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W.P.No.7118 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

W.P.No.7118 of 2024 &
W.M.P. Nos.7979 & 7980 of 2024

M/s. Vishwak Properties,
Represented by its Partner Shri V.E.Selvam
113B, 28A, Kakkan Street,
West Tambaram, Tambaram,
Chennai 600 045.

... Petitioner

Vs.

1.The Assistant Director
Directorate of Enforcement,
Chennai Zonal Office-I,
No.2, 5th and 6th Floor,
BSNL Administrative Building,
Kush Kumar Road, Nungambakkam,
Chennai 600 034.

2. The Assistant Manager,
State Bank of India,
D.No.2B, Duraisamy Reddy Street,
West Tambaram,



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Chengalpattu District, Tamil Nadu 600 045.

... Respondents

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Petition filed under Article 226 of the Constitution of India, praying to issue Writ of certiorarified Mandamus, calling for the records in summon bearing No.ECIR/CEZO-I/20/2023 dated 03.01.2024 issued by the first respondent and quash the proceedings in ECIR/CEZO-I/20/2023 under the provisions of Prevention of Money Laundering Act,2002, as being contrary to law and consequentially order to direct both first and second respondent to release a sum of Rs.64,04,204/- and Rs.10,00,000/- seized vide Panchanama/Seizure Memo dated 28.12.2023 and 03.01.2024 respectively.

For petitioner	: Mr. S. Ravi for Mr. G. Suresh Babu for M/s. Sri Law Associates
For R1	: Mr.N. Ramesh Special Public Prosecutor
R2	: No appearance.

ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

The present Writ Petition has been filed seeking to quash the proceedings in ECIR/CEZO-I/20/2023 and consequentially direct both the first and second respondents to release a sum of Rs.64,04,204/- and



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Rs.10,00,000/- seized vide Panchanama/Seizure Memo dated 28.12.2023 and 03.01.2024 respectively.

2. The co-accused in this case had filed W.P. No.1998 of 2024 challenging the ECIR proceedings. We had quashed the proceedings by an order dated 13.03.2024, which reads as follows:

"3. Since the proceedings for the predicate offence has been closed, the first respondent cannot proceed under the impugned ECIR/CEZO1/20/2023, as per the judgment of the Hon'ble Supreme Court in the case of 'Vijay Madanlal Choudhary & others Vs. Union of India & others' reported in '(2022) SCC Online SC 929', wherein, it is ruled as follows:-

“467. ... (v)(d) The offence under Section 3 of the 2002 Act is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence. It is concerning the process or activity connected with such property, which constitutes the offence of money laundering. The Authorities under the 2002 Act cannot



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prosecute any person on notional basis or on the assumption that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and/or pending enquiry/trial including by way of criminal complaint before the competent forum. If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money laundering against him or any one claiming such property being the property linked to stated scheduled offence through him.”

3. In view of the same, the summons issued against the petitioner cannot be sustained and the consequential action of the 1st respondent in seizure of cash of Rs.64,04,204/- and Rs.10,00,000/- respectively under seizure memo also cannot be sustained. The petitioner is, therefore, entitled to the return of the cash seized, which shall be returned



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by the respondents forthwith.

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4. Accordingly, this Writ Petition stands allowed as prayed for.

No costs. Consequently, the connected miscellaneous petitions are closed.

[M.S.R., J] [S.M., J]
27.03.2024

bga

Index : Yes / No

Neutral Citation : Yes / No

To

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