IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
<u>Appellate Side</u>

Present :- Hon'ble Mr. Justice Md. Nizamuddin

W.P. A No. 11578 of 2021

Gobindo Das & Ors.
Vs.
Union of India & Ors.

For the Petitioner	:-	**Mr. N.K. Chowdhury, Adv.** **Mr. Nilotpal Chowdury, Adv.** **Mr. Prabir Bera, Adv.**
For the Respondent No. 1	:-	**Mr. Pinaki Bhattacharyya, Adv.**
For the Respondent Nos. 2&3	:-	**Mr. Ranjan Roy, Adv.**
For the Respondent No. 8	:-	**Mr. Punam Chowdhury, Adv.** **Ms. S. Chatterjee, Adv.**
For the Respondent No. 9	:-	**Ms. Sarbari Datta, Adv.**
Judgement On	:-	**01.10.2021**

<u>MD. NIZAMUDDIN, J.</u>

Heard learned Advocates appearing for the parties.

Petitioner has filed this Writ Petition challenging the impugned Provisional Attachment Order dated 11th December, 2020 passed by the Deputy Director, Enforcement Directorate/respondent no. 3 attaching his bank accounts in question under Section 5 (1) of The Prevention of Money Laundering Act, 2002 on the ground that the validity of the said impugned Provisional Attachment Order has lost its force and ceased to have any validity under Section 5 (3) of the aforesaid Act after expiry of 180 days on 9th June, 2021 and in view of the fact that the Respondent No. 2/adjudicating authority has not passed any formal order on or before 9th June, 2021 under Section 8(3) of the aforesaid Act for confirmation or further extension of the aforesaid impugned Provisional Attachment Order dated 11th December, 2020.

Petitioner contends that after the expiry of 180 days from the date of the aforesaid attachment order, Respondent No. 3 has become functus officio and further there is no provision under the aforesaid Act for automatic or deemed extension of the Provisional Attachment Order under Section 5 (1) of the aforesaid Act. Petitioner is aggrieved by the action of the respondent no. 3 in not allowing him to operate his bank account in question even after expiry of the validity of the aforesaid order of provisional attachment.

Learned Counsel appearing for the Respondent Nos. 2 & 3/Enforcement Authorities opposing the Writ Petition and defending the action of the Respondent No. 3 authority in not allowing the Writ Petitioner to operate the bank accounts in question contends that even without passing any formal order of confirmation or further extension under Section 8 (3) of the Act after the expiry of 180 days of validity of the aforesaid impugned Provisional Attachment Order, the aforesaid impugned Provisional Attachment Order automatically should be deemed to have been extended by claiming benefit of the order of the **Hon'ble Supreme Court dated 23rd March, 2020 in Suo moto Writ Petition (Civil) No. 3 of 2020 Re-cognizance For Extension Of Limitation** which was extended from time to time and lastly on 27th April, 2021 where the Hon'ble Supreme Court in view of the steep rise in Covid-19 Virus cases engulfing the entire nation and the extraordinary situation caused by the outburst of Covid-19 Virus resulting difficulties by the litigants and advocates in filing petitions/applications/suits/appeals and all other proceeding irrespective of period of limitation prescribed in general or special law extended a period of limitation until further orders.

Considering the submission of the parties according to me following two short questions of law arise in this case are:

(i) Whether Respondent/Enforcement authorities are entitled to take the benefit of the aforesaid order of the Hon'ble Supreme Court dated 23rd March, 2020 in Suo moto Writ Petition (Civil) No. 3 of 2020 which was extended from time to time by claiming Respondent No. 2/Adjudicating authority claiming itself as litigant or advocate or a quasi-judicial authority while he himself being an authority to pass the order of confirmation/extension of the aforesaid impugned Provisional Attachment Order after the expiry of validity of aforesaid Attachment order under Section 5 (1) of the Act and in doing so he was not required to institute any proceeding or file any petition/application/suit/appeal before any judicial or quasi judicial authority for confirmation /extension of his aforesaid impugned Order of Attachment under Section 8 (3) of The Prevention of Money Laundering Act, 2002?

(ii) Whether Respondent/Enforcement authorities are justified in law in not allowing the petitioner to operate his bank and postal accounts in question without passing of any formal order of confirmation or extension of the impugned Provisional Attachment Order under Section 8 (3) of the aforesaid Act after the expiry of its validity period of 180 days under Section 5 (3) of the aforesaid Act by contending that the aforesaid order of Provisional Attachment order is deemed to have been extended automatically by virtue of the aforesaid order of the Hon'ble Supreme Court in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra)?

