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

+ **W.P.(C) 9457/2021 & CM APPL. 8208/2024**

RAMA LUTHRA

..... Petitioner

Through: Mr. Abhimanyu Bhandari, Ms. Gauri Rishi, Ms. Srishti Juneja and Ms. Sugandh Kocchar, Advocates.

versus

DIRECTORATE OF ENFORCEMENT & ORS. Respondents

Through: Mr. Zoheb Hossain, Sr. Standing Counsel for ED with Mr. Vivek Gurnani, Ms. Sara Jain and Mr. Antik Majumder, Advocates.

+ **W.P.(C) 2948/2023 & CM APPL. 8317/2024**

RAMA LUTHRA

..... Petitioner

Through: Mr. Abhimanyu Bhandari, Ms. Gauri Rishi, Ms. Srishti Juneja and Ms. Sugandh Kocchar, Advocates.

versus

DEPUTY DIRECTOR, DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Sr. Standing Counsel for ED with Mr. Vivek Gurnani, Ms. Sara Jain and Mr. Antik Majumder, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

13.02.2024

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1. **W.P.(C) 9457/2021** has been filed with the following prayers;

“A. Issue a Writ, Order or Direction in the nature of

W.P.(C) 9457/2021 etc.

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Certiorari or any other Writ, Order or Direction quashing declaring that the Provisional Attachment Order No.1/2021 dated 22.01.2021 and Provisional Attachment Order No. 2/2021 dated 08.02.2021 in ECIR/02/CDZO/2015 and all proceedings emanating therefrom including Original Complaint No. 1407/2021 and Original Complaint No.1408/2021 before the Ld. Adjudicating Authority have lapsed and ceased to have any effect on and from the expiry of 180 days period provided under Section 5 (1) read with Section 5 (3) of Prevention Money Laundering Act, 2002 i.e., 21.07.2021 and 07.08.2021 respectively; and

B. Pass any other order or direction as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the present case and in the interest of justice"

2. W.P.(C) 2948/2023 has been filed with the following prayers:

a) Issue an appropriate Writ of Certiorari or any other appropriate Writ, Order or direction under Article 226 of the Constitution of India thereby quashing the two Impugned Orders dated 28.12.2021 (in OC No.1407/2021) and dated 06.09.2021 (in OC No.1408/2021) respectively passed by the Ld. Adjudicating Authority confirming thereby the attachment of her personal properties; and / or

b) Pass any other orders that this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case.

3. It is the case of the Petitioner that all the accused persons of the predicate offence have been acquitted *vide* Order dated 25.01.2024 passed by the Ld. Special Judge, (PC Act), CBI in CRC No. 21/2019; ECIR/02/CDZO/2015, CNR No. DLCT11-001334-2019.

4. The Apex Court *vide* Order dated 22.01.2024 passed in Criminal



Appeal No.382/2024 has held that since the predicate offence has been quashed, the prosecution under the PMLA cannot survive. The said Order dated 22.01.2024 reads as under:

“Delay condoned.

Leave granted.

It is not in dispute that the predicate offence has resulted in acquittal of all the accused. Hence, the prosecution under the Prevention of Money Laundering Act, 2002 (for short “the PMLA Act”) cannot survive. Accordingly, Criminal Complaint No. 21 of 2019; ECIR/02/CDZO/2015 is hereby quashed and set aside only on that ground.

It is obvious that all consequential orders passed on the footing that the provisions of the PMLA Act are applicable also stand set aside.

Needless to add that in the event, the order of acquittal is set aside, the respondent can always apply for revival of the complaint and all other proceedings.

The appeal is accordingly allowed.”

5. In view of the above, the writ petitions are allowed. Pending applications, if any, stand disposed of.

6. Needless to state that in case the acquittal is set aside in an appeal, if any, filed by the CBI, the Respondents can always apply for revival of the complaint and all other proceedings.

SUBRAMONIUM PRASAD, J

FEBRUARY 13, 2024

S. Zakir