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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 16363/2024 & CM APPLs. 69028-69029/2024**
P.S. GAHLAUTPetitioner

Through: Mr. Vikas Pahwa, Senior Advocate
with Mr. Gandharv Anand, Mr.
Devesh Bhatia and Ms. Annada
Dubey, Advocates.

versus

DIRECTORATE OF ENFORCEMENT & ORS.Respondents
Through: Mr. Zoheb Hossain, Spl. Counsel
with Mr. Vivek Gurnani, Panel
Counsel with Mr. Kartik Sabharwal,
Advocates for R-1.
Mr. Rachit Bigghe, Advocate for R-3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **26.11.2024**

1. The present writ petition impugns communication dated 13th November, 2024 issued by Directorate of Enforcement¹ to Respondents No. 2 to 4, enclosing therewith order dated 27th January, 2023 passed by the Adjudicating Authority in OC No. 1802/2022 in PAO No. 11/2022 dated 4th August, 2022 in ECIR/DLZO-I/43/2021.
2. Relying on the afore-noted attachment order, ED has directed the banks to transfer and credit the attached amount to ED's account under Rule

¹ "ED"



4(5) of the Prevention of Money Laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013.

3. Mr. Vikas Pahwa, Senior Counsel for Petitioner, acknowledges the fact that order dated 27th January, 2023 passed by the Adjudicating Authority has been assailed in appeal No. FPA-PMLA-5788/DLI/203 before the Appellate Tribunal and the said appeal is pending consideration. However, Mr. Pahwa submits that the impugned communication stems from an action under Section 8(4) of the Prevention of Money Laundering Act, 2002², and therefore, the present dispute is not amenable to the appeal remedy under Section 26 of the PMLA. Without prejudice to the foregoing submissions, he further submits that the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, cannot be said to be ousted even if an appellate remedy is available. In such circumstances, Mr. Pahwa urges for the intervention of this Court.

4. On the other hand, Mr. Zoheb Hossain, Special Counsel for Respondent No. 1, objects to the maintainability of the present petition and urges that the impugned order is indeed amenable to appeal. Section 26 of the PMLA clearly provides that any person aggrieved by an order made by the Adjudicating Authority, may prefer an appeal to the Appellate Tribunal. Reliance is placed on the decision in *Varinder Pal Singh Dhoot v. Union of India and Anr.*³ He further submits that in fact, the Appellate Tribunal routinely examines the legality of orders passed under Section 8(4) of the PMLA.

5. The Court has noted the facts and contentions made by the parties.

² “the PMLA”

³ 2024 SCC OnLine P&H 11723



Upon a bare reading of Section 26 of the PMLA, it is evident that any order passed by the Adjudicating Authority in exercise of its powers under the PMLA is subject to the remedy of appeal before the Appellate Tribunal. In such circumstances, the Court is not inclined to entertain the present petition.

6. Mr. Pahwa states that in light of the Court's observations, Petitioner shall prefer an appeal within a period of ten days from today. Accordingly, till ten days, the impugned communication dated 13th November, 2024 shall be kept in abeyance.

7. The Appellate Tribunal shall now consider the appeal, on its own merits, if so preferred, in accordance with law.

8. It is clarified that the direction of abeyance is not a reflection on merits of the case, and the petition has been declined purely on the ground of alternate remedy being available with the Petitioner.

9. All rights and contentions of the parties are reserved.

10. With the above directions, the petition is disposed of along with pending applications.

SANJEEV NARULA, J

NOVEMBER 26, 2024

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