Some provisions of Prevention of Money Laundering Act, 2002 which are relevant for this case are quoted hereunder:

> ***"Attachment of property involved in money laundering.***
>
> ***5 (1). Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason***

for such belief to be recorded in writing), on the basis of material in his possession, that--

(a) any person is in possession of any proceeds of crime; and

(b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed.................”

(2) ....
(3) ....
(4) ....

“5 (3). Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or on the date of an order made under [sub-section (3)] of section 8, whichever is earlier.”

(6) ....
(7) ....

“8.. (1)................................
(2)............................

“(3) Where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of section 5 or retention of property or [record seized or frozen under section 17 or section 18 and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property] or record shall--

(a) continue during [investigation for a period not exceeding [three hundred and sixty-five days] or] the pendency of the proceedings relating to any [offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and]

(b) ………………………"

Learned Counsel appearing for the petitioner in support of his contention in the Writ Petition against the impugned action of the Respondent No. 3 has relied on a judgment **Paragraphs – 16, 17, 18, 26, 29 & 30** of the **Hon'ble Supreme Court in the case of S. Kasi –vs- State, reported in 2020 SCC OnLine SC 529** which are quoted hereunder and Mr. Roy, learned Advocate appearing for the Respondent Nos. 2 & 3 has also relied on the same decision and which according to me is very relevant in this case:

> "16. The reason for passing the aforesaid order for extending the period of limitation w.e.f. 15.03.2020 for filing petitions/ applications/ suits/ appeals/all other proceedings are indicated in the order itself. Two reasons, which are decipherable from the order of this Court dated 23.03.2020 for passing the order are: -
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> i) The situation arising out of the challenge faced by the country on account of Covid-19 virus and resultant difficulties that are being faced by the litigants across the country in filing their petitions/ applications/ suits/ appeals/all other proceedings within the period of limitation prescribed.
>
> ii) To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court."
>
> "17. The limitation for filing petitions/ applications/ suits/ appeals/all other proceedings was extended

to obviate lawyers/litigants to come physically to file such proceedings in respective Courts/Tribunals. The order was passed to protect the litigants/lawyers whose petitions/ applications/ suits/ appeals/all other proceedings would become time barred they being not able to physically come to file such proceedings. The order was for the benefit of the litigants who have to take remedy in law as per the applicable statute for a right. The law of limitation bars the remedy but not the right. When this Court passed the above order for extending the limitation for filing petitions/ applications/ suits/ appeals/all other proceedings, the order was for the benefit of those who have to take remedy, whose remedy may be barred by time because they were unable to come physically to file such proceedings. The order dated 23.03.2020 cannot be read to mean that it ever intended to extend the period of filing charge sheet by police as contemplated under Section 167(2) of the Code of Criminal Procedure. The Investigating Officer could have submitted/filed the charge sheet before the (Incharge) Magistrate. Therefore, even during the lockdown and as has been done in so many cases the charge-sheet could have been filed/submitted before the Magistrate (Incharge) and the Investigating Officer was not precluded from filing/submitting the charge-sheet even within the stipulated period before the Magistrate (Incharge)."

"18. If the interpretation by learned Single Judge in the impugned judgment is taken to its logical end, due to difficulties and due to present pandemic, Police may also not produce an accused within 24 hours before the Magistrate's Court as contemplated by Section 57 of the Code of Criminal Procedure, 1973. As noted above, the provision of Section 57 as well as Section 167 are supplementary to each other and are the provisions which recognizes the Right of Personal Liberty of a person as enshrined in the

Constitution of India. The order of this Court dated 23.03.2020 never meant to curtail any provision of Code of Criminal Procedure or any other statute which was enacted to protect the Personal Liberty of a person. The right of prosecution to file a charge sheet even after a period of 60 days/ 90 days is not barred. The prosecution can very well file a charge sheet after 60 days/90 days but without filing a charge sheet they cannot detain an accused beyond a said period when the accused prays to the court to set him at liberty due to non-filing of the charge sheet within the period prescribed. The right of prosecution to carry on investigation and submit a charge sheet is not akin to right of liberty of a person enshrined under Article 21 and reflected in other statutes including Section 167, Cr.P.C. Following observations of Madras High Court in the impugned judgment are clearly contrary to the order dated 23.03.2020 of this Court: -

"…The Supreme Court order eclipses all provisions prescribing period of limitation until further orders. Undoubtedly, it eclipses the time prescribed under Section 167(2) of the Code of Criminal Procedure also…"

"26. We, thus, are of the view that neither this Court in its order dated 23.03.2020 can be held to have eclipsed the time prescribed under Section 167(2) of Cr.P.C. nor the restrictions which have been imposed during the lockdown announced by the Government shall operate as any restriction on the rights of an accused as protected by Section 167(2) regarding his indefeasible right to get a default bail on non-submission of charge sheet within the time prescribed. The learned Single Judge committed serious error in reading such restriction in the order of this Court dated 23.03.2020."

