IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15..07..2019

CORAM

The Honourable Mr Justice M.M.SUNDRESH
and
The Honourable Mr Justice M.NIRMAL KUMAR

Writ Petition No.19929 of 2019

1.D.Vasanthamani
2.Menaka Devi
3.A.Sudha

... Petitioner

-Versus-

1.Union of India,
Deputy Director,
Directorate of Enforcement,
Government of India,
Chennai 600006.

2.The Adjudicating Authority,
Prevention of Money Laundering,
4th Floor, Room No.20,
Jeevan Deep Building,
Parliament Street,
New Delhi 110001.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the provisional Attachment Order No.2/2019 in F.No.ECIR/03-04/CEZO/Z-II/2011 (VSK) dated 29.03.2019 passed by the 1st respondent.

सत्यमेव जयते

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For Petitioner	: Mr.A.Ramesh, Senior Counsel for Mr.I.Abrar Md. Abdullah
For Respondents	: Mr.N.Ramesh, Spl. PP for RR1 and 2

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ORDER

[Order of the court was made by Justice M.M.SUNDRESH]

What has been challenged in this writ petition is an order of provisional attachment passed by the 1st respondent.

2. We find that much water has flown under the bridge after the passing of the above said order.

3. A complaint was sent in accordance with Section 5(5) of The Prevention of Money-Laundering Act, 2002 followed by an application of mind by the adjudication authority under Section 8 of the above said Act. Thereafter, he issued a show cause notice to the petitioner, though an order under sub-section 2 of Section 8 of the Act is yet to be passed. In a similar situation, a Division Bench of this Court in W.P.(MD) No.2097 of 2017 (Indian Bank v. The Registrar / Administrative Officer Adjudicating Authority, PMLA) dated 16.03.2018 was pleased to hold as under:-

> "5. In the light of the fact that the petitioner/Bank has already filed an Appeal before the Appellate Tribunal, we are not inclined to go into the merits of the matter, and suffice it to state that the challenge to the order of provisional attachment is not maintainable, since, any person, aggrieved by the order of provisional attachment, has an effective remedy under the provisions of the Act. Therefore, the relief sought for by the petitioner/Bank is misconceived, as they were required to agitate the matter under the provisions of the Act and by following the procedure contemplated therein. However, since the petitioner/Bank has already preferred the Appeal before the Appellate Tribunal, it is open to them to pursue their remedy before the Appellate Tribunal."

3. In such view of the matter, we are not inclined to go into the issues raised on facts. Suffice it to state that four more weeks' time from the date of receipt of a copy of this order is granted to the petitioner to give a suitable reply to the show cause notice. On receipt of the same, the adjudicating authority is expected to pass a speaking order on merits and in accordance with law. We also make it clear that the issue with respect to the subjective satisfaction including the reason to believe is also left open.

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4. In the result, the writ petition is disposed of accordingly with the above directions. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.Union of India,
Deputy Director,
Directorate of Enforcement,
Government of India,
Chennai 600006.

2.The Adjudicating Authority,
Prevention of Money Laundering,
4th Floor, Room No.20,
Jeevan Deep Building,
Parliament Street,
New Delhi 110001.

+2cc to M/s.I.Abrar Md Abdullah, Advocate Sr.59829
+1cc to M/s.N.Ramesh, Advocate Sr.59792

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srg 17/07/2019

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