to continue the investigation and to file a supplementary charge sheet as contemplated under Section 173 (8). Such a course of action adopted by the enforcement directorate cannot be restrained by this Court by entertaining these writ petitions especially when the entire case is monitored by the Supreme Court.

37. In the order dated 16.12.2010 in CPIL vs. Union of India (2011) 1 SCC 560, the Supreme Court directed that periodic progress reports based on investigations conducted by CBI and enforcement directorate has to be produced before it during the next hearing on 10.02.2011. On 10.02.2011 the Supreme Court in CPIL vs. Union of India passed an order holding that no Court shall pass any order which may, in any manner, impede the investigation being carried on either by the CBI or the Directorate of Enforcement. Such an order was reiterated by the Honourable Supreme Court in the subsequent order passed on 11.04.2011 in the case of CPIL vs. Union of India (2012) 3 SCC 117 holding that any prayer for either staying or impeding the trial could only be made to it. Further, in the order dated 24.02.2014 passed by the Honourable Supreme Court in ETHL vs. Registrar General, Delhi High Court in WP No. 70 of 2012, it was held that whether or not a particular case relates to a 2G Spectrum scam or not has to be decided only by it. Accordingly, periodical status reports have been filed before the Honourable Supreme Court in relation to the investigation under PE DAI 2011 A 0001 on various dates. On 09.10.2011, CBI registered a first information report in RC

DAI 2011 A 0022 which pertains to the irregularities said to have been committed in the Aircel Maxis case. Subsequently, on 29.08.2014, CBI has filed charge sheet in CBI vs. Dayanithi Maran before the Special Court, the investigation of which includes grant of FIPB approval given by the then Finance Minister in relation to the take over of Aircel Limited by Maxis Bhd through Global Communication Services Holdings Limited and "related issues" the investigation of which, according to the learned Special Public Prosecutor, is still going on and the investigation is at various stage. The status of the investigation was also subsequently submitted to the Honourable Supreme Court on 20.04.2015 and 09.09.2015.

38. It is also brought to the notice of this Court that the learned Special Judge in his order dated 17.09.2016 upheld his jurisdiction in the Aircel Maxis case and held it to be a 2G spectrum case. Such an order dated 17.09.2016 was upheld by the Honourable Supreme Court on 17.10.2016 in the case of South Asia Entertainment Holdings Limited vs CBI in Special Criminal Case No. 7397 of 2016. Therefore, by relying on the above orders passed by the Honourable Supreme Court, the contentions raised by the learned Special Public Prosecutor that the investigation presently carried on by the enforcement Directorate against the petitioners is relatable and referable to 2G Spectrum Case and consequently, this Court has no jurisdiction to entertain these writ petitions, is acceptable.

39. The petitioners in WP No. 40240 of 2015 and other petitioners namely petitioners in WP Nos. 32272, 32273, 32274 and 32275 of 2016 have filed the writ petitions questioning the various activities of the Enforcement Directorate on the ground that it has no authority to carry out such investigation. According to the petitioners, the investigation which is sought to be carried against them is intended only to harass them. In the absence of any prima facie case made out against them, an investigation is not warranted and they need not undergo the ordeal of subjecting themselves with such an investigation. Such a submission cannot be countenanced. Whether a prima facie case has been made out for investigation or whether the investigation pertains to 2G spectrum or not cannot be decided by this Court in these writ petitions, at this stage. As the investigation carried on by the respondents is being monitored by the Honourable Supreme Court and the Honourable Supreme Court is seized of with such investigation, this Court cannot entertain these writ petitions. No doubt, this Court has got power under Article 226 of the Constitution of India to alleviate the grievance of the public at large when it is complained that their fundamental rights are infringed. However, as far as this case is concerned, when the jurisdiction of this Court has been ousted by an express order passed by the Honourable Supreme Court, this Court cannot pass any orders in these writ petitions thereby directly or indirectly impeding the investigation carried on by the respondents.

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40. The learned Special Public Prosecutor appearing for the respondents brought to the notice of this Court the order

dated 17.04.2013 passed by the Honourable Supreme Court in I.A. Nos. 36, 38 to 57 and 58 in Civil Appeal Nos. 10660 of 2010. It is evident from the said order that the counsel representing the CBI has handed over three sealed envelopes containing progress report dated 20.02.2013, Note regarding investigation taken up by CBI regarding allegations about FIPB approval in Aircel Maxis deal in Case No. RC DAI 2011 A 0022 vis-a-vis issues raised by Dr. Swamy in IA No. 36 as also the response of the CBI to the Central Vigilance Commission's objection letter dated 11.03.2013. After perusing the reports, the Honourable Supreme Court returned the sealed envelopes in open Court and they were re-sealed at the direction of the Honourable Supreme Court. This order dated 17.04.2013 has been produced to show that the investigation into 2G Spectrum Case was in progress and the Honourable Supreme Court is periodically monitoring such investigation conducted by the CBI as also the Enforcement Directorate.

