

12.07.2021.
Item no. 3.
Court No.13
pk

**W.P.A. No. 11046 of 2021
(Through Video Conference)**

**Impex Ferro Tech Ltd. & Anr.
Versus
Union of India & Ors.**

Mr. Abhratosh Majumder, ld. Sr. Advocate,
Mr. Ratnesh Kumar Rai.

..For the petitioners.

Mr. P. Roy.

....For the Enforcement Directorate.

Mr. Y. Z. Dastoor,
Mr. Siddhartha Lahiri,
Mr. Tapan Bhanja.

..For the Union of India.

The writ petitioner is aggrieved by an order of provisional attachment dated 31.03.2021 issued by the Deputy Director, Enforcement Directorate, Government of India, under Section 5 of the PMLA 2002.

The properties mentioned in the said notice were stated to be proceeds of crime, in CBI, BS & FC, Kolkata, FIR No. RCBSK2017E003 dated 5th July, 2017.

Complaints are stated to have been lodged by 5 Nationalised banks and one private bank, inter alia, against the petitioners of siphoning of about Rs.552 Crores.

By the said order of attachment, certain properties of the writ petitioner, company have been provisionally attached pending final orders of confiscation under Section 8 of the 2002 Act. A show

cause notice under Section 8(1) of the said Act, has also been challenged.

The writ petitioners are aggrieved by the said provisional order of attachment and show cause on, inter alia, three grounds. Firstly, that the events in subject matter of the alleged offences for the properties-in-question are stated to be proceeds of crime, have occurred much after the date of acquisition of the said properties.

It is next argued by reference to the challans and other documents, that it is only due to a typographical errors therein that they appear to show suspicious transactions between the petitioner no. 1 and one M/s SPS Steel Rolling Mills Ltd. and its direction.

Mr. Abhratosh Majumder, learned Senior Advocate appearing for the writ petitioners, has tried to demonstrate before this Court that the allegations are erroneous and hence the proceedings themselves are without jurisdiction.

It is further argued that the writ petitioners are in no way connected with the two accused, namely, the said SPS Steels and M/s Bengal India Global Limited.

This Court notes that in terms of Section 8 of the PMLA Act, the petitioners have been issued show cause notice on 8th June, 2021. The matter is pending

adjudication before the Adjudicating Authority. The writ petition is premature.

The question of jurisdiction raised in respect of a quasi judicial proceeding by the writ petitioners, is first required to be addressed by the authority created under the statute to adjudicate the matter.

The writ petitioners also have a remedy of an appeal before a Tribunal against the order of the adjudicating authority.

In the above circumstances, the decisions cited by Mr. Majumder, appearing for the writ petitioner, may not have relevance. In the first decision being **Seema Garg Versus Deputy Director, Directorate of Enforcement (PMLA)** reported in **(2020) 116 taxmann.com 202 (Punjab & Haryana)** was dealing with an order passed by the Tribunal confirming an order of the adjudicating authority. In the instant case, the first authority has not even completed its adjudication.

Similarly, the decision of the Supreme Court in the case of **General Manager, Electrical Rengali Hydro Electric Project, Orissa Versus Giridhari Sahu and others** reported in **(2019) 10 SCC 695** also does not apply in facts, since the subject matter of the challenge was a decision of the Labour Court.

This Court, therefore, is of the view that it may be rather premature for the writ petitioner to approach

the writ court against the provisional findings by the authority under the statute.

In those circumstances, this Court directs the adjudicating authority under Section 8 to complete proceeding against the writ petitioners within the period specified under the statute. No unnecessary adjournment shall be granted by the adjudicating authority to any of the parties.

The adjudicating authority shall address all questions including the question of jurisdiction raised by the writ petitioner before this Court. An order with reasons shall be passed by the adjudicating authority uninfluenced by any observation made by either the first authority or of this Court.

In view of the above, nothing remains to be adjudicated in the writ petition any further.

The writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(Rajasekhar Mantha, J.)