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

Judgment pronounced on: 23.03.2018

+ W.P.(C) 2864/2018 & CM Nos.11579-581/2018

SHRI JATINDER BALI Petitioner

Through : Mr. Siby Sankar Mishra and
Mr. Niranjan Sahu, Adv.

versus

UNION OF INDIA AND ORS. Respondents

Through : Mr. Sanjeev Narula, CGSC
with Ms. Anumita Chandra,
Adv.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

CM. APPL. No.11579/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 2864/2018 & CM. APPL.Nos.11580-581/2018

2. Issue notice. Mr. Sanjeev Narula accepts notice on behalf of the respondents. Learned counsel for the respondents says that he does not wish to file a counter affidavit in the matter in view of the order that I propose to pass.

3. The record shows that pursuant to the order dated 31.8.1999 passed against, one, Shri Kapil Dutt Bali under Section 7(1) & (3) read with Section 19(1) of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (in short SAFEMA), the impugned order dated 1.2.2018 came to be passed

by Sub-Tehsil Office, Mahilpur.

3.1 The petitioner, it appears at the relevant time was the partner of Shri S. Bali, who, since then has passed away.

3.2 The petitioner claims that he has 51% share in the reconstituted partnership firm which goes by the name M/s Mahilpur Oil Store. The balance 49% share is, presently, controlled by, one, Shri Kapil Dutt Bali, son of late Shri S. Bali.

4. The petitioner apart from anything else wishes to avail of the benefit of the provisions of Section 9 of SAFEMA which gives an option to pay fine in lieu of forfeiture of property provided conditions stipulated therein are fulfilled.

5. Learned counsel for the petitioner says that if an opportunity is given, a representation will be made to the competent authority within the time specified by the court.

6. Mr. Narula says that if a representation is made in terms of Section 9 of SAFEMA, the same will be considered and speaking order will be passed.

7. In these circumstances, this writ petition is disposed of with a direction to the respondents to pass a speaking order upon a representation being made by the petitioner, albeit, within a period of five weeks from today. A copy of the speaking order will be furnished to the petitioner. Pending disposal of the representation, no coercive action will be taken qua the petitioner pursuant to the order dated 1.2.2018.

8. In case the order passed by the competent authority is against the interest of the petitioner, the same will not be given

effect for a period of two weeks to enable the petitioner to take recourse to an appropriate remedy in accordance with law.

9. Pending applications shall stand closed.

10. *Dasti.*

MARCH 23, 2018

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RAJIV SHAKDHER, J