41. Mr. Gopal Subramaniam, learned Senior Counsel for the petitioners made a reference to the order passed by this Court in WP No. 12464 and 12465 of 2015 on 10.06.2015 in the case of Kal Communication Private Limited vs. Directorate of Enforcement wherein this Court has held that it has no jurisdiction to entertain the writ petitions. According to the learned Senior counsel for the petitioners, the said writ petition is the subject matter of appeal before the Honourable Supreme Court and the Honourable Supreme Court has also granted interim stay and therefore, the order dated 10.06.2015 passed by this Court cannot be relied on by the respondents. The fact remains that the investigation sought to be carried out by the respondents in these writ petitions on the basis of summons issued by them arise out of the same complaint. In the summons issued to the petitioners, which are impugned in some of the writ petitions, the petitioners were asked to produce certain documents for consideration. Though much arguments has been advanced by the learned Senior counsel for the petitioners that the documents sought for by the respondents is unnecessary or irrelevant and they have no connection to the investigation sought to be made, this Court and those documents are sought for only to conduct a rowing or fishing enquiry, this Court, at this stage, cannot go into the validity of such an averments made. While carrying out investigation, it is well open to the respondents to seek for any documents and the reliability or necessity of such documents cannot be questioned by the petitioners in these writ petitions, at this stage.

42. Yet another argument putforward by Mr. Gopal Subramaniam, learned Senior counsel for the petitioners is that there is no predicate offence made out against the petitioners. Even in the original complaint filed before the Special Court, by the Enforcement Directorate, the offences alleged to have been committed by the accused were under Section 120 (b) of IPC and the provisions of the Prevention of Corruption Act. In such view of the matter, the present investigation carried on by the respondents against the petitioners will not come under the purview of 2G spectrum case. In this context, useful

reference can be made to the order dated 01.07.2013 passed by the Honourable Supreme Court in WP (C) No. 57 of 2012 in which the order dated 21.12.2011 passed by the Special Judge, CBI, New Delhi has been challenged. In the order dated 01.07.2013, the Honourable Supreme Court clearly held that 2G Spectrum Case is triable by the Special Judge against the persons accused of offences punishable under the provisions of the Prevention of Corruption Act in view of sub-section (1) of Section 4. It was further held that the Special Judge alone can take cognisance of the offence specified in sub-section (1) of Section 3 and conspiracy in relation to them. While trying any case, the Special Judge may also try an offence other than the offence specified in sub-section (1) of Section 3, in view of sub-section (3) of Section 4. It was also held that a Magistrate cannot take cognisance of offence as specified in Section 3 (1) of the Prevention of Corruption Act. It was further held in the order dated 01.07.2013 that in that case, the petitioners were shown as co-accused in the second supplementary charge sheet filed in 2G scam case. While so, it was held that it is open to the Special Judge to take cognisance of the offence under Section 120-B and Section 420 of IPC. Further, in the subsequent order dated 03.09.2013 passed by the Honourable Supreme Court in WP (C) Nos. 549, 550, 551 and 552 of 2012 and 17 of 2013 (Shahid Balwa vs. Union of India and others) (2014) 2 SCC 687, the Honourable Supreme Court in Par No.27 held as under:-

27. More and more demands are now coming before the Courts for its monitoring of investigation relating to crimes committed by influential persons and persons who have political influence, with the apprehension that they could derail the investigation. Courts in public interest sometime have to take such a course in the larger public interest. That burden this Court has discharged in various cases like Vineet Narayan's case and Gujarat Communal Riot's case, etc. This Court has taken the consistent view that once charge-sheet is submitted in the proper Court, the process of Court monitoring investigation comes to an end and it is for that Court to take cognizance of the offence and deal with the matter. But, so far as the present case is concerned, we have already indicated that charge-sheet has been filed only in one among the various 2G related cases. This Court, while passing the impugned order, only directed speedy trial and, that too, on a day-to-day basis which cannot be termed as interference with the trial proceedings.

43. It is evident from the above order passed by the Honourable Supreme Court that an observation was made that the charge sheet was filed by the investigation agency in only one among the various 2G related cases. In such circumstances, the submissions of the learned Special Public Prosecutor that supplementary charge sheet will be filed based on the outcome of the investigation has to be accepted and consequently the submission of the learned Senior counsel for the petitioners

that in the complaint only the alleged offence punishable under Section 120 (b) of IPC and the provisions of the Prevention of Corruption Act alone has been mentioned and therefore this Court has jurisdiction to entertain these writ petitions cannot be countenanced.