"29. The view taken by learned Single Judge of Madras High Court in Settu versus The State (supra) that the order of this Court dated 23.03.2020 passed in Suo Moto W.P(C)No.3 of 2020 does not extend the period for filing charge sheet under Section 167(2) Cr.P.C. has been followed by Kerala High Court as well as Rajasthan High Court. Kerala High Court in its judgment dated 20.05.2020 in Bail Application No. 2856 of 2020 – Mohammed Ali Vs. State of Kerala and Anr. after noticing the contention raised on the basis of order of this Court dated 23.03.2020 passed in Suo Moto W.P(C)No.3 of 2020 rejected the said contention and followed the judgment of the learned Single Judge of Madras High Court in Settu versus The State (supra). Kerala High Court in paragraph 13 of the judgment observes: -

"13. I respectfully concur with the exposition of law laid down by the learned Single Judge of the Madras High Court in Crl.O.P.(MD) No.5291 of 2020 as well by the learned Single Judge of Uttarakhand High Court when their lordships held that the investigating agency cannot benefit from the directions issued by the Supreme Court in the Suo moto Writ Petition."

"30. Rajasthan High Court had occasion to consider Section 167 as well as the order of this Court dated 23.03.2020 passed in Suo Moto W.P(C)No.3 of 2020 and Rajasthan High Court has also come to the same conclusion that the order of this Court dated 23.03.2020 has no consequence on the right, which accrues to an accused on non-filing of charge sheet within time as prescribed under Section 167 Cr.P.C. Rajasthan High Court in S.B. Criminal Revision Petition No. 355 of 2020 – Pankaj Vs. State decided on 22.05.2020 has also followed the judgment of learned Single Judge of the Madras High Court in Settu versus The State (supra) and has held that accused was entitled for grant of the default bail. Uttarakhand High Court in First Bail Application No.511 of 2020 – Vivek Sharma Vs.

State of Uttarakhand in its judgment dated 12.05.2020 has after considering the judgment of this Court dated 23.03.2020 passed in Suo Moto W.P(C)No.3 of 2020 has taken the view that the order of this Court does not cover police investigation. We approve the above view taken by learned Single Judge of Madras High court in Settu versus The State (supra) as well as the by the Kerala High Court, Rajasthan High Court and Uttarakhand High Court noticed above."

Petitioner has further relied on a judgment of the **Hon'ble Delhi High Court in the case of Vikas WSP Ltd. –vs- Directorate of Enforcement, reported in 2021 (376) E.L.T 201 (Del.),** where the aforesaid judgment of the Hon'ble Supreme Court in S. Kasi (supra) and order of the Hon'ble Supreme Court in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) has also been considered and **Paragraphs 29, 30, 36 & 37** of which are relevant and quoted herein below:

"29. The reliance of the learned counsel for the respondents on the orders passed by the Supreme Court in Suo Motu Writ Petition (Civil) No. 3/2020, is also unfounded. The Supreme Court, in its order dated 23.03.2020, directed as under:-

"This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities."

30. Clearly, the above order extended the period of limitation. In the present case, Section 5(1) and 5(3) do not provide the period of WP(C) No.3551/2020 Page 20 limitation, but the period of validity of the Provisional Attachment Order. The same would not stand extended due to the above order of the Supreme Court. This becomes more evident from the order dated 06.05.2020 passed by the Supreme Court in I.A. 48411/2020, whereby it was pleased to extend the period of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under Section 138 of the Negotiable Instruments Act, 1881, observing as under:-

"IA No.48411/2020 - FOR DIRECTIONS

By way of filing this application for directions, the applicant has made the following prayer:

“To issue appropriate directions qua (i) arbitration proceedings in relation to section 29A of the Arbitration and Conciliation Act, 1996 and (ii) initiation of proceedings under section 138 of the Negotiable Instruments Act, 1881.”

