



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WRIT PETITION NO.26020 OF 2021
AND
W.M.P.NO.27468 OF 2021

M/s.QuestNet Enterprises India Pvt. Ltd.,
Represented by Selvi Pushpam Appala Naidu,
No.100, 2nd Floor, McNichols Road,
Chetpet, Chennai - 600 031,
Tamil Nadu.

... Petitioner

.Vs.

1. The Directorate of Enforcement,
6th Floor, Lok Naik Bhavan,
Khan Market, New Delhi - 110 003.
2. The Deputy Director,
The Director of Enforcement,
The Government of India,
The Ministry of Finance,
The Department of Revenue,
3rd Floor, Murgesa Naicker Complex,
84, Greams Road, Chennai - 600 006.
3. The Assistant Director,
The Director of Enforcement,
The Government of India,
The Ministry of Finance,
The Department of Revenue,
3rd Floor, Murgesa Naicker Complex,
84, Greams Road, Chennai - 600 006.
4. The Adjudicating Authority,
Under the Prevention of Money
Laundering Act, 2002,
Room No.25, 4th Floor,
Jeevan Deep Building,
Patel Chowk, Parliment Street,
New Delhi - 110 001.

... Respondents



PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records in OC.No.772 of 2017 on the file of the fourth respondent dated 29.08.2017 confirming the provisional attachment order No.08 of 2017 dated 05.04.2017, quash the same and consequently, direct the respondents to release the properties from attachment.

For Petitioner : Mr.B.Kumar
Senior Counsel
For Mr.K.P.Anantha Krishna

For Respondents : Ms.G.Hema
Special Public Prosecutor (ED)

O R D E R

[Order of the Court was made by P.N.PRAKASH, J]

This Writ Petition has been filed seeking quash of the order of the fourth respondent passed in OC.No.772 of 2017 dated 29.08.2017 confirming the provisional attachment order No.08 of 2017 dated 05.04.2017 and consequently, direct the respondents to release the properties from attachment.

2. A case in CBCID Crime No.454 of 2008 was registered for offences u/s.420 IPC and sections 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, against M/s.QuestNet Enterprises India Pvt. Ltd. [petitioner herein] and other accused. Since the said case disclosed the commission of a predicate offence under the Prevention of Money Laundering Act [hereinafter referred to as 'PMLA'], the Enforcement Directorate registered a case in ECIR/CEZO/11/2016 and took up investigation under the PMLA. The Enforcement Directorate passed provisional order of attachment of properties of M/s.QuestNet Enterprises India Pvt. Ltd. on 05.04.2017 and thereafter, filed a complaint before the Adjudicating Authority. The Adjudicating Authority heard M/s.QuestNet Enterprises India Pvt. Ltd. and confirmed the provisional order of attachment by order dated 29.08.2017 in O.C.No.772/2017. Challenging the same, M/s.QuestNet Enterprises India Pvt. Ltd., filed an appeal in FPA/PMLA/1981/2017 before the Appellate Tribunal, New Delhi and the same is pending. Since there is no Presiding Officer in the said Tribunal, M/s.QuestNet Enterprises India Pvt. Ltd. has filed the present Writ Petition for a certiorarified mandamus to quash the proceedings in



O.C.No.772/2017 and for a direction to release the properties from attachment.

3. Heard Mr.B.Kumar, learned Senior Counsel appearing for the petitioner and Ms.G.Hema, learned Special Public Prosecutor (ED), appearing for the Enforcement Directorate.

4. It is a fact that there is no Presiding Officer in the Appellate Tribunal under the PMLA from 2017 onwards and therefore, the petitioner was unable to obtain any orders therefrom. It is brought to our notice that the Enforcement Directorate has filed a petition before the Special Court for taking physical possession of the attached properties and therefore, it became imperative for the petitioner to approach this Court for relief.

5. Ms.G.Hema, learned Special Public Prosecutor (ED), submitted that the Enforcement Directorate has indeed filed a petition in CrI.M.P.No.4895 of 2021 u/s.8(4) of the PMLA r/w Rules 2, 3 and 7 of the PMLA for taking physical possession of the property.

6. In our considered view if physical possession of the attached properties is taken by the Enforcement Directorate, the appeal filed before the Appellate Tribunal would become infructuous. No party can be left remediless and therefore, it will serve the interests of justice if an order of interim stay of physical possession of the properties is granted. However, this Court cannot step into the shoes of the Appellate Tribunal and proceed to adjudicate upon the order of the Adjudicating Authority.

Accordingly, this Writ Petition itself is disposed of with a direction to the respondents not to take physical possession of the properties attached in O.C.No.772/2017 until disposal of the appeal in FPA/PMLA/1981/2017 by the Appellate Tribunal under the PMLA. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Directorate of Enforcement,
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Khan Market, New Delhi - 110 003.
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The Director of Enforcement,
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Patel Chowk, Parliment Street,
New Delhi - 110 001.
5. The Special Public Prosecutor (ED),
High Court, Madras.
6. The Appellate Tribunal under the PMLA,
Lok Nayak Bhawan,
The Ministry of Finance,
The Department of Revenue,
4th Floor, 'A' Wing, Khan Market,
New Delhi - 110 003.

+3ccs to Mr.K.P.Anantha Krishna, Advocate, S.R.No.69453

WRIT PETITION NO.26020 OF 2021

KSM(CO)
PBS/06/01/2022