

17.05.2021.

Item No.3

Ct. No.19

dc.

CAN 1 of 2021

In

WPA 224 of 2021

(Through Video Conference)

Yogesh Banka

versus

Assistant Director, Directorate of Enforcement & Ors.

Mr. Sourav Bagaria,

Mr. Shiv Ratan Kakrania,

Mr. Indranil Banerjee

... For the Petitioner (in Writ Petition).

Ms. Debjani Ray,

Mr. Sumitava Chakraborty

... For the Enforcement Directorate/Applicants.

Mr. Y. J. Dastoor,

Mr. Phiroze Edulji,

Ms. Mary Dutta

... For the Union of India.

The applicants are the Assistant Director, Directorate of Enforcement and the Deputy Director, Directorate of Enforcement having their office at 2nd Floor, Jeevan Nidhi-II, LIC Building, Bhawani Singh Road, Jaipur-300005. The present application has been taken out with a prayer for extension of time for a period of six months for complying with the order dated 22.03.2021 passed by His Lordship the Hon'ble Justice Shekhar B. Saraf for completion of the enquiry and/or investigation and for passing a reasoned order on the alleged stock in trade. It is reflected in the order dated 22.03.2021, *inter alia*, as follows :

"10. With regard to the search and seizure of the excess jewellery that has been seized by the

Enforcement Directorate, it is to be noted that in the writ petition, the petitioner has relied on several documents to indicate that this “excess jewellery” was duly accounted for and had been sent for job work. In my view, the Enforcement Directorate should look into the documents filed in the writ petition and pass a reasoned order on whether these goods are stock-in-trade or not.

11. In the event, the Enforcement Directorate finds that the same are duly accounted for, the same should be released in favour of the petitioner in accordance with law. The above enquiry and the reasoned order should be passed within a period of eight weeks from date.”

In view of the prevailing situation as also the efforts required for coming to the conclusion in respect of the excess jewellery so contended at the instance of the petitioner in the writ petition, the learned advocate for the applicants seeks an accommodation for extension of six months time.

Mr. Bagaria, learned advocate appearing for the petitioner (in the writ petition) takes exception to the pleadings advanced in the application by the applicants so far as paragraphs 4 and 5 are concerned.

The crux of the present application relates to affording some time to carry out the earlier order dated 22.03.2021 passed by a co-ordinate Bench of this Court.

In view of the prevailing circumstances, I am of the considered view that such an opportunity must be afforded to the authorities. However, if the petitioner has a rightful claim, he should also not be penalised to advance his contention before the authorities and to establish his right. The authorities are, therefore, directed to adhere to the order dated 22.03.2021 and comply the same by 30.09.2021. It is further directed that in case, normalcy revives in the State of Rajasthan, the applicants from the said date, would be at liberty to adhere to the time period referred to in paragraph 11 of the order dated 22.03.2021. Under no circumstances, the enquiry/investigation so far as the alleged stock in trade is concerned should extend beyond 30.09.2021. However, the applicants would be at liberty to pray for further extension, if for reasons beyond their control they are unable to complete such enquiry/investigation.

As no affidavits have been filed in respect of the application so preferred by the Enforcement authorities, the allegations/contentions made therein are not admitted by the petitioner (in the writ petition) and/or other parties.

With the aforesaid observations, the application being CAN 1 of 2021 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)