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

\+ W.P.(C) 10768/2024

ARYAN CONSTRUCTIONS THROUGH MR. AMIT SINGH YADAV (PROPRIETOR) .....Petitioner

Through: Mr.Raghav Sabharwal, Ms.Yashita Dalmia and Ms.Vijay Laxmi Ojha, Advocates.

versus

PUNJAB NATIONAL BANK LTD. THROUGH ITS CMD & ORS. .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

<u>O R D E R</u>

% **22.08.2024**

<u>CM APPL. 48171/2024</u>

1. The applicant/petitioner moves this application seeking certain clarifications with respect to the judgment dated 05.08.2024, whereby W.P.(C) No.10768/2024 was dismissed by a detailed reasoned order.

2. None is present for the non-applicants/respondents despite sending advance notice.

3. Having heard the learned counsel for the petitioner, it is pertinent to mention that the applicant/petitioner sought the following reliefs in the main writ petition:

> "(i) Grant an appropriate writ, order or direction, directing the Respondent Banks to take appropriate steps for protecting the interests of the bona fide creditors of the Bhushan Steel & Power Ltd. by initiating appropriate proceedings to inter alia, secure the moneys siphoned off by the erstwhile promoters of Bhushan Steel

> & Power Ltd., including but not limited to the assets of over Rs. 4000 crores attached by the Directorate of Enforcement;
> (ii) Grant an appropriate writ, order or direction, directing the Reserve Bank of India to issue appropriate directions to the Respondent Banks under Section 35A of the Banking Regulation Act, 1949;
> (iii) Pass such other or further order/s which this Hon'ble Court may deem fit and proper in the interest of justice."

4. Learned counsel for the applicant/petitioner has urged that the first clarification sought is in the background that the learned National Company Law Tribunal ['NCLT'] *vide* judgment dated 17.02.2020, after considering the matter in the overall context of Section 29A and 32A of the Insolvency and Bankruptcy Code, 2016, had come to the following conclusion:

> 71. In view of aforesaid discussion, we declare the attachment of assets of the 'Corporate Debtor' by the Directorate of Enforcement pursuant to order dated 10.10.2019 as illegal and without jurisdiction.

5. It is urged by learned counsel for the applicant/petitioner that in view of the aforesaid order passed by the learned NCLT, the judgment of this Court dated 05.08.2024 should not come in the way of putting a bar upon or restricting the right of the applicant/petitioner to approach the Appellate Tribunal, Prevention of Money Laundering Act ['PMLA'].

6. The plea raised by learned counsel for the applicant/petitioner is ill conceived and superfluous since the order dated 10.10.2019 passed by the Directorate of Enforcement having been declared as illegal and without any jurisdiction, the question of putting any fetters or restricting the applicant/petitioner to intervene in the pending proceedings before the Appellate Tribunal, PMLA does not arise as. In other words, the very substratum of the order has been held to be

illegal, and thus, the proceedings before the Appellate Tribunal, PMLA becomes infructuous and non est in law. It is evident that the clarifications sought is an attempt to indirectly revive the attachment proceedings, which cannot be allowed.

7. It goes without saying that there is no declaration by the NCLT *qua* the properties and assets of the erstwhile management of the corporate debtor. If there are pending any proceedings *qua* such assets and properties of the erstwhile management, the applicant/petitioner would be at liberty to intervene and seek appropriate relief in permitted by the law.

8. Insofar as prayer (b) is concerned, this Court imposed costs of Rs.1 lac upon the petitioner, inadvertently failing to clarify where to make the payment. Thus, it is clarified and directed that the said amount be deposited with the Delhi High Court Legal Services Committee within a month from today.

9. Accordingly, the present application is dismissed.

DHARMESH SHARMA, J.

AUGUST 22, 2024/VLD