IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 610 OF 2019
WITH
CRIMINAL APPLICATION NO. 1163 OF 2018

Shivgarh Resorts Ltd. **... Appellant**

V/s.

The State of Maharashtra **... Respondent**

WITH
CRIMINAL APPEAL NO. 611 OF 2019
WITH
CRIMINAL APPLICATION NO. 1166 OF 2018

Rakesh Pratap Singh **... Appellant**

V/s.

The State of Maharashtra and Ors. **... Respondents**

WITH
CRIMINAL APPEAL NO. 911 OF 2018
WITH
CRIMINAL APPLICATION NO. 813 OF 2018

M/s. Tuli and Company **... Appellant**

V/s.

The State of Maharashtra and Ors. **... Respondents**

Mr. Sahil Mahajan for the Appellants.
Mr. D.K. Jain for the Respondents.
Mr. V.B. Konde-Deshmukh, APP for the Respondent / State.
Mr. Anil Mule, EOW Unit-7, Mumbai.

CORAM : INDRAJIT MAHANTY &
A.M.BADAR, JJ.

DATE : 17TH JULY, 2019

P.C.

1. Heard learned Counsel for the respective parties. These Appeals under Section 11 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999 came to be filed by the Appellants/Company on various grounds including merits.

2. In course of argument, it was brought to our notice by the learned Counsel for the Appellants that the impugned order was passed ex-parte against Respondent Nos. 2 to 4 and it was further averred on Appellant (original Respondent Nos. 2 and 3) that no notice was ever served on them of the proceeding before the Designated Court and consequently, we have requested learned APP for State to obtain instructions in the matter. Today when the matter is called out, learned APP filed an instructions/report from EOW. The said report is taken on record and marked as “X” for its identification. Learned APP also affirmed the fact that no notice has ever issued by the Designated Court to the Appellants (original Respondent Nos. 2 and 3) in the original proceeding. In view of such fact and as admitted by learned APP, we are of the considered view that impugned order

dated 01.03.2018 be quashed in view of the fact that violation of principle of natural justice as well as rules framed under the MPID Act. Accordingly, the following order:

i) Impugned Order dated 01.03.2018 passed in Misc. Application No. 402 of 2015 in MPID Case No.18 of 2005 by the Designated Court, is hereby quashed.

ii) Matters are remanded back to the Designated Court.

iii) Learned Counsel for the Appellants submits on instructions that next date fixed by the Designated Court for the connected matters is 22nd July 2019. Accordingly, the Appellants are granted liberty to produce the certified copy of this order before the Designated Court on the said date and seek short adjournment in order to enable him to file his response on merits. Thereafter, the matters be proceeded in accordance with law.

iv) We make it clear that in the present order, we have not considered any issue on merits. Consequently, it is open for the Designated Court to pass such order strictly in accordance with law.

v) We further direct the Designated Court to take up the matters

expeditiously and dispose of the same as the earliest.

vi) Appeals stand disposed of accordingly.

Vii) In view of disposal of Appeals, pending Criminal Applications stand disposed of.

(A.M.BADAR, J) **(INDRAJIT MAHANTY, J)**