



W.A Nos. 2954 and 2955 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2025

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

W.A Nos. 2954 and 2955 of 2024

And

CMP.Nos. 21981 of 2024

M/s. Advantage Strategic Consulting (P) Ltd,
Represented by its Director,
Mr.Mohanan Rajesh,
Having Office at No. 2/33, Nageswara Road,
Nungambakkam,
Chennai-600034.

..Appellant in both appeals

Vs

1.The Assistant General Manager,
Reserve Bank of India,
Foreign Exchange Department,
Fort Glacis, Rajaji Salai,
Chennai-600001.



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2. The Joint Director,
Directorate of Enforcement,
Southern Regional Office,
Government of India, Ministry of Finance,
Shastri Bhavan, III Block, III Floor,
No.26, Haddows Road, Chennai-600006.

3. Adjudicating Authority,
Directorate of Enforcement,
Southern Regional Office,
Government of India, Ministry of Finance,
Shastri Bhavan, III Block, III Floor,
No.26, Haddows Road, Chennai-600006.

...Respondents
in both Appeals

Writ Appeals is filed under Clause 15 of Letter Patent to set aside the common order dated 03.06.2024 passed in W.P.Nos. 19631 & 19632 of 2017.

For Appellant: Mr. N.R.R. Arun Natarajan
(in both WAs)

For Respondents : Mr.C.Mohan and
(in both WAs) Ms.A.Rexy Josephine Mary - R1
Mr.N.Ramesh, Spl.PP (ED) – R2 & R3



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COMMON JUDGMENT

(Made by ***HEMANT CHANDANGOUDAR, J.***)

These intra-court appeals assail the common order dated 02.04.2024 passed by the learned Single Judge in W.P. Nos. 19631 and 19632 of 2017. By the said order, the learned Single Judge dismissed the writ petitions filed by the appellants herein challenging the communication issued by the first respondent returning the compounding applications submitted by the appellants for compounding of contraventions under the Foreign Exchange Management Act, 1999 (for brevity, “FEMA, 1999”). Since the issues involved in both the writ appeals are similar, they are taken up together, heard, and disposed of by this common judgment.

2. The complaint against the appellants was registered for alleged contraventions of the provisions of FEMA, 1999, read with the regulations framed thereunder, rendering the appellants liable for penalty under Section 13(1) read with Section 42 of FEMA, 1999. The alleged contraventions are summarized as follows:



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i. During the course of business, the appellant purchased 1,50,000 equity shares of Rs. 100/- each in M/s. Vasan Health Care Pvt. Ltd. for a total consideration of Rs. 1,50,00,000/- on 30.10.2008. Subsequently, on 21.10.2010, a Joint Share Purchase Agreement was entered into between the Sequoia Group (purchasers) and the promoters of M/s. Vasan Health Care Pvt. Ltd. along with the appellant (both sellers). Under the said agreement, the purchasers agreed to acquire 30,000 equity shares of M/s. Vasan Health Care Pvt. Ltd. from the appellant for a total consideration of Rs. 22,50,00,502/-, i.e., Rs. 7,500/- per share. On 26.10.2010, the sale of shares was completed in accordance with the terms of the Share Purchase Agreement dated 21.10.2010, and the entire sale proceeds were credited to the account of the appellant on the same day. As per Regulation 5(1), Paragraph 10 to Schedule I of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, the due date for filing Form FC-TRS (Foreign Currency Transfer of Shares) with the Development Credit Bank (DCB), the authorised dealer bank for the appellant, was 25.12.2010, being 60 days from the date of receipt of the remittance.

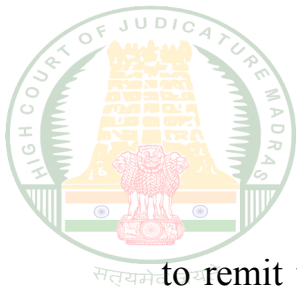


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ii. On 01.11.2010, a Profit Share Agreement was entered into between the purchasers and the sellers. However, the appellant filed Form FC-TRS with DCB only on 30.04.2011, well beyond the prescribed time limit. Consequently, the second respondent issued summons to the appellant and its Directors under Section 50 of the Prevention of Money Laundering Act, 2002 (PMLA). The second respondent thereafter conducted a search on 01.12.2015 under Section 37 of FEMA, 1999, in the office premises of the appellant and the residential premises of its Directors. Subsequently, the Income Tax Department also conducted a survey under Section 133A of the Income Tax Act, 1961 in the office premises of the appellant.

