



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWPs-3067-2023 and 14714-2023

Reserved on : 02.08.2024

Date of pronouncement : 22.08.2024

M/s Gupta Builders and Promoters Private Limited

.....Petitioner

Versus

Union of India and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anand Chhibber, Senior Advocate, with
Mr. Viren Sharma, Advocate,
Mr. Pradeep Singh, Advocate, and
Mr. Utkarsh Khatana, Advocate,
for the petitioner.

Mr. Shobit Phutela, Senior Panel Counsel,
for the respondents (in CWP-3067-2023).

Mr. Lokesh Narang, Senior Panel Counsel,
for the respondents (in CWP-14714-2023).

SHEEL NAGU, CHIEF JUSTICE

Both these petitions, filed by one and the same Company, seek issuance of a writ in the nature of certiorari for quashing of order dated 20.09.2022 (Annexure P-2 in CWP-3067-2023) and 27.04.2023 (Annexure P-5 in CWP-14714-2023) passed by the Adjudicating Authority provisionally attaching the properties, which are alleged to be proceeds of scheduled offences punishable under the Prevention of Money-Laundering Act, 2002 (in short, "PMLA") alleged against the functionaries of petitioner Company.



2. Learned senior counsel appearing on behalf of the petitioner and learned senior panel counsel for the respondents are heard at length.

3. This Court, while taking cognizance of CWP-3067-2023 on 16.03.2023, had protected the petitioner by passing status quo order with regard to the property attached vide order dated 20.09.2022, in the backdrop of similar issue being pending before Apex Court, instituted vide SLP (C) Diary No. 30092 of 2022 titled ***“Ashok Kumar Sarawagi Vs. Enforcement Directorate and another.”*** Similarly, in CWP-14714-2023, same interim relief was granted to the petitioner on 17.07.2023 with regard to its property attached vide order dated 27.04.2023.

4. On the last occasion, when these cases were taken up on 31.07.2024, learned counsel for the respondents had informed that the aforesaid case of Ashok Kumar Sarawagi had since been dismissed as withdrawn by the Apex Court.

5. On the website of the Apex Court, revelation made by learned counsel for the respondents was found to be correct, as the said case of Ashok Kumar Sarawagi was dismissed as withdrawn by Apex Court on 30.07.2024 (Petition for Special Leave to Appeal No. 26459/2023).

6. The basic thrust of learned senior counsel on behalf of petitioner is that the Adjudicating Authority had no jurisdiction under Section 5 of the PMLA to provisionally attach the properties in question, in view of bar contained in Section 14 of the Insolvency and Bankruptcy Code, 2016, which prohibits institution or continuation of suits or proceedings against corporate debtor and since the petitioner is protected by an order dated 31.05.2022 (Annexure P-1) passed by the National Company Law Tribunal, Chandigarh



Bench, Chandigarh, in CP (IB) No. 237/Chd/Chd/2021, moratorium comes to the rescue of the petitioner. In this factual background, it is contended that moratorium having been imposed on 31.05.2022, the Adjudicating Authority had no power to provisionally attach the properties in question under Section 5 of the PMLA, on 20.09.2022 and 27.04.2023.

7. This Court could have interfered in the matter, but considering the fact that the petitioner Company in CWP-14714-2023 assailing the order dated 27.04.2023 has already approached the Appellate Tribunal under Section 26 of the PMLA, challenging correctness of the subsequent order dated 03.10.2023 passed by the Adjudicating Authority confirming provisional attachment, and the appeal, having wider scope of interference, is pending, this Court declines interference in the matter.

8. Both the petitions are, accordingly, disposed of with liberty to the petitioner to pursue the remedy of appeal, already availed by it.

9. The status quo orders passed by this Court in both these cases stand vacated with liberty to the petitioner to pray for grant of interim relief in the appeal pending before the Appellate Tribunal.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

August 22, 2024
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No