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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 28th September, 2021

+ **W.P.(C) 5235/2020**

M/S HAMILTON HOUSEWARES PVT. LTD. Petitioner

Through: Mr. Rahul Jain, Advocate.

versus

DIRECTORATE OF ENFORCEMENT Respondent

Through: Mr. Varun Agarwal on behalf of Ravi
Prakash, CGSC with Mr. Gurtejpal
Singh, Advocate & Mr. Deepak
Chauhan, Deputy Director (ED)

22 WITH

+ **W.P.(C) 2331/2021**

PARAS IMPO EXPO PVT LTD Petitioner

Through: Mr. Varun Singh, Mr. Kamlesh
Anand and Mr. Akash Deep Gupta,
Advocates.

versus

DIRECTORATE OF ENFORCEMENT & ANR. Respondents

Through: Mr. Abhay Prakash Sahay, CGSC,
Mr. Mannu Singh, Ms.
Swayamprabha S, Mr. Rishi Salim &
Mr. Kunal Dhawan Advocates for R-
1.
Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

23 WITH

+ **W.P.(C) 4680/2021**

ALOK INDUSTRIES LIMITED Petitioner

Through: Mr. Ritin Rai, Sr. Advocate with Ms.
Petrushka Dasgupta, Ms. Nasrin
Shaikh and Mr. Vidit Mehra.

versus

ASSISTANT DIRECTOR, ENFORCEMENT DIRECTORATE

..... Respondent

- 24
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Through: Mr. Amit Mahajan, CGSC with Ms. Ananya Khanna, Advocate & Mr. Ritvik Pandey, Joint Secretary (Revenue), Ministry of Finance, GOI.

WITH
W.P.(C) 5424/2020

S.N. KAPOOR EXPORTS Petitioner
Through: Mr. Ajay Bhargava, Mr. Aseem Chaturvedi, Mr. Arvind Kumar Ray and Mr. Karan Gutpa, Advocates.

versus
DIRECTORATE OF ENFORCEMENT Respondent
Through: Mr. Amit Mahajan, CGSC with Ms. Ananya Khanna, Advocate.
Mr. Deepak Singh, Advocate for ICICI Bank.

25
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WITH
W.P.(C) 5643/2020

SNB ENTERPRISES PVT. LTD. Petitioner
Through: Dr. Surat Singh and Ms. Priya Singh, Advocates.

versus
DIRECTORATE OF ENFORCEMENT & ANR. Respondents
Through: Mr. Amit Mahajan, CGSC with Ms. Ananya Khanna, Advocate.

26
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WITH
W.P.(C) 5657/2020

ORBIT EXPORTS LTD. Petitioner
Through: Mr. Ajay Bhargava, Mr. Aseem Chaturvedi, Mr. Arvind Kumar Ray and Mr. Karan Gutpa, Advocates.

versus
DIRECTORATE OF ENFORCEMENT Respondent
Through: Mr. Amit Mahajan, CGSC with Ms. Ananya Khanna, Advocate.

27
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WITH

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W.P.(C) 5671/2020

SHANTIVIJAY JEWELS LTD.

..... Petitioner

Through: Mr. Gaurav Nair and Ms. Pranati
Bhatnagar, Advocates.
(M:9810069969)

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Varun Agarwal on behalf of Ravi
Prakash, CGSC with Mr. Gurtejpal
Singh, Advocate & Mr. Deepak
Chauhan, Deputy Director (ED)

28

WITH

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W.P.(C) 5713/2020

J K TYRE AND INDUSTRIES LTD.

..... Petitioner

Through: Mr. Sidharth Luthra, Sr. Advocate
with Ms. Alina Arora, Ms. Nimrah
Sameen Alvi, Mr. Parth Singh, Mr.
Sheezan Hashmi & Mr. Anmol Kheta,
Advocates.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Varun Agarwal on behalf of Ravi
Prakash, CGSC with Mr. Gurtejpal
Singh, Advocate & Mr. Deepak
Chauhan, Deputy Director (ED)

29

WITH

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W.P.(C) 5797/2020

MAXIS INDUSTRIES

..... Petitioner

Through: Mr. Varun Singh, Mr. Kamlesh
Anand and Mr. Akash Deep Gupta,
Advocates.

versus

DIRECTORATE OF ENFORCEMENT & ANR.

