

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM:

THE HON'BLE MR. JUSTICE M.M.SUNDRESH  
and  
THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

W.P.No.9588 of 2018

M/s.National Medicines Pvt. Ltd.,  
rep. by its Director,  
Mr.Kamal Chand Jain,  
No.9, Krishna Bai Street,  
T.Nagar, Chennai 600 017. ... Petitioner

vs.

Directorate of Enforcement,  
The Deputy Director,  
Chennai Zonal Office-II,  
II and III Floor,  
Murugesu Naicker Complex,  
No.84, Greaves Road,  
Chennai 600 006. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorari, calling for the records pertaining to the order in F.No.ECIR/61/CEZO/Z-II/2010, dated 26.02.2018 and quash the same.

|                |   |                                                                           |
|----------------|---|---------------------------------------------------------------------------|
| For Petitioner | : | Mr.N.Chandrasekharan<br>for Mrs.M.F.Shabana                               |
| For Respondent | : | Ms.G.Hema,<br>Special Public Prosecutor<br>for Directorate of Enforcement |

O R D E R

(Order of the Court made by M.M.SUNDRESH,J.)

The Petitioner has come forward to file this Writ Petition challenging the Provisional Attachment Order dated 26.02.2018 passed by the Respondent/Directorate of Enforcement. Thereafter, the matter was taken up for adjudication by the Adjudicating Authority in exercise of the powers conferred on it under Section 8 of the Prevention of Money Laundering Act, 2002 (in short 'the Act').

2. On 30.07.2018, an order of stay was granted by this Court. In ignorance of the above said order, final order was passed by the Adjudicating Authority on 31.07.2018. The Petitioner filed a Contempt Petition on 14.09.2019, which was closed, recording the unconditional apology tendered by the Respondent. On 22.03.2019, the Respondent was directed not to give effect to the confirmation order dated 31.07.2018 until further orders.

3. Though averments have been made by the learned counsel on either side, we are not inclined to go into the same.

4. Admittedly, the Adjudicating Authority had reason to believe and that is the reason why, Section 8 of the Act has been pressed into service. The aforesaid decision of the Adjudicating Authority is now under challenge before us. Further, the Adjudicating Authority has passed a final order confirming the Provisional Attachment Order dated 26.02.2018, in ignorance of the order of stay passed by this Court.

5. The contention of the learned counsel appearing for the Respondent that a complaint is given and taken on file before the **(\*)Special Court**, Chennai in C.C.No.14 of 2018, cannot be the sole ground in dismissing this Writ Petition. The pendency of the complaint will not have a bearing on the present proceedings. Thus, the said objection raised, stands rejected.

6. In such view of the matter, we are inclined to set aside the order dated 31.07.2018 passed by the Adjudicating Authority, as the Petitioner would be aggrieved by the same on the ground that, his contentions have not been considered. We also perused the aforesaid order. Two grounds have been raised before us by the learned counsel for the Petitioner. The first one is with respect to the application of the Amendment Act 21 of 2009 to the offence said to have been committed prior to it. The second one is with respect to the settlement entered into between the Petitioner and the complainant/Bank. These are all the issues which are to be looked into by the Adjudicating Authority.

7. Accordingly, while setting aside the order dated 31.07.2018 passed by the Adjudicating Authority, the said authority is required to consider the objections of the Petitioner, including the aforesaid two objections raised before us. The Petitioner is given four weeks' time to give detailed objections to the notice issued by the Adjudicating Authority under Section 8 of the Act. Thereafter, appropriate final orders will have to be passed by the Adjudicating Authority, either to confirm or otherwise, within a further period of four weeks.

8. We also make it clear that the Respondent is at liberty to consider all the issues raised before it, including the applicability of Section 8(3) of the Act, which deals with the time limit.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.No.11507 of 2018 and W.M.P.No.31203 of 2018 are closed.

Sd/-  
Assistant Registrar (CS-IV)

// True Copy//

Sub Assistant Registrar

(aeb)

Paragraph 5 corrected as per  
Order dated 27/11/2019.

To:

The Deputy Director,  
Directorate of Enforcement,  
Chennai Zonal Office-II,  
II and III Floor,  
Murugesha Naicker Complex,  
No.84, Greams Road,  
Chennai 600 006.

+1CC to Ms.G.Hema, Advocate, SR.No.98856.  
+1cc to M/s.M.F.Shabana Advocate sr94028 dt 13/01/2020

Order in  
W.P.No.9588 of 2018

NRL(CO)  
CSR: 02/01/2020  
aa13/01/2020