

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 11189 of 2014

Date of decision : 25.10.2017

White Water Foods Pvt. Ltd. & anr.

....Petitioner

V/s

State of Maharashtra & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Amanpal S. Mann, Advocate for the petitioners.

Mr. Suvir Sehgal, Advocate with
Mr. Namit Kumar, Advocate for respondent no. 1.

Mr. Shekhar Verma, Advocate for respondents no. 3 to 5.

Mr. Rohit Arya, Asst. A.G. Haryana.

RAJAN GUPTA J.

This order will dispose of bunch of petitions (i.e. CWP No. 11189 of 2014, CWP No. 14834 of 2014, CWP No. 14452 of 2014, CWP No. 14451 of 2014, CWP No. 14833 of 2014 & CWP No. 14442 of 2014) wherein challenge is posed to orders directing attachment of properties of petitioners by invoking section 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (hereinafter to be referred as 'the Act'). Facts of each case differ. However, main issue involved is as regards jurisdiction of this court to entertain these petitions. Same are, thus, being disposed of by a common order. For brevity facts are taken from CWP No. 11189 of 2014. Petitioner no. 1 is stated to be a company registered under the

Companies Act, 1956. Petitioner no. 2 is Director thereof. It was set up for providing electronic platform for the purpose of trading (purchase and sale) of agricultural based commodities. Petitioner-company became a member of National Stock Exchange Limited w.e.f. 09.01.2012. As a result of this, petitioner was permitted to carry out the activities on the exchange for itself and/or on behalf of its clients. Instant proceedings arise from various acts in relation to sale and purchase of commodities on NSEL web-portal. It appears that there was some dispute between the petitioners and NSEL regarding the financial transactions and calculation thereof. As a result, a complaint was lodged with the police which registered FIR No. 216 of 2013 against the Directors and key management personnel of NSEL, its borrowers and other persons under sections 409, 465, 467, 471, 477A and 120-B IPC. Thereafter, sections 3 & 4 of MPID Act were added in the said FIR. Complainant alleged that he was misled by the persons at the helm of affairs of NSEL. As a result, he traded on the said portal with the expectation that he would earn handsome returns. As per the averments made in the petition trading on NSEL portal was shut down on 31.07.2013 by the Exchange. It was claimed by management of NSEL that large sum was payable by the petitioner-company towards the transactions brokered by it. Investigation pursuant to the FIR also ensued. Petitioners claim that they have fully cooperated with the investigating agency. State of Maharashtra invoked the provisions of MPID Act and issued notices dated 09.11.2013, 17.03.2014 and 18.03.2014 to the Chandigarh Administration and Government of

Haryana directing them not to create any third party interest in respect of properties enumerated in the notices without permission of MPID court and to make necessary entries in the record to this effect. Aggrieved by the notices, petitioners have preferred the present writ petition(s). Action of respondent no. 1 is challenged on the ground that petitioners are not a financial establishment as defined in the Act nor have it they accepted any deposits from the complainant directly. Thus, said Act is not applicable to them. During the course of hearing, a preliminary objection was raised by the State of Maharashtra that notice has been issued pursuant to notification dated 22.06.2015 issued by Maharashtra Government. Said notification had been issued under section 4 of the Act. If aggrieved, petitioners have the remedy of approaching the competent court at Mumbai. It also placed reliance on judgment of Gujarat High court in Special Civil Application No. 18637 of 2015 titled as *Ashita Nilesch Patel & 1 vs. Deputy Secretary-Home Department & 9* wherein similar plea was rejected by Gujarat court. The court did not find any ground to go into the merits of the controversy in view of jurisdictional issue raised by State of Maharashtra. Special Leave Petition No. 10626-10627/2017 preferred against the said judgment was dismissed by Hon'ble Supreme Court vide its order dated 17.04.2017. The order passed reads as under:-

“The High Court has, inter alia, rejected the petition filed by the petitioners on the principle of forum conveniens holding that the designated Judge in the High Court of Bombay under the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act,

1999 would be more appropriate forum. We do not see any reason to interfere with this order. It is submitted that the petitioners have raised the issue of jurisdiction before the High Court of Gujrat viz. the petitioners are not the financial establishment. Since the notifications dated 12.03.2015 and 22.06.2015 issued by the Government of Maharashtra are challenged on this ground, it would be open to the petitioners to raise this issue before the High Court of Bombay. We also make it clear that any observations made by the Gujarat High Court in the impugned order on merits of the case shall not come in the way of the petitioners and the concerned court shall decide the matter on its own merits.

With the aforesaid observations these special leave petitions are dismissed.

Pending application(s), if any, stands disposed of accordingly. ”

In view of above, it is evident that impugned notices have been issued by the authorities in view of provisions of the MPID Act promulgated by State of Maharashtra for curbing the unscrupulous activities of Financial Establishments in the State. The Act provides for attachment of properties of Financial Establishments to ensure return of the deposits made by the public. It appears that authorities in Union Territory, Chandigarh and States of Punjab and Haryana have merely acted on the basis of communications/notices received from the appropriate authority in State of Maharashtra. Investigation pursuant to FIR No. 216 dated 30.09.2013 registered at police station MRA Manj, District Mumbai and sections 3 & 4 of the MPID Act appears to be pending at Mumbai. No ground is thus, made out for entertaining these

petitions by this court. Similar view was taken by High court of Gujarat and SLP No. 10626-10627/2017 preferred by petitioners, has already been dismissed. There is, thus no merit in these petitions. Same are hereby dismissed.

October 25, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No