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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21st February, 2023

+ **W.P.(C) 2230/2023 and CM APPL. 8472/2023**

M/S. ATLAS JEWELLERY INDIA LIMITED & ANR. ... Petitioners

Through: Mr. Priyadarshi Manish, Mrs Anjali
Jha Manish and Miss Divya Rastogi
Advocates.

versus

DEPUTY DIRECTOR, DIRECTORATE OF
ENFORCEMENT

..... Respondent

Through: Mr. Anurag Ahluwalia CGSC for R-1
(M: 9811418995).

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The present petition challenges the impugned orders dated 22nd August, 2022 in Original Complaint No. 628/2022 and 22nd September, 2022, in Original Complaint No. 1724/2022 passed by the Adjudicating Authority under the Prevention of Money Laundering Act (*hereinafter* 'PMLA') in the Provisional Attachment Order (PAO) No. 03/2022 dated 6th April, 2022. The impugned orders have been passed by the AA in ECIR/KCZO/05/2019. The grievance of the Petitioner is that both the orders have been passed under Section 8(3) of the PMLA, in respect of the same property which was earlier retained and has again been attached. It is the claim of the Petitioner that the said action is contrary to law.

3. Ld. counsel for the Respondent, on the other hand, submits that this is the second round of litigation filed by the same Petitioner. He places reliance upon order dated 8th December, 2022 in *Writ Petition (Civil) 15347/2022* titled *M/S. Atlas Jewellery India Limited & Anr. v. Deputy Director, Directorate of Enforcement ('Atlas 1')* where liberty was granted to the Petitioner to approach the Appellate Tribunal constituted under Section 25 of PMLA, which then stood constituted.

4. A perusal of the order dated 8th December, 2022 in *Atlas 1 (supra)* shows that the two orders which are under challenge herein have been dealt with in the said order - the initial order of provisional attachment dated 22nd August, 2022 which was confirmed by the final order dated 22nd September, 2022. In respect of both these orders, the Petitioner was given liberty to approach the Appellate Tribunal. The said order reads as under:-

“2. The present petition under Article 226 challenges the impugned order bearing no. OA-628/2022 dated 22nd August, 2022 passed by the Adjudicating Authority under the PMLA. Vide the impugned order the Adjudicating Authority has directed retention of records and other seized material including currency, gold, silver, diamond jewellery and silver articles seized during searches conducted on 20th, 22nd, 23rd January, 2022 as mentioned in the original application filed by the Deputy Director, Enforcement Directorate. The said order was preceded by a provisional attachment order (PAO) No. 03/2022 dated 6th April, 2022 under Section 5(1) PMLA which has been passed by the Adjudicating Authority and which is not under challenge in the present petition.

3. The Court is informed by ld. Counsel for the parties that vide order dated 22nd September, 2022, the final order under Section 8(3) PMLA has also been passed by the Adjudicating Authority.

4. *Under the PMLA, an order passed by the Adjudicating Authority under Section 8(3) would be appealable to the Appellate Tribunal under Section 26 of the PMLA. Hence, it is submitted by Mr. Ahluwalia, ld. CGSC that the present writ is not maintainable.*
 5. *Mr. Manish, ld. Counsel appearing for the Petitioner on the other hand submits that his client has not been served with the copy order passed under Section 8(3) dated 22nd September, 2022. This fact is disputed by the Respondent. However, in order to resolve the controversy, a copy of the said order shall be furnished by Mr. Ahluwalia to Mr. Manish by 13th December, 2022.*
 6. *Mr. Manish, ld. Counsel in these circumstances submits that he wishes to withdraw the petition with liberty to avail of his remedies in accordance with law.*
 7. *Mr. Ahluwalia, ld. CGSC submits that the appeal, if any, filed under Section 8(3) may be barred by limitation. The said issue may be examined by the Appellate Tribunal if an appeal is preferred by the Petitioner.*
 8. *Accordingly, the petition is dismissed as withdrawn with liberty as sought for. All pending applications are also dismissed.*
 9. *It is made clear that the merits of the petition have not been considered by this Court. The remedies and contentions of the Petitioner are accordingly left open.”*
5. Upon a query from the Court it is submitted by Mr. Manish, ld. Counsel that since there is a jurisdictional issue for the orders passed by the Adjudicating Authority, the Petitioner did not approach the Appellate Tribunal constituted under PMLA and has preferred to file the present writ petition.
 6. In the opinion of this Court, in view of the order dated 8th December, 2022, the present writ petition would not be maintainable as the said order

clearly dealt with the same impugned orders which are now sought to be impugned in the present writ petition.

7. The present petition is, accordingly, dismissed.

PRATHIBA M. SINGH, J.

FEBRUARY 21, 2023

mr/am