In view of this Court's earlier order dated 23.03.2020 passed in Suo Motu Writ Petition (Civil) No.3/2020 and taking into consideration the effect of the Corona Virus (COVID 19) and resultant difficulties being faced by the lawyers and litigants and with a view to obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunal across the country including this Court, it is hereby ordered that all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under section 138 of the Negotiable Instruments Act 1881 shall be extended with effect from 15.03.2020 till further orders to be passed by this Court in the present proceedings.

In case the limitation has expired after 15.03.2020 then the period from 15.03.2020 till the date on which the lockdown is lifted in the jurisdictional area where the dispute lies or where the WP(C) No.3551/2020 Page 21 cause of action arises shall be extended for a period of 15 days after the lifting of lockdown.

In view of the above, the instant interlocutory application is disposed of."

"36. I may also usefully refer to the order of the Calcutta High Court in Knight Riders Sports Pvt. Ltd. vs. Adjudicating Authority (PMLA) and Ors., 2020 SCC OnLine Cal 1311, wherein allowing the petitioner therein to withdraw his petition, the High Court observed as under:-

> "5. On hearing learned counsel, this Court is of the view that under Section 5(1)(b) of the PMLA, an order of provisional attachment remains in force only for a period of 180 days from the date of the order passed by the Director with regard to the proceeds of crime which the concerned Director has reasons to believe are likely to be concealed, transferred or dealt with in a manner which may frustrate any proceedings relating to confiscation of such proceeds of crime under Chapter III of the PMLA. Section 5(3) further provides that every order of attachment made under Section 5(1) shall cease to have effect after the expiry of 180 days or on the date of an order made

> under Section 8(3) or whichever is earlier. Section 8(3) deals with a situation where the Adjudicating Authority makes an order in writing confirming the attachment of the property made under Section 5(1) or for retention of the property etc. Admittedly, no such order has been passed by the Adjudicating Authority against the petitioner under Section 8(3). It should be mentioned that the Adjudicating Authority has been served with copies of the petition.
>
> 6. If the concerned Act provides certain windows to a party in relation to a provisional order of attachment expressed in the clear language of Section 5(1)(b), this Court cannot come in the way of the petitioner taking advantage of the said exit route. Needless to say, allowing withdrawal of this petition will not prejudice any of the rights or contentions of the parties in the event of future proceedings before this Court or any other forum."

> "37. In view of the above, the 180 days from the date of the Provisional Attachment Order dated 13.11.2019 having expired without any order under Section 8(3) of the Act being passed by the Adjudicating Authority, it is held that the Adjudicating Authority has been rendered functus officio and cannot proceed with the Original Complaint, being O.C. No. 1228/2019 pending before it. The Notice/Summons dated 26.05.2020 is accordingly set aside."

Submission of Mr. Roy learned counsel appearing for the Respondents Enforcement authorities/Respondent Nos. 2 & 3 in a nutshell is that in view of the order of the Hon'ble Supreme Court in Suo moto Writ Petition No. 3 of 2020 (supra), the validity of impugned Provisional Attachment Order under Section 5 (1) of The Prevention of Money Laundering Act, 2002 after the expiry of the period of validity of 180 days will be deemed to have been extended automatically under Section 5 (3) of The Prevention of Money Laundering Act, 2002 even without passing any formal order of extension/confirmation of the same under Section 8 (3) of the said Act. Mr. Roy, Learned Counsel for the Respondent Nos. 2 & 3 when he was asked to justify and satisfy this Court as to how Respondent No. 2 could claim himself as a litigant or advocate in defence of his inaction in not passing any formal order of extension or confirmation of the order under Section 8 (3) of the Act, he could not satisfy this Court from any provision of law and in the alternate, he submitted that the Respondent No. 2 comes within the purview and scope of the aforesaid judgment of the Hon'ble Supreme Court as a quasi-judicial authority. Mr. Roy could not satisfy this Court on the query of this Court as to how the adjudicating authority/Respondent No. 2 could be treated as an advocate or litigant who was facing any difficulty in filing any appeal/suit/initiating any proceeding before any judicial or quasi-judicial authority for confirmation or extension of the aforesaid provisional attachment order and take the benefit of the aforesaid order of the Hon'ble Supreme Court when Respondent No. 2 himself had to pass the order under Section 8 (3) of the Act for confirmation or further extension of the impugned Provisional Attachment Order and he was not needed to approach physically any judicial or quasi-judicial authority during Covid period to initiate any proceeding or filing any application/appeal/suit physically as a litigant or as an advocate for the aforesaid purpose to which Mr. Roy could not legally substantiate his defence and satisfy this Court on the impugned action of the Respondent Nos. 2 & 3.