..... Respondents

Through: Mr. Manish Mohan, CGSC with Ms.
Manisha Saroha, Advocate for R-1.
Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

30

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WITH
W.P.(C) 5855/2020

SHRI VISHWANATH OVERSEAS Petitioner

Through: Mr. Awanish Kumar, Advocate.

versus

DIRECTORATE OF ENFORCEMENT Respondent

Through: Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

31

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WITH
W.P.(C) 6499/2020

KP SANGHVI AND SONS LLP & ANR. Petitioners

Through: Mr. Susmit Pushkar, Mr. Gaurav
Sharma and Ms. Bhavna Mishra,
Advocates.

versus

DIRECTORATE OF ENFORCEMENT Respondent

Through: Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

32

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WITH
W.P.(C) 7034/2020

M/S. BLOSSOM FABRICS LIMITED Petitioner

Through: Mr. Vivek Sharma, Advocate.

versus

DIRECTORATE OF ENFORCEMENT Respondent

Through: Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

33

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WITH
W.P.(C) 7210/2020

PROMPT INTERNATIONAL Petitioner

Through: Mr. Ajay Bhargava, Mr. Aseem
Chaturvedi, Mr. Arvind Kumar Ray
and Mr. Karan Gutpa, Advocates.

versus

DIRECTORATE OF ENFORCEMENT Respondent

Through: Mr. Varun Agarwal on behalf of Ravi
Prakash, CGSC with Mr. Gurtejpal

Singh, Advocate & Mr. Deepak
Chauhan, Deputy Director (ED)

34

WITH

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W.P.(C) 7801/2020

M/S MAYA TRADES

..... Petitioner

Through: Mr. Gaurav Gupta and Mr. Samyak
Gangwal, Advocates.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

35

WITH

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W.P.(C) 7835/2020

EASTMAN INDUSTRIES LIMITED

..... Petitioner

Through: Mr. Rahul Jain and Mr. Shubankar
Jha, Advocates

versus

DIRECTORATE OF ENFORCEMENT NEW DELHI ... Respondent

Through: Mr. Amit Mahajan, CGSC with Ms.
Ananya Khanna, Advocate.

36

WITH

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W.P.(C) 9384/2020

M/S SUPRINT TEXTILES JAIPUR PVT LTD

..... Petitioner

Through: None.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC and Mr.
Kamal R Digpaul, Advocate for UOI.
Mr. Varun Agarwal on behalf of Ravi
Prakash, CGSC with Mr. Gurtejpal
Singh, Advocate & Mr. Deepak
Chauhan, Deputy Director (ED)

37

AND

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W.P.(C) 9922/2021

M/S SUKU INNOVATIVES

..... Petitioner

Through: Mr. Varun Singh, Mr. Kamlesh
Anand and Mr. Akash Deep Gupta,
Advocates.

versus

DIRECTORATE OF ENFORCEMENT & ANR. Respondents

Through: Mr. Varun Agarwal on behalf of Ravi
Prakash, CGSC with Mr. Gurtejpal
Singh, Advocate & Mr. Deepak
Chauhan, Deputy Director (ED)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. Pursuant to order dated 2nd September 2021, the situation of the manpower and staff, at the level of Chairman, Members, as also administrative and working staff, in the Adjudicating Authority, under the Prevention of Money Laundering Act, 2002 (*hereinafter referred as "PMLA"*), as on 1st September, 2021, was placed on record on 8th September, 2021 in W.P.(C) 9384/2020. As per the said affidavit, the following is the position in respect of various vacancies in the Adjudicating Authority.

“

<i>Sl. No.</i>	<i>Post</i>	<i>Sanctioned Strength</i>	<i>In Position</i>	<i>Remarks</i>
<i>(A) Members</i>				
<i>1.</i>	<i>Chairman</i>	<i>1</i>	<i>Vacant</i>	<i>Vacant since 1.9.2020 (more than a year)</i>
<i>2.</i>	<i>Members</i>	<i>2</i>	<i>1</i>	<i>Vacant since 15.2.2021 (more</i>

				<i>than six months)</i>
(B) Administrative Officer/Registrar				
3.	<i>Administrative Officer</i>	<i>1</i>	<i>Vacant</i>	<i>Vacant since 29.7.2020 (more than one year) which is (Pay Level-11) post.</i>
4.	<i>Registrar</i>	<i>1</i>	<i>Vacant</i>	<i>The post has been lying vacant for more than 5 years. The work is looked after by one of officer in the pay level-10. At present, Sh. Amar Singh, AO has been looking after the work for last one year as additional charge.</i>
(C) Working Staff				
5.	<i>Assistant</i>	<i>1</i>	<i>1</i>	<i>-</i>
6.	<i>Court Master</i>	<i>1</i>	<i>Vacant</i>	<i>Post has been lying vacant.</i>
7.	<i>Stenographers</i>	<i>4</i>	<i>4*</i>	<i>There is no regular appointment. The work is being taken from outsourced staff through Contractor.</i>
(D) MTS/Peons				
8.	<i>MTS (Peons)</i>	<i>4</i>	<i>4*</i>	<i>There is no regular appointment. The work is being taken from outsourced staff through Contractor.</i>

”

3. This Court had further enquired from Mr. Ravi Prakash, Id. CGSC, as to the number of cases which were filed before the Adjudicating Authority during January to August, as a comparator, to which, he had submitted the following:

January, 2019 to August, 2019 = 148

January, 2020 to August, 2020 = 130

January, 2021 to August, 2021 = 230

4. Upon perusing the affidavit filed, as also hearing the submission of Id. CGSC on this aspect, this Court had, vide the last order dated 13th September 2021, directed the concerned Joint Secretary (Revenue), Ministry of Finance, Government of India, to file an affidavit stating the following facts:

“(a) As to whether the status of vacant positions in the Adjudicating Authority, as mentioned in today’s order are correct and if so since when the said vacancies have existed;

(b) As to what steps are being taken for filling this vacancies, especially Administrative Officers, Registrars, working staff etc.; and

(c) As to what is the stipulated time schedule for filling up the said vacancies.”

