



W.A.No.756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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Sameer BS Rao
Chief Financial Officer
Xiamoni Technology India Private Limited
Orchid (Block E), ground to fourth floor
Embassy Tech Village
Marathahalli – Sarjapur Outer Ring Road
Bengaluru 560 103, Karnataka, India. .. Appellant

Vs.

1. The Adjudicating Authority Special Director (Sr)
Directorate Of Enforcement, Southern Regional Office,
Chennai, Shastri Bhavan, III Floor, III Block
26 Haddows Road, Chennai 600 006.
2. The Assistant Director
Directorate Of Enforcement
Bangalore Zonal Office, 3rd Floor, B Block
BMTC, Shanthinagar, TTMC, KH Road
Shanthinagar, Bengaluru - 560 027.
3. The Joint Director
Directorate Of Enforcement
Bangalore Zonal Office, 3rd Floor, B Block,
BMTC, Shanthinagar, TTMC, KH Road
Shanthinagar, Bengaluru - 560 027. .. Respondents



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Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 23.01.2024 in W.P.No.35649 of 2023.

For the Appellant : Mr.Harpreet Singh Ajmani
assisted by Mr.Aditya Bhat
Ms.Radhika Vijayaraghavan
Mr.Aadith Sridhar
Mr. Sidharth Bhandari
for Mr.P.Giridharan

For the Respondents : Mr.ARL.Sundaresan
Additional Solicitor General
assisted by Mr.Rajnish Pathiyil
Special Public Prosecutor

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

Heard Mr.Harpreet Singh Ajmani, learned counsel assisted by Mr.Aditya Bhat, Ms.Radhika Vijayaraghavan, Mr.Aadith Sridhar, Mr.Sidharth Bhandari, learned counsel appearing for Mr.P.Giridharan, learned counsel for the appellant and Mr.ARL.Sundaresan, learned Additional Solicitor General of India, assisted by Mr.Rajnish Pathiyil, learned Special Public Prosecutor for the respondents.

2. The proceedings were initiated against the appellant under

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the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000. Notice was served upon the appellant under Rule 4(1) of the Rules, 2000. The appellant sought for documents. The appellant was not supplied with four documents. In absence thereof, the matter proceeded till the stage of order under Rule 4(3). The opinion was formed by the authority. The appellant filed a review. The review was dismissed. Aggrieved thereby, the appellant filed writ petitions.

3. The learned Single Judge concluded that the principles of natural justice are violated as four documents relied on were not submitted to the appellant. The learned Single Judge directed to provide an opportunity to the present appellant for giving fresh explanation on receipt of the four documents. However, as far as the opinion that was already formed is concerned, the learned Single Judge observed that the adjudicating authority may form a further opinion.



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4. Learned counsel for the appellant submits that there cannot be two opinions on record. The earlier opinion formed has to be set aside. The very purpose of giving opportunity to the appellant to submit a fresh explanation would be frustrated if the adjudicating authority is guided by the earlier opinion.

5. Learned Additional Solicitor General submits that the appellant was given inspection of the documents though four documents were not supplied. The explanation was received. The opinion was also formed. According to learned Additional Solicitor General, the adjudicating authority would form a fresh opinion.

6. In view of the fact that the learned Single Judge has observed that the principles of natural justice are violated in view of the fact that the documents were not supplied to the appellant, though was given an opportunity to inspect and directed to give an opportunity to the appellant to file its explanation in view of the four documents supplied later on, naturally the opinion to be formed



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would be based on the explanation given by the appellant upon the supply of all the documents. As such, instead of further opinion to be formed by the officer, the adjudicating authority would form a fresh opinion based on the explanation submitted by the appellant upon receipt of the four additional documents. The said opinion shall be uninfluenced by the earlier opinion formed. The earlier opinion would be non-est.

7. The writ appeal, accordingly, stands disposed of. There shall be no order as to costs. Consequently, C.M.P.Nos.5041 and 5042 of 2024 are closed.

(S.V.G., CJ.)

(D.B.C., J.)
05.03.2024

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

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