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

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Judgment delivered on: 17.02.2017

+ W.P.(C) 274/2017

63 MOONS TECHNOLOGIES LTD.

..... Petitioner

versus

DEPUTY DIRECTOR, DIRECTORATE OF
ENFORCEMENT & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Rajiv Nayar, Sr. Adv. and Mr. Dayan Krishnan, Sr. Adv. with Mr. Ankur Saighal, Mr. Anuj Malhotra, Mr. Himanshu Satija and Mr. Anupam D. Gupta, Advocates

For the Respondents : Mr. Amit Mahajan, CGSC with Mr. Sumit Misra, Adv.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGEMENT

SANJEEV SACHDEVA, J (ORAL)

1. The petitioner seeks a direction to the respondent adjudicating authority to hear and dispose of the Original Complaint (O.C.) No.645/2016 and Original Complaint (O.C.) No.663/2016 together as one in a consolidated manner.

2. It is contended that both the complaints pertain to attachment of properties of the petitioner. Learned senior counsel for the petitioner submits that the alleged circumstances leading to the provisional

attachment of the assets of the petitioner emanate from the same set of facts. Even the relied upon documents are virtually the same excepting that there are two additional documents in O.C. No. 663/2016, which also are alleged to be the basis of contentions in O.C. No. 645/2016 .

3. Learned senior counsel for the petitioner points out that the objections raised and the response given by the petitioner to both the complaints as well as the source of funds for acquisition of the assets, sought to be attached in both the complaints, is identical.

4. Learned senior counsel for the petitioner submits that both the complaints have been placed before different adjudicating officers and separate hearing of the two complaints would lead to multiplicity of hearings as well as wastage of judicial time of the two adjudicating officers. Learned senior counsel for the petitioner submits that it would be expedient and also in the interest of justice if both the complaints are heard by one officer in a consolidated manner.

5. Learned counsel for the respondent submits that in so far as the O.C. No. 645/2016 is concerned, the same has already been finally heard and the orders have been reserved, so there is no question to hear the O.C. No. 645/2016 along with O.C. No. 663/2016 and the hearing in O.C. No. 663/2016 will have to be held separately.

6. Since the proceedings in O.C. No. 645/2016 are at the stage where arguments have already been concluded and the judgment is

reserved, the proceedings thereof cannot be re-opened or the said complaint argued afresh alongwith O.C. No. 663/2016. Thus there is no question of consolidating O.C. No. 645/2016 with O.C. No. 663/2016.

7. I find some merit in the submission of the learned counsel for the petitioner that, since the alleged facts leading to filing of the original complaints and the proposed action of attachment as well as the objections to the complaint and the source of funds disclosed by the petitioners is alleged to be identical, hearing of the O.C. No. 663/2016 by the same officer who has already heard the arguments in O.C. No. 645/2016 may be expedient and may save judicial time of the adjudicating officer.

8. Since, the matter of marking and distributing of complaints to different adjudicating officer is an administrative function, within the discretionary powers of the Chairperson, who would in exercise of his discretion, distribute the complaints keeping in view the administrative convenience, no mandamus would normally be issued by this court, interfering in the exercise of the discretionary power of the Chairperson.

9. However, in view of the request now made by the petitioners, that hearing of the O.C. No. 663/2016 by the same adjudicating officer who has heard the arguments in O.C. No. 645/2016, would be expedient and would save judicial time, the Chairperson, adjudicating authority is directed to take a fresh view in the matter.

10. It is clarified that in case the Chairperson is still of the view that circumstances and administrative exigencies do not warrant that O.C. No. 663/2016 be heard by the same adjudicating authority, who has heard arguments in O.C. No. 645/2016, then the Complaint would be proceeded with by the same adjudicating authority before whom it is already placed.

11. Since the proceedings are listed for hearing on 21.02.2017 and the statutory period for disposing of the complaint is expiring on 23.02.2017, the Chairperson is directed to examine the matter before the scheduled date of hearing so that the hearing is not disturbed, on this count.

12. It is clarified that this direction has been issued in the peculiar facts and circumstances of the case and without the same being treated as a precedent.

13. It is made clear that no allegation or apprehension of any nature has been expressed by the petitioners with regard to the Adjudicating authority and this order has been passed only keeping in mind the contention of expediency and saving of judicial time.

14. The writ petition is disposed of in the above terms.

15. Order *dasti* under signatures of the Court Master.

FEBRUARY 17, 2017/‘rs’

SANJEEV SACHDEVA, J