IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Twenty Fifth day of October Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE M. SATHYANARAYANAN

and

THE HON`BLE MR JUSTICE N. SESHASAYEE

WMP No.30127 of 2019

IN WP.NO.30170 OF 2019

R.SUBRAMANIAN [PETITIONER]

Vs

1 UNION OF INDIA, [RESPONDENT]
REP. BY ITS SECRETARY, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE (REVENUE),
NO. 128-A, NORTH BLOCK,
NEW DELHI - 110001

2 THE ASSISTANT DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
CHENNAI ZONAL OFFICE, 3RD FLOOR,
C BLOCK, MURUGESA NAICKER COMPLEX,
NO. 84, GREAMS ROAD, CHENNAI -600006

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Stay the operation of Sections 2 (1)u, Section 3, Section 44 and Section 45 of the Prevention of Money Laundering Act 2002 in so far as they and amended by the Finance Bill 2 of 2019 and (in WMP.No.30127/2019) pending disposal of the WP.No.30170/2019.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. R. SUBRAMANIANI, PARTY-IN-PERSON for the petitioner and of V. CHANDRASEKARAN, SENIOR PANEL COUNSEL for 1st Respondent and of Mr. G. RAJAGOPALAN ADDITIONAL SOLICITOR GENERAL Assist by Mr. N. RAMESH, SPECIAL PUBLIC PROSECUTOR for 2nd Respondent the court made the following order:-

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

Mr.V. Chandra Sekaran, learned Senior Panel Counsel accepts notice for the first respondent / Union of India and Mr.N. Ramesh, learned Special Public Prosecutor (Enforcement Directorate) accepts notice for the second respondent and they are lead by Mr.G.Rajagopalan, learned Additional Solicitor General.

2. Mr.G. Rajagopalan, learned Additional Solicitor General would submit that in the light of the ingenuity found in commission of the crime by various economic offenders, the present legislature in its wisdom thought it fit to bring forth certain amendments and those amendments are in the form of " Explanation". The learned Additional Solicitor General also drew attention of this Court to paragraph No.53 of the judgment of the Hon'ble Supreme Court of India in the case of ***S. Sundaram Pillai and Others vs V.R Pattabiram and Others*** reported in ***(1985) 1 SCC 591*** and would submit that it only reinforces the legislation and it is always open to the legislature to fill up the gaps in the form of "explanation" in the event of any lacuna in the amended enactment.

3. The learned Additional Solicitor General further submits that M/s VGN Developers P Ltd, Nungambakkam, Chennai has filed a petition in Crll.O.P.No.9796 of 2019 praying for quashing the records in CC No.56 of 2018 pending on the file of Principal Sessions Judge, City Civil Court, Chennai under Section 45(1) of the Prevention of Money-Laundering Act, 2002, wherein, the Deputy Director, Directorate of Enforcement was the respondent/complainant and the said Criminal Original Petition was dismissed by the Division Bench of this Court by Order dated 04.10.2019. In paragraph No.17 of the Order, the Division bench has stated that *Sub Section 1 of Section 44(1) of the Act has been amended by way of an insertion through The Finance (No.2) Act, 2019 No.23 of 2019 dated 01.08.2019* and observed that though it has come into force subsequently, it is nothing but a clarificatory one and further submits that there is no question of law involved in this Writ Petition.

4. The learned Additional Solicitor General further submitted that taking advantage of the pendency of the Writ Petition, the petitioner/party-in-person may stall the investigation/criminal prosecution lodged against him and therefore, prays for dismissal of the petition.

5. Heard both sides and perused the materials available on record.

6. In the case of ***Bhavesh D.Parish vs Union of India*** reported in AIR 2000 SC 2047, wherein, it is observed that "*it is now well settled that there is always a presumption in favour of the*

constitutional validity of any legislation, unless the same is set aside after final hearing and therefore, the tendency to grant stay of legislation relating to economic reform, at the interim stage, cannot be understood."

7. In the case on hand, the petitioner/party-in-person is alleged to have involved in commission of offences punishable under Section 420 IPC as well as Prevention of Money-Laundering Act, 2002, to the tune of Rs.217 Crores.

8. In the case registered in Cr.No.5/2013 by the Economic Offences Wing, Chennai, investigation is pending and that apart, the proceedings in C.C.No.4 of 2018 for the offence of Prevention of Money Laundering Act is also pending on the file of Principal Judge, City Civil Court, Chennai and the said proceedings had been stayed by the Hon'ble Supreme Court.

9. This Court is of the considered view since vires of certain provisions of Prevention of Money Laundering Act, 2002 are under challenge, the Official Respondents have to be given an opportunity to file counter affidavit and to meet the arguments factually and legally.

10. This Court is of the considered view that it is not a fit case to grant Interim Stay, as sought for by the petitioner/party-in-person.

11. Therefore, the petition in WMP No.30127 of 2019 is dismissed.

-sd/-
25/10/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,UNION OF INDIA,
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE (REVENUE),
NO. 128-A,NORTH BLOCK, NEW DELHI - 110001

2 THE ASSISTANT DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
CHENNAI ZONAL OFFICE, 3RD FLOOR, C BLOCK,
MURUGESA NAICKER COMPLEX,
NO. 84, GREAMS ROAD, CHENNAI -600006

C.C. to M/S. T.SUGIRTHA Advocate on payment of necessary charges

C. C. to M/S. N. RAMESH Advocate SR.NO.12934

The Government Advocate, High Court, Madras - 104.

Order
in
WMP.30127/2019
in
WP.30170/2019

Date :25/10/2019

From 26.2.2001 the Registry is issuing certified copies of the Interim Orders in this format
SM/15/11/2019