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

\+ W.P.(CRL) 517/2023

MRS JYOTI KESARI & ORS. .....Petitioners

Through: Dr. Ravinder Kumar Anand, Advocate.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Amit Tiwari, CGSC with Ms. Ayushi Srivastava, Mr. Ayush Tanwar with Mr. Devvrat, GP Advocates for Respondents/UOI.
Mr. Yasir Rauf Ansari, ASC (Crl.) for State with Mr. Alok Sharma and Ms. Pragya Sharma, Advocates.
Mr. Vivek Gurnani, Counsel for ED with Mr. Kanishk Maurya & Mr. Sai M. Sud, Advocates for R-3.
Mr. Puneet Rai, Sr. Standing Counsel with Mr. Ashvini Kumar, Mr. Rishabh Nangia, Mr. Gibran Naushad, Standing Counsels for R-4.
Ms. Rashika Chopra, Advocate for R-5, 7 and 8.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **11.07.2025**

1. The instant writ petition filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (Corresponding to Section 482 of the Code of Criminal Procedure,

[1] "BNSS"

1973[2]) seeks the following reliefs:

> *"(a) Issue a writ of mandamus or any other appropriate writ or order or direction to the Respondent No.1 to 4 to investigate the complaints of the Petitioners against Ashok Mittal (Respondent No.7), Vikram Mittal (Respondent No.8), and Nand Kishore Chaturvedi and to take appropriate steps to register offences and to prosecute the said persons for the commission of scheduled offence under section 120B, 405, 406, 409, 417, 420, 422, 424 and 465 of the Indian Penal Code, 1860, for commission of offences under section 51 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, to prosecute said offenders for commission of offences under section 3 and 4 the Prevention of Money Laundering Act, 2002 and to move for attachment and confiscation of the proceeds of crime being the 28,29,290 Nos. of 8.5% fully paid up Redeemable Preference Shares of Rs.100 each aggregating to a value of Rs.28.29 crores in 2003, of Respondent no.5, nominally held by Respondent no.6;*
>
> *b) Pending the disposal of the writ petition, to direct attachment of 28,29,290 Nos. of 8.5% fully paid up Redeemable Preference Shares of Rs.100 each aggregating to a value of Rs.28.29 crores in 2003, of Respondent No.5, nominally held by respondent no.6 and restraining the issue of fresh 8.5% Redeemable Preference Shares in lieu of the said Redeemable Preference Shares and also in lieu of the amount of dividend of Rs.4.80 Crores due accumulated since last 2 years (i.e. as on 31.03.2021) but not paid on the said Preference Shares.*
>
> *c) Pass such other writ, order or directions as this Hon'ble Court may kindly be pleased to issue to the Respondents, in the facts and circumstances of the case.*
>
> *d) Filing of certified copies of Annexures P-1 to P-53 and also the true typed copies of the same may kindly be dispensed with and to allow the Petitioners to place on record the true photo copies of the said documents/ annexures;"*

2. Previously, Respondent No. 2 filed a status report stating that, based on the information gathered and additional representations submitted by the Complainant, the inquiry into the Petitioners' complaints was being reopened. However, subsequently, when that inquiry did not reveal any cognizance offence, an intimation dated 23rd October, 2024 was sent to the

[2] "CrPC"

Petitioners conveying that no merit was found in their complaint, and the inquiry proceedings had been closed. This fact has been confirmed by the Investigating Officer, Sub-Inspector Rahul (EOW).

3. Likewise, Mr. Puneet Rai, senior standing counsel for the Income Tax Department/Respondent No. 4, on instructions, has furnished the following press release:

*"**Government of India***
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 15th July, 2022

<u>PRESS RELEASE</u>

Income Tax Department conducts searches in Delhi and Mumbai

Income Tax Department carried out a search and seizure operation on 07.07.2022 on a Delhi and Mumbai based group, engaged in the business of hospitality, marble, lights trading and real estate. A total of 18 premises across Delhi, Mumbai and Daman were covered during the search action.

During the course of the search operation, a large number of incriminating evidences in the form of hard copy documents and digital data have been found and seized. These evidences indicate that the group has parked its undisclosed money abroad in certain low tax jurisdictions. The group, through Malaysia based web of companies, has finally invested the funds in its hospitality business in India. It is estimated that quantum of such funds exceeds Rs. 40 crore.

The evidence gathered indicates that the group has invested in a few companies abroad, which have been incorporated specially for commodity trading. The net worth of one such company including its profits earned has not been disclosed by the group in its ITRs for the relevant period. Further, it has been detected that the promoter of the group has invested in an immovable property in foreign jurisdiction which has also not been disclosed in his Income tax return. Besides these, certain offshore entities, set up for commodity trading, have been identified, which have also not been declared.

The search action also revealed that the group was involved in out-of-books cash sales in its India operations. In its trading business of marble and lights, seized evidences indicate unaccounted cash sales to the *extent of 50% to 70% of the total sales. Undisclosed excess stock of Rs.30 crore has also been found.*

In its hospitality business, unaccounted sales have been detected more specifically in banquet division.

