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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 06.03.2024

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MISC. APPEAL(PMLA)-4/2024

VIJAY CHOUDHARY

...Appellant

versus

DIRECTORATE OF ENFORCEMENT & ANR.

..... Respondent

Advocates who appeared in this case:

For the Appellant:

Mr. Vikram Chaudhri, Senior Advocate with Mr. Keshavam Chaudhari, Mr. Rishi Sehgal, Mr. Arvind Shekhan, Ms. Nikita Gill and Ms. Muskaan Khuraana, Advocates.

For the Respondents:

Mr. Padmesh Mishra, Advocate.

CORAM:-**HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****SANJEEV SACHDEVA, J (ORAL)****CM APPL 14099/2024**

1. For the reasons stated in the application, application is allowed.

Delay in re-filing is condoned.

2. Application is disposed of.

MISC. APPEAL(PMLA) 4/2024 & CM APPL. 14096/2024 & CM APPLS. 14097-98/2024

1. Learned senior counsel for the appellant submits that the



Appellate Tribunal has erred in holding that the appeal filed by the appellant only impugns the order confirming the provisional attachment and did not impugn the order rejecting the application filed before the Adjudicating Authority for non-supply of certain documents and non-supply of legible copies of certain Relied Upon Documents.

2. Issue notice. Notice is accepted by learned counsel for respondents.

3. With the consent of parties, the appeal is taken up for hearing today.

4. A provisional attachment order was passed on 28.07.2015, attaching certain immovable properties *inter alia* belonging to the appellant. This was followed by an original complaint dated 27.08.2015. Copies of relied upon documents were supplied to the appellant sometimes in September, 2015. On 28.10.2015, an application was filed by one of the parties contending that some of the Relied Upon Documents had not been supplied and some were completely illegible. Said application was rejected by order dated 24.11.2015. As per learned senior counsel for the appellant a short order dated 24.11.2015 was made available which referred to a detailed order, however, the detailed order was not supplied till January, 2016. Subsequently, by order dated 14.12.2015, the provisional attachment was confirmed.



5. As per the respondents, copies of all Relied Upon Documents were supplied and the same were legible. This is disputed by learned senior counsel for appellant.

6. In the impugned order dated 14.12.2023, the Appellate Tribunal has noticed that the application filed by the appellant seeking copies of Relied Upon Documents was dismissed by the Adjudicating Authority on 24.11.2015, followed by confirmation of the provisional attachment. The impugned order records that an appeal has been filed only against the confirmation of provisional attachment order and not against the dismissal of the application to seek copies of Relied Upon Documents.

7. Tribunal further holds that in the light of the fact that appellant has not impugned order rejecting the application seeking copies of Relied Upon Documents, they did not find the application filed before the Appellate Tribunal for supply of Relied Upon Documents and legible copies thereof to be tenable as the said prayer was rejected by the Adjudicating Authority and no challenge to it had been made.

8. We may refer to the prayer of the appeal filed before the Appellate Tribunal, which has been annexed as Annexure A-13. The prayer reads as under:-

“1. Allow the present Appeal and set aside/quash the Impugned Order dated 14.12.2015 (Annexure A-1) passed by Respondent No. 2 Adjudicating Authority in O.C 514/2015, whereby, the Provisional Attachment Order (PAO) No. 02/2015-



16 dated 28.07.2015 was confirmed without the supply of legible and complete copies of Relied Upon; Referred to; Considered documents in the Original Complaint (supra) and all proceedings prior thereto including the detailed Order dated 24.11.2015 (Annexure A-11), as the impugned order so passed is contrary to the settled principles of law and in grave violation of the principles of natural justice apart from the proceedings initiated by the Complainant being completely non-est, void ab initio and hit by legal maxims 'Debile Jundamentum fillit oTitis', meaning thereby that when the foundation falls, everything falls; and "Sublctto fiindctmento cadit opus"] meaning thereby, in case a foundation is removed, the superstructure falls"

(underlining supplied)

9. Perusal of the prayer paragraph of the appeal shows that the appellant has not only impugned the order dated 14.12.2015 (Annexure A1 to the appeal before the Tribunal) whereby the provisional attachment order was confirmed, but has also impugned all proceedings prior thereto including the detailed order dated 24.11.2015 (Annexure A-11 to the appeal before the Tribunal).

10. Clearly, the Tribunal has erred in not noticing that the appellant has not only impugned the order of confirmation of provisional attachment, but also the order whereby the application of the appellant seeking copies of the Relied Upon Documents was rejected. On that ground, we are of the view that the impugned order cannot be sustained and calls for a remit.



11. In view of the above, order dated 14.12.2023 is set aside. The application of the appellant for supply of documents is restored to its original number on the records of the Appellate Tribunal.

12. We are informed that proceedings are listed before the Appellate Tribunal for further hearing on 20.03.2024. Appellate Tribunal shall decide the application in accordance with law and if it so deems fit consider the application alongwith the final hearing of the appeal.

13. Appeal is disposed of in the above terms. All rights and contentions of parties are reserved.

14. *Dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 06, 2024

NA