44. At this juncture, it is also relevant to look into the definition given to the term "investigation" under Section 2 (na) of PMLA as the one which includes all the proceedings under this Act conducted by the Director by an authority authorised by the Central Government under this Act for the collection of evidence. It is therefore evident that the investigation carried on by the enforcement directorate is related to 2G Spectrum case and the original complaint has been filed by the investigation agency for a predicate offence. It is also seen from the charge sheet filed by the CBI in RC 22 (A)/2011-DLI (Aircel-Maxis Case) that the investigation is also being carried on relating to the manner in which FIPB approval has been granted and other related issues. Further, the Honourable Supreme Court in the order dated 09.02.2015 in WP (Crl) No. 14 of 2015 has categorically held that liberty has not been given to the petitioner therein to approach the High Court or any other Court except the Special Judge, at the first instance to raise the jurisdictional issue.

45. Attention of this Court has also been drawn to the order dated 23.07.2015 passed by the Special Court, CBI Cases (2G Spectrum Cases) New Delhi in C.C. No. 1 of 2012 wherein it was observed that all cases arising out of irregularities allegedly committed from 2001 to 2006-2007 are part of what is known as "2G Spectrum scam" and as such, all cases arising therefrom are to be dealt with accordingly. The Special Court further observed that the fact that some irregularities were committed during the tenure of different Ministers does not make any difference. It was further observed that the submission made on behalf of the petitioners that preliminary enquiry, RC number, period and some other features of the instant cases are different and therefore it is not triable by the Special Court has been rejected as without any merits. It was held that the cases arising out of alleged irregularities committed in grant of Licenses and Spectrum from 2001 onwards and forming subject matter of CAG report and order dated 16.12.2010 of the Honourable Supreme Court are all within the jurisdiction of the Special Court being arising from the "2G Spectrum Case". In such view of the matter, this Court is not inclined to entertain the writ petitions as they are not maintainable before this Court.

46. As far as the affidavit filed by the then Finance Minister before this Court is concerned, even though such an affidavit is not necessary in a case relating to summons issued to his son, yet it has been filed stating that already CBI has recorded his statement as also others connected with the case on 06.12.2014 relating to the FIPB approval but CBI has not found or reported any offence under any law in respect of the said FIPB approval, such an affidavit cannot be a basis for

arriving at any conclusion by this Court to pass any orders in these writ petitions. This is more so that permission and/or leave has been granted by the Special Court to the enforcement directorate to carry out further investigation in this case. In any event, whether CBI has found or reported any scheduled offence in the grant of FIPB approval or not cannot be decided by this Court when such an issue is seized of by the Honourable Supreme Court. Therefore, at this stage, this Court cannot deal with the averments contained in the affidavit dated 29.11.2016 filed by the then Finance Minister.

47. In so far as the Petitioners in WP Nos. 35844 and 35845 of 2016 are concerned, it is their contention that the notices dated 16.05.2016 issued to them are unsigned notices and they were sent to various financial institutions asking for details of bank accounts maintained by them and it has nothing to do with the investigation being carried on by the respondents. The details sought for by the respondent is only to fish out evidence and to conduct a roving enquiry which affects the fundamental rights guaranteed to them besides it affects the privacy of an individual. Further, the notices have been issued by a private party - consultant, which is legally not sustainable. It is further stated that none of the companies, to which the notices dated 16.05.2016 has been issued are in any manner connected with Mr. Karti P. Chidambaram. The petitioners companies are carrying out their lawful business in accordance with law.

48. In the counter affidavit filed by the respondents, it is stated that the notices dated 16.05.2016 has been issued in exercise of the powers conferred on the first respondent under Section 12A of PMLA read with notification No.5 of 2005 dated 01.07.2005. According to the respondents, the notices dated 16.05.2016 was sent on behalf of the first respondent on the basis of a request made by the Directorate of Enforcement which is investigating the offences committed under the provisions of PMLA and the first respondent is an authorised agency under Section 66 of the PMLA to receive information from FIU-India. It is further stated that FIU-India is an intelligence organisation is empowered to seek certain information in exercise of the powers conferred under Section 12A of PMLA which is essential for the functioning of FIU-India. It is further stated that the communication dated 16.05.2016 was never addressed to the petitioner companies by the first and second respondents and it was issued by the second respondent on the directions of first respondent to the financial institutions which are duly authorised to call for information from various reporting entities under PMLA. According to the respondents, the petitioners not being bona fide addresses or recipients of the communications dated 16.05.2016, have come up with these writ petitions. The petitioners are having in their possession a privileged communication which is meant to be a communication between FIU-India and reporting reporting entities, which raises serious concerns for the first respondent, being an intelligence organisation. Therefore, the respondents prayed for dismissal of these writ petitions.

