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

+ LPA 189/2019 & CM APPL.12577/2019

ALCHEMIST INFRA REALTY LTD

..... Appellant

Through: Mr. Rajiv Nayar, Sr. Adv. with
Mr. Darpan Wadhwa, Sr. Adv. with Mr. Saurabh
Seth, Ms. Sonia Dube, Mr. S. Chakraborty &
Mr. Anurag Singh, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Jasmeet Singh, CGSC for R-1 to
R-4

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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18.03.2019

Having heard the learned counsel for the parties, we find that in the order passed by the learned writ Court the direction issued is to cause an inquiry in the matter and proceed in accordance with law on the ground that before taking the impugned action petitioners were not heard.

Our attention is invited by Mr. Rajiv Nayar, learned Senior Advocate to the provisions of sub-Section 16 of Section 213 of the Companies Act, 2013 which reads as under:

“(16) Notwithstanding anything contained in this Act, any investigation or other action taken or initiated by Serious Fraud Investigation Office under the provisions of the Companies Act, 1956 (1 of 1956) shall continue to be proceeded with under that Act as if this Act had not been passed.”

According to Mr. Rajiv Nayar, learned Senior Advocate, by virtue of the aforesaid provision the inquiry or investigation into the matter has to be in accordance with the provisions of Sections 234 and 235 of the Companies Act, 1956 and not in accordance to the rules or procedure prescribed in the Companies Act, 2013. We see much force in the aforesaid contention.

We, therefore, clarify and direct that an inquiry be held in pursuance to the direction issued by the learned writ Court strictly in compliance with the provisions contemplated under the Companies Act, 1956. The parties may raise all objections as may be permissible with the statutory authority causing an inquiry into the matter under the Companies Act, 1956 in pursuance to the communication or the complaints received.

In view of the above, the appeal and the pending application stand disposed of.

CHIEF JUSTICE

ANUP JAIRAM BHAMBHANI, J

MARCH 18, 2019/ns