5. Further to the last order, a further affidavit has been filed, which has been deposed by Sh. Ritvik Pandey, Joint Secretary (Revenue) of the Ministry of Finance, wherein the position in respect of the Presiding Officers as also the Senior Officials, at the Adjudicating Authority under the PMLA, has been given as under:

<i>Sr. No.</i>	<i>Name of Post</i>	<i>Name of Officer</i>	<i>Date of Appointment</i>	<i>Completing the tenure/ vacant w.e.f.</i>
<i>1</i>	<i>Chairperson</i>	<i>Shri Vinodanand Jha (Acting Chairperson)</i>	<i>14.02.2021</i>	<i>22.06.2023</i>
<i>2</i>	<i>Member (Administration) & Chairperson</i>	<i>Vacant</i>	<i>-</i>	<i>31.08.2020</i>
<i>3</i>	<i>Member (Law)</i>	<i>Vacant</i>	<i>-</i>	<i>14.02.2021</i>
<i>4</i>	<i>Member (Finance or Accountancy)</i>	<i>Shri Vinodanand Jha</i>	<i>24.10.2018</i>	<i>22.06.2023 (65 Years)</i>
<i>5</i>	<i>Administrative Officer</i>	<i>Vacant</i>	<i>-</i>	<i>13.04.2020</i>
<i>6</i>	<i>Registrar</i>	<i>Vacant</i>	<i>-</i>	<i>Since the creation of Post w.e.f. 20.08.2010</i>

“

6. From the above affidavit that has been filed on record in WP(C) 4680/2021, it is clear that the current quantum of work at the Adjudicating Authority is quite substantial. There is an acute shortage of staff members as also vacancies at the level of the Chairperson, Member (Administration) and Member (Law). The positions of the Administrative Officer, Registrar, and the Court Master are all vacant.

7. Considering the fact that benches of the Adjudicating Authority hold hearings, and the quantum of cases is considerable, it is not sufficient to merely fill up the vacancies as they exist today, but there is also a need to increase the manpower within the Adjudicating Authority, in order to enable the authority to function in an efficient manner. Accordingly, the following directions are issued:

- (i) Insofar as the Chairperson is concerned, it is submitted by Mr. Mahajan, Id. CGSC, under instructions from Mr. Pandey, that the selection for the Chairperson is underway and is likely to conclude shortly.
- (ii) For the positions of Member (Administration) and Member (Law), the proposal for issuance of vacancy circulars is stated to be under consideration. Since these positions have been vacant for a considerable period of time, the Government is directed to take steps for filling up the said posts, within a period of three months.
- (iii) Insofar as the Administrative Officer and Registrar are concerned, in view of the recommendations of the UPSC, as also the lack of a sufficient number of applicants, it appears that appointments have not taken place despite the vacancy circulars having been issued. Even in respect of Court Masters and other staff, such as working staff and peons etc., they have also been retained on a contractual basis. Stenographers and Court Masters would be absolutely essential in the efficient functioning of the Adjudicating Authority. The Id. CGSC Mr. Amit Mahajan along with Mr. Ritvik Pandey submits that it may be possible to explore posting of some officials from other departments to meet the exigency. Thus, if these vacancies cannot be filled up through

fresh recruitment, the Ministry shall take steps to fill up all these vacancies through alternate means, within a period of one month from today.

- (iv) The Government would also consider, keeping in mind the quantum of cases before the Adjudicating Authority, as to whether the staff strength needs to be increased, and if so the vacancy circulars, which are to be issued, would be issued after taking a decision on the increase in the staff strength.

8. Let a fresh status report be filed in this regard, within a period of two months. The filing of status reports in respect of the steps taken for appointments and filling up of vacancies, shall henceforth be made in WP(C) 4680/2021.

9. Insofar as the present writ petitions and the disputes raised in respect of the freezing of bank accounts of the Petitioners, as also the decision of the Adjudicating Authority is concerned, fresh affidavits have been filed by Mr. Ravi Prakash, CGSC, for the Respondent, as also by the Petitioners in WP(C) 5713/2020. It however appears that copies of the said affidavits filed have not been exchanged amongst the parties concerned. Let copies be exchanged between Id. Counsel for the parties.

10. List for conclusion of submissions in all these petitions on 30th September, 2021 at 3:30 pm. List WP(C) 4680/2021 on 30th November, 2021 as well, to receive the status report as directed, pertaining to the issue of appointments and vacancies at the Adjudicating Authority under the PMLA. These are part-heard matters.

PRATHIBA M. SINGH, J.

SEPTEMBER 28, 2021/dk/Ak