49. Out of the two writ petitions namely WP Nos. 35844 and 35845 of 2016, WP No. 35844 of 2016 was filed for a Writ of Certiorarified Mandamus to quash the communication dated 16.05.2016 of the third respondent and consequently direct the third respondent to recall the notice dated 16.05.2016 sent to all the financial institutions. WP No. 35845 of 2016 has been filed for a Mandamus to forbear the third respondent from carrying out any investigation against the petitioners company pursuant to the notice dated 16.05.2016 without following the procedure established by law. On perusal of the rival contentions urged on behalf of both sides, it is clear that what is challenged in these two writ petitions is only a notice sent by the third respondent on behalf of the first respondent. According to the respondents, the communication dated 16.05.2016 has not been addressed to the petitioners at all or they are not intended to be also. In any event, when a notice has been issued by a statutory authority calling for certain particulars, the relevant authorities are bound to produce the details sought for. More so, such details are sought for during the course of investigation conducted by the respondents under the provisions of PMLA. While so, when the notices have been issued by the respondents as part of their on-going investigation in 2G Spectrum case, as per the order passed by the Honourable Supreme Court, this Court has no jurisdiction to entertain these writ petitions.

50. The investigation presently carried on by the respondents is seized of by the Honourable Supreme Court and the progress of such investigation is being periodically monitored by it. The Special Court constituted to deal with 2G Spectrum case or Aircel Maxis case has granted permission to carry out further investigation which would empower the respondent to file supplementary charge sheet as contemplated under Section 173 (8) of Cr.P.C. In such circumstances, this Court is not inclined to entertain these writ petitions and the writ petitions only deserve to be dismissed.

51. Even though a preliminary objection relating to maintainability of these writ petitions have been raised by the respondents, the learned Special Public Prosecutor appearing for the respondents would submit that what is challenged in some of these writ petitions is a summon issued by the respondents. Normally, this Court cannot interfere with the summons issued to any Citizen seeking certain information. Further, the petitioners need not apprehend that any vindictive action will be taken against them by the respondents. The officials of the respondents or the respondents have never indulged in harassing the petitioners or their family members as alleged. The object behind issuing the summon is only to ascertain certain facts within the knowledge of the petitioner. It is further stated that initially the representative of the respective petitioners can appear before the respondents, on summons, for an enquiry and if necessary, the respective petitioners will be required to appear before the respondents. It is therefore submitted that the respondent has no intention

to either humiliate or harass the petitioners, as alleged. The said statement made by the learned Special Public Prosecutor is recorded.

52. As regards the relief sought for in WP No. 36736 of 2016 is concerned, the action of the respondents in not returning the small plastic folder containing deposit receipts, which was seized on 01.12.2015 is called in question. Admittedly, such deposit receipts were seized by the enforcement directorate during a search conducted by them in the residence of Director of the petitioner company namely Mr. C.B.N. Reddy on 01.12.2015. The very search conducted by the respondents on 01.12.2015 is the subject matter of challenge in WP No. 40240 of 2015. As discussed above, this Court has no jurisdiction to entertain or consider the relief sought for in WP No. 40240 of 2015 and consequently, the relief sought for in WP No. 36736 of 2016 also cannot be granted by this Court.

53. As mentioned above, since the investigation carried on by the respondents is being monitored by the Honourable Supreme Court, it is too early for this Court to take up these writ petitions for adjudication on merits. Consequently, the preliminary objection raised on behalf of the respondents is sustained. The writ petitions are dismissed as they are not maintainable before this Court. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- सत्यमेव जयते
1. THE SECRETARY
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GOVERNMENT OF INDIA
MINISTRY OF FINANCE DEPARTMENT OF REVENUE
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 2. THE DIRECTOR OF ENFORCEMENT
DIRECTORATE OF ENFORCEMENT GOVT OF INDIA
MINISTRY OF FINANCE HEADQUARTERS
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 3. THE JOINT DIRECTOR
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4.THE ASSISTANT DIRECTOR
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+2cc's to M/s.G.Hema, Advocate, S.R.No.1239
+5cc's to Mr.R.Parthiban, Advocate, S.R.No.1105
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WP No. 40240 of 2015,
WP Nos. 31288, 32272, 32273,
32274, 32275, 34118, 35844,
35845 and 36736 of 2016

MV(CO)
CA(18/01/2017)

सत्यमेव जयते

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