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

\+ W.P.(C) 4974/2018 & CM Nos. 19185/2018, 43118/2018 & 2920/2019

M/S ALCHEMIST INFRA REALTY LIMITED AND ANR. ..... Petitioners

Through: Mr Rajiv Nayar, Sr. Advocate with Ms Sonia Dubey, Mr Saurabh Seth, Mr S. Chakrabrty and Mr Anurag Singh, Advocates.

versus

DIRECTORATE OF ENFORCEMENT AND ORS. ..... Respondents

Through: Mr Amit Mahajan, CGSC with Ms Mallike Hiremath, Advocates for respondent.
Ms Shefali Kishore, Advocate for SEBI.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **22.01.2019**

1. The petitioners have filed the present petition, *inter alia,* praying as under:-

> "(a) Pass a writ/order/direction in the nature of certiorari directing the Respondent to produce before this Hon'ble Court records of the investigation being carried out by the Respondent No. 1 bearing ECIR/DLZO/05/2016/AD(RM), so that upon perusal thereof the same may be quashed and conscionable justice done;

(b) Pass a writ of prohibition prohibiting the Respondent from proceeding further with investigation bearing ECIR/DLZO/05/2016/AD(RM)."

2. The allegation against petitioner no.1 is that the petitioners have violated the provisions of the Securities and Exchange Board of India Act, 2002 and the regulations made thereunder and, in particular, SEBI (Collective Investment Schemes) Regulations, 1999. It is further alleged that the petitioners have committed offences punishable under Section 24 of the Securities Exchange Board of India Act, 1992.

3. The petitioners are, essentially, aggrieved by the communications issued by respondent no.1 (Directorate of Enforcement) to respondent nos.2 and 3 being the concerned banks with whom petitioner no.1 maintains its accounts. In terms of the said communications, respondent no.1 had directed that the bank accounts of the petitioners be frozen to the extent of ₹48.91 lakhs. The petitioners contend that the aforesaid communications (copies of which were not made available to the petitioners) are without authority of law and respondent no.1 had no jurisdiction to issue such directions. The aforesaid question whether Directorate of Enforcement has any jurisdiction to issue direction for freezing the bank accounts is covered by the decision of this Court in ***Abdullah Ali Balsharaf & Anr. v. Directorate of Enforcement & Ors.: W.P.(C) 3531/2018, decided on 09.01.2019.***

4. For the reasons stated in the said decision, the communications issued by respondent no.1 to respondent nos.2 and 3 for freezing the petitioner's account are unsustainable and are, hereby, set aside.

5. Mr Mahajan, learned counsel appearing for respondent no.1 states that respondent no.1 has already decided to issue an order for provisional attachment under Section 5 of the Prevention of Money Laundering Act, 2002 (PMLA, 2002). However, that order has not been issued in view of the orders passed by this Court. In this regard, it is clarified that respondent no.1 is not precluded from issuing any orders under the provisions of the PMLA, 2002. Needless to state that the petitioners would have full rights to contest the same in accordance with law. It is clarified that all contentions of the parties are reserved.

6. The petition is disposed of. The pending applications are also disposed of.

VIBHU BAKHRU, J

JANUARY 22, 2019
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