So far, undeclared jewellery valued at Rs. 2.5 crore has been seized.

Further investigations are in progress.

(Rakesh Gupta)
Commissioner of Income Tax
(Media & Technical Policy)
Official Spokesperson, CBDT"

4. Similarly, a reply has also been filed by Directorate of Enforcement/Respondent No. 3, wherein it has been stated as under:

"3. <u>On receipt of the aforesaid complaint, investigation into the allegations was initiated under FEMA, 1999, as detailed below:</u>

3.1 A Letter dated 29.03.2023 and email dated 11 .09.2023 were issued to Citi Bank to ascertain the details of bank accounts maintained in the name of Mr. Ashok Mittal and Hotel Queens Road Ltd. In response to the same, Citi Bank vide its email dated 30.11 .2023 has forwarded the statement of Account No.0427027228 of M/s. Hotel Indraprastha (Unit-Hotel Queen Road). On perusal of the same, it was revealed that M/s. Hotel Indraprastha has received amount of Rs.11,81,93,750/- on 16.04.2003, Rs.11,83,25,000/- on 25.04.2003 and Rs.4,64,29,071/- on 30.06.2003; from Malaysia based entity M/s Hillcrest Realty SDN BHD.

3.2A Letter dated 07.1 2.2023 was issued to the General Manager, Reserve Bank of lndia for obtaining the details of FDI made/received by the subject persons. In response, RBI informed that M/s. Hotel Queen Road Pvt. Ltd. has received FDI to the tune of Rs. 28,29,47,821.40/- from M/s. Hillcrest Realty SDN. BHD, Malaysia for allotment of preference shares. RBI also informed that the offence of the same entity has been compounded with the amount imposed viz Rs.1, 10,000/-.

3.3 A Letter dated 21.06.2023 was issued to Income Tax Department for obtaining documents related to foreign assets/ investment/ shares of Mr. Ashok Mittal & his son, Mr. Vikram Mittal along with the copy of complaint filed by Income Tax Department under Black Money Act, 2015, if any. Subsequently, in this regard reminders were also issued on 21.06.2023, 22.09.2023 , 06.12.2023, 04.04.2024 and 03.09.2024. However, no reply has been received till date.

3.4 An enquiry was also made with FIU-BVI on 23 .12.2023 for obtaining the information related to BVI based entity i.e. M/s. Bamberg Management INC. In response to the same, FIU-BVI informed that the said company was incorporated on 06.10.2003 and the same was struck-

off-dissolved on 29.11.2022. The beneficial owners/directors/shareholders of the company are Sh. Ramesh Kumar Raj pal and Sh. Pradeep Chandra. Further, an enquiry was also made with FlU-Singapore regarding M/s. Portcullis Trustnet (Singapore) Pvt. Ltd. In response to the same, FlU-Singapore informed that the only 1 shareholder of the company is M/s. Portcullis International Ltd. (BVI).

3.5 Further, an enquiry was made with FlU-Malaysia on 08.12.2023 for obtaining requisite information related to Malaysia based entity i.e. M/s Cardiff Ltd., M/s Hillcrest Realty SDN BHD, M/s Gurker SDN BHD, M/s Sherper SDN BHD and M/s Portcullis TrustNet

(Labuan) SDN BHD. On perusal of the same, it was revealed that Sh. Ashok Kumar Mittal and Sh. Ram Parshottam Mittal are the directors and shareholders ofM/s . Cardiff Ltd. and M/s. Cardiff Ltd. is a previous shareholder of Hillerest Realty SDN BHD. However, the current shareholder of Hillerest Realty SDN BHD is Aravali Trading LLC. Further, Sh. Ashok Kumar Mittal entered into service agreement dated 26.02.2003 with M/s. Portcullis Trust (Labuan) SDN BHD for incorporation of Cardiff Ltd. Moreover, all the shares of M/s. Portcullis Trust (Labuan) SDN BHD and M/s. Portcullis Trustnet (Malaysia) SDN BHD are held by M/s. Portcullis Holdings (Malaysia) SDN BHD and shares of M/s. Portcullis Holdings (Malaysia) SDN BHD are held by M/s. Portcullis International Ltd (75% shares) and George Pathmanathan (25% shares). M/s. Portcullis Trust (Labuan) SDN BHD held all the shares of M/s. Sherper Sdn Bhd and M/s. Gurker SDN BHD."

5. In light of the above, this Court is of the opinion that, insofar as Respondent No. 2 is concerned, in case the Petitioners are aggrieved by closing of the inquiry proceedings, they shall be at liberty to take appropriate action in accordance with law by approaching the concerned Magistrate. All rights and contentions of the parties are left open. The Court has not commented on the merits of the case. As for the other agencies, they are stated to be in the process of examining the allegations made by the complainant. They may take action subject to outcome of the inquiry in accordance with law.

6. In these circumstances, no further directions are required to be passed.

7. The present petition is accordingly disposed of.

SANJEEV NARULA, J

JULY 11, 2025/*PB*