In support of his contention Mr. Roy, Learned Counsel appearing on behalf of the Respondent Nos. 2 & 3 has relied on an interim order of this Court dated 2nd July, 2021 in WPA No. 10728 of 2021 (Rajendra Kumar Murarka –vs- Mohsina Tabassum & Ors.) by contending that validity of all judicial and quasi-judicial proceeding may be deemed to have been extended even if validity of the same under Section 5 (3) of the aforesaid Act has expired after 180 days and he has also relied on an interim order of this Court dated 23rd April, 2021 passed in an application being CAN No. 1 of 2021 in WPA No. 8232 of 2020 (Fairdeal Supplies Limited & Anr –vs- Union of India & Ors.). He has relied on one unreported order dated 2nd Decemeber, 2020 of Delhi High Court in the case of Directorate of Enforcement & Anr –vs- M/s Vikas WSP Ltd. & Ors. (LPA No. 362/2020 & CM Appeal No. 30675/2020).

Considering the judgments relied upon by Mr. Roy, learned Advocate for the Respondents, I am of the considered opinion that those judgments/orders are of no help to the Respondents in view of the discussion made herein below:

(i) Order of this Court dated 2nd July, 2021 in the case of Rajendra Kumar Morarka (supra) is an interim order and the issue involve herein has not been finally adjudicated and direction for filing of affidavit has been passed upon the respondents and the said Writ Petition is still pending and I am of the view that an interim order on the issue in question cannot be treated as a precedent by this Court for final adjudication on the issue in question.

(ii) Order of this Court dated 23rd April, 2021 in the case of Fairdeal Supplies Limited (supra) is also an interim order passed on an application in Paragraph II (xiv) of the aforesaid order dated 23rd April, 2021, Learned Judge has specifically recorded that the issue of validity of the order of provisional attachment after expiry of 180 days has been kept open and will be decided in the Writ Petition. So, there is no final adjudication of this issue in question in the aforesaid interim order dated 23rd April, 2021 and as such it has no binding effect or a precedent for final adjudication of this issue by this Court more so when the issue in question has been kept open in the said order.

(iii) Order of the Hon'ble Delhi High Court, dated 2nd December, 2020 and 8th January, 2021 in LPA 362/2021 & CM Appeal No. 30675/2020 in the case of Directorate Enforcement & Anr. –vs- M/s Vikas WSP Ltd. & Ors. of the Division Bench upon which Mr. Roy, Learned Advocate for the Respondent Nos. 2 & 3 has relied by contending that the order of the Learned Single Bench dated 18th November, 2020 in the case of Vikas WSP Ltd. & Ors. (supra) has been stayed by the Division Bench on perusal of which I found that the interpretation of those two orders dated 2nd December, 2020 and 8th January, 2021 by Mr. Roy is a wrong interpretation since on perusal of the aforesaid two orders nowhere I found that the Division Bench has stayed the final judgment and order dated 18th November, 2020. The order of the Division Bench of the Hon'ble Delhi High Court, order dated 2nd December, 2020, I found that it is an interim order directing both the parties to maintain status quo with regard to ownership, possession and encumbrance upon the properties in question and parties to file counter affidavit and order dated 8th January, 2021 of the Division Bench of Delhi High Court in the said case is an interim order staying the operation of the order of the Single Bench dated 8th November, 2021 but there is no final adjudication of issue in question either by reversing or setting aside the order of the Single Bench and in the said order there is no discussion or reference of the aforesaid order of the Hon'ble Supreme Court in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) or judgment of the Hon'ble Supreme Court in the case of S. Kasi (supra).