3. During the pendency of the said complaint, the appellant submitted an application to the Reserve Bank of India (RBI) for compounding of the alleged contravention under Rule 4(1) of the Foreign Exchange (Compounding Proceedings) Rules, 2000 (hereinafter referred to as “Rules, 2000”). The said application was returned, citing that the RBI had been advised by the Joint Director, Directorate of Enforcement, not to proceed with the compounding and



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to remit the case to the Adjudicating Authority for adjudication under Section 13 of FEMA, 1999, in terms of the proviso to Rule 8(2) of the Rules, 2000.

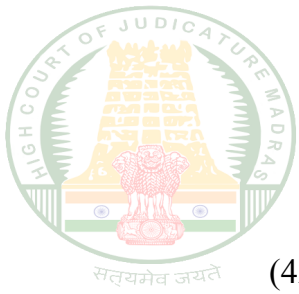
4. Aggrieved by the said communication, the appellants filed the above writ petitions. The learned Single Judge, after hearing both sides, passed the common order impugned in these appeals.

5. We have heard Mr. N.R.R. Arun Natarajan, learned counsel for the appellants; Mr. C. Mohan and Ms. A. Remy Josephine Mary, learned counsel for the first respondent; and Mr. N. Ramesh, learned Special Public Prosecutor (ED) appearing for respondents 2 and 3. We have also perused the materials placed on record.

6. Before addressing the issue involved in these appeals, it is apposite to extract the relevant provisions of the Rules, 2000, which govern the compounding of contraventions under FEMA, 1999.

I. Rule 4 of the Rules, 2000 – Power of Reserve Bank to Compound Contraventions:

“4. Power of Reserve Bank to compound contraventions.—(1) If any person contravenes any provisions of the Foreign Exchange Management Act, 1999



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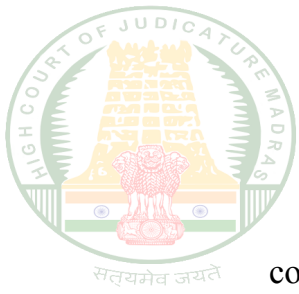
(42 of 1999), except clause (a) of section 3 of that Act—

- (a) where the sum involved in such contravention is Rs. 10 lakhs or below, by the Assistant General Manager of the Reserve Bank of India;
- (b) where the sum involved in such contravention is more than Rs. 10 lakhs but less than Rs. 40 lakhs, by the Deputy General Manager of the Reserve Bank of India;
- (c) where the sum involved in the contravention is Rs. 40 lakhs or more but less than Rs. 100 lakhs, by the General Manager of the Reserve Bank of India; and
- (d) where the sum involved in such contravention is Rs. 100 lakhs or more, by the Chief General Manager of the Reserve Bank of India:

Provided further that no contravention shall be compounded unless the amount involved is quantifiable.

(2) Nothing contained in sub-rule (1) shall apply to a contravention committed by any person within a period of three years from the date on which a similar contravention committed by him was compounded under these rules.

Explanation.—For the purposes of this rule, any second or subsequent contravention committed after the expiry of three years from the date on which the previous contravention was compounded shall be deemed to be a first



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contravention.

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(3) Every officer specified under sub-rule (1) shall exercise the powers to compound contraventions subject to the direction, control, and supervision of the Governor of the Reserve Bank of India.

(4) Every application for compounding shall be made in the prescribed form to the Reserve Bank of India, Exchange Control Department, Central Office, Mumbai, along with a fee of Rs. 5,000/- by Demand Draft in favour of the compounding authority.”

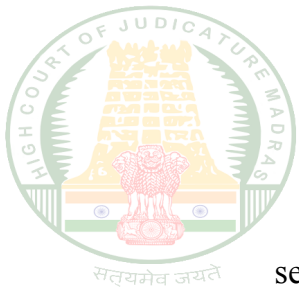
II. Rule 8 of the Rules, 2000 – Procedure for Compounding

“8. Procedure for compounding.—

(1) The Compounding Authority may call for any information, record, or document relevant to the compounding proceedings.

(2) The Compounding Authority shall pass an order of compounding after affording an opportunity of being heard to all concerned as expeditiously as possible and not later than 180 days from the date of application:

Provided that, with respect to any proceeding initiated under Rule 4, if the Enforcement Directorate is of the view that the said proceeding relates to a



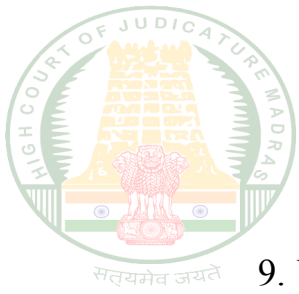
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serious contravention suspected of money laundering, terror financing, or affecting the sovereignty and integrity of the nation, the Compounding Authority shall not proceed with the matter and shall remit the case to the appropriate Adjudicating Authority for adjudication under Section 13.”