Considering the submission of the parties and judgments relied upon by them in course of hearing and particularly taking into consideration the judgment of the Hon'ble Supreme Court in the case of S. Kasi –vs- State reported in 2020 SCC OnLine SC 529 Para 16 (i) & (ii) wherein scope and ambit of the order of the Hon'ble Supreme Court dated 23.03.2020 in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) has been considered and elaborately discussed with regard to the limitation prescribed for filing petitions/Applications/Suits/all other proceedings and it appears from the said order dated 23.03.2020 which was extended from time to time to obviate the difficulties faced by lawyers/litigants who had to come physically to file such proceedings in respective Courts/Tribunals, in my considered opinion Adjudicating authority/Respondent No. 2 cannot call himself a litigant or advocate or a Tribunal or a Court or a quasi-judicial authority within the ambit and scope of the aforesaid order of the Hon'ble Supreme Court in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) in defending the action of not passing the order under Section 8 (3) of the aforesaid Act for extension or confirmation of the order dated 11th December, 2020 under Section 5 (1) of The Prevention of Money Laundering Act, 2002 after expiry of validity period of 180 days on 9th June, 2021 under Section 5 (3) of the aforesaid Act by contending that there was deemed extension or confirmation of the order under Section 5 (8) of the aforesaid Act by virtue of the aforesaid order of the Hon'ble Supreme Court. One more additional fact of which I have taken note of from record and which according to me is very relevant is that during the period when the order of the Hon'ble Supreme Court in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) was subsisting, the Respondent No. 2/Adjudicating authority was functioning and proceeding with the impugned proceeding and has heard the case of the petitioner through video conferencing on 22.03.2021 and 19.4.2021 and hearing was concluded on 27th May, 2021 that is after passing the impugned order of provisional attachment order when validity of the said provisional order of attachment had not expired then the Respondents No. 2 could have passed the order under Section 8 (3) of the said Act also for confirmation or extension of the said order on the date of expiry of the same on 9th June, 2021 and if it was the perception of the Respondent No. 2 that the period of limitation of the impugned proceeding is protected by the aforesaid subsisting order of the Hon'ble Supreme Court, he should not have proceeded in the aforesaid impugned proceeding and concluded the hearing.

Considering the records available, submission of the parties and judgments/order relied upon by them and following the judgment of the Hon'ble Supreme Court in the case of S. Kasi (supra) in my considered opinion the Adjudicating authority/Respondent No. 2 cannot be called a litigant or advocate or a quasi-judicial authority and cannot take the benefit of the order of the Hon'ble Supreme court passed in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) by taking the stand that on the expiry of validity of the said provisional attachment order after 180 days under Section 5 (3) of the aforesaid Act, the same would be deemed to have been extended automatically by virtue of the aforesaid order of the Hon'ble Supreme Court when he was not required to pass any formal order of extension of the same under Section 8 (3) of the aforesaid Act. I am of the considered opinion that such stand of the Respondent No. 2 is legally not sustainable since the impugned order of provisional attachment of bank accounts and postal accounts in question of the petitioner, dated 11th December, 2019, which has expired its validity on 9th June, 2021, has no force after expiry of 180 days from the date of passing of such order in view of not passing any formal order under Section 8 (3) of the said Act extending the validity of the same by the Respondent No. 2 and the action of Respondent No. 3 in not allowing the petitioner to operate its bank and postal accounts in question after the expiry of the period validity of 180 days from the date of the order passed under Section 5 (1) of the aforesaid Act, such action of the Respondent Enforcement authority, is arbitrary and illegal.

In view of the discussion made above this Writ Petition is allowed by declaring that the impugned order of provisional attachment of Bank accounts and postal accounts in question dated 11th December, 2019 passed under Section 5 (1) of The Prevention of Money Laundering Act, 2002 after expiry of 180 days on 9th June, 2021 is ceased to have any effect or force as a consequence of failure on the part of the Respondent Enforcement authority/Adjudicating authority in passing further order under Section 8 (3) of The Prevention of Money Laundering Act, 2002 extending or confirming order dated 11th December, 2020 under Section 5 (1) of the said Act on or before 9th June, 2021 after expiry of its validity under Section 5 (3) of the said Act by taking the stand of automatic deemed extension/confirmation of the said order by virtue of the order of the Hon'ble Supreme Court in Suo moto Writ Petition (Civil) No. 3 of 2020 (supra) by claiming itself as a litigant or advocate or quasi-judicial authority when it was not required to approach physically any quasi-judicial or judicial authority to initiate any proceeding or to file any application/suit/appeal for the purpose of extension or confirmation of the order under Section 5 (1) of The Prevention of Money Laundering Act, 2002.

Respondents-Enforcement authorities concerned and the Banks and postal authorities concerned in question will allow the petitioner to operate his bank accounts and postal accounts in question as a consequence of this declaration. However, this order will not prevent the Respondents Enforcement/Adjudicating authorities concerned from passing final order of adjudication in the relevant pending proceeding in question in accordance with law which according to the respondents has already been concluded and further legal consequence will follow on passing final order of adjudication by the Adjudicating authority concerned in proceeding in question.

This Writ Petition being W.P.A. No. 11578 of 2021 is accordingly allowed with no order as to costs.

Urgent certified photocopy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(MD. NIZAMUDDIN, J.)