7. A conjoint reading of the above provisions makes it clear that the Reserve Bank of India is empowered to compound contraventions under FEMA, 1999, except those covered under Clause (a) of Section 3, subject to the proviso to Rule 8(2) of the Rules, 2000. Where the Enforcement Directorate forms an opinion that the case involves a serious contravention suspected of money laundering or terror financing, the Compounding Authority is precluded from proceeding further and must remit the case to the appropriate Adjudicating Authority under Section 13 of FEMA, 1999.

8. Learned counsel for the appellants vehemently contended that under Rule 3 of the Rules, 2000, the Compounding Authority alone is empowered to decide whether a matter involves serious contraventions suspected of money laundering. Hence, according to him, the RBI could not have returned the application merely on the advice of the Enforcement Directorate.



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9. We are unable to accept the said submission. The proviso to Rule 8(2) categorically stipulates that where the Enforcement Directorate is of the view that the proceedings relate to a serious contravention involving suspected money laundering, the Compounding Authority shall not proceed with the application and shall remit the case to the Adjudicating Authority for adjudication under Section 13 of FEMA, 1999. Therefore, it is not incumbent upon the Compounding Authority to form an independent opinion on the seriousness of the contravention when such a view has already been expressed by the Enforcement Directorate. Accordingly, the submissions advanced by the learned counsel for the appellants are without merit and stand rejected.

10. As regards the further contention of the appellants that no proceedings under Section 13 of FEMA, 1999 have been initiated or are pending against them, the same is factually incorrect. The learned counsel for the Enforcement Directorate (second respondent) has produced a copy of the complaint filed before the Special Judge, New Delhi, against the appellants and others for the offence of money laundering under Section 3, read with Section 70, and punishable under Section 4 of the Prevention of Money Laundering Act, 2002 (PMLA). The said complaint also contains allegations of contraventions under



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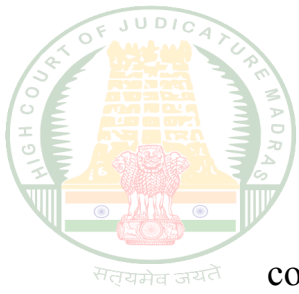
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Section 13 of FEMA, 1999, as detailed in paragraphs 15.8 to 15.10 thereof, which read as follows:

“15.8 The balance sheets of ASCPL for the financial years 2007–08 and 2008–09 show that, during this period, the only source of funds available to ASCPL was the money received from M/s. Span Fibre. Hence, the shares of M/s. Vasan Health Care Pvt. Ltd. acquired by ASCPL were generated from proceeds of crime, as they had been acquired out of the illegal gratification received by ASCPL for the approval granted by Shri P. Chidambaram to M/s. INX Media Pvt. Ltd.

15.9 The remaining payment of Rs.1 crore due for the shares of M/s. Vasan Health Care Pvt. Ltd. purchased by ASCPL was made on 29.10.2010, only after these shares were sold by ASCPL to M/s. Sequoia Capital India Growth Investment Holding (hereinafter referred to as ‘Sequoia’) on 26.10.2010.

15.10 Therefore, the receipt of Rs.22,50,00,600/- by ASCPL from Sequoia towards the sale of shares of M/s. Vasan Health Care Pvt. Ltd.



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constitutes tainted money, as it arises from proceeds of crime and, hence, represents property involved in money laundering. The remaining shares of M/s. Vasan Health Care Pvt. Ltd. held by ASCPL are also property involved in money laundering.”

11. In view of the foregoing, we are of the considered opinion that the compounding authority was justified in returning the application for compounding when the Enforcement Directorate had informed that the proceedings initiated under Rule 4 of the Foreign Exchange (Compounding Proceedings) Rules, 2000, related to a serious contravention suspected of money laundering. Consequently, the order impugned before the learned Single Judge was in conformity with the proviso to sub-rule (2) of Rule 8 of the said Rules. The learned Single Judge, having rightly applied the said proviso, correctly dismissed the writ petitions.



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12. Accordingly, these writ appeals are dismissed. Consequently, the connected miscellaneous petitions is closed. There shall be no order as to costs.

(R.S.K.,J)

(H.C., J)

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Index : Yes

Internet : Yes

Neutral Citation : Yes

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To

1.The Joint Director,
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Southern Regional Office,
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R. SURESH KUMAR, J.

and

HEMANT CHANDANGOUDAR, J.,

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Pre-delivery Judgment in
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