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

\+ W.P.(C) 5483/2025 and CM APPL.25014/2025

ONPOINT PLANNING PRIVATE LIMITED .....Petitioner

Through: Mr. Ashish Batra and Mr. Divyanshu Yadav, Advocates.

versus

DIRECTORATE OF ENFORCEMENT & ANR. .....Respondents

Through: Mr. Zoheb Hossain, SPC for ED alongwith Mr. Vivek Gurnani, Mr. Kanishk Maurya, Mr. Kunal Kochar and Mr. Satyam Sharma, Advocates.
Mr. Rachit Bigghe, Mr. Diwanshu Thakur, Advs. for R-2 (through v/c)
Mr. Jatin Singh, Adv., GNCTD (through v/c)

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **25.07.2025**

1. The present petition has been filed by the petitioner being aggrieved by the freezing of its bank account bearing no. 401705000741 maintained in ICICI Bank/respondent no.2.

2. Learned counsel for the petitioner has drawn attention to an order dated 23.05.2023 passed under Section 37 of the Foreign Exchange Management Act, 1999 (FEMA, 1999) read with Section 132(3) of the Income Tax Act, 1961 [filed as Annexure-R1 to the counter affidavit on behalf of the respondent no.1/Enforcement Directorate (ED)], whereby the said bank account of the petitioner has been frozen.

3. Attention is also drawn to Section 37(3) of FEMA,1999 which is the following terms:-

"37. Power of search, seizure, etc............(3) The officers referred to in sub-section (1) shall exercise the like powers which are conferred on income tax authorities under the Income Tax Act, 1961 and shall exercise such powers, subject to such limitations laid down under that Act."

4. It is submitted that the power of the respondent/ED under Section 37 of FEMA, 1999 are circumscribed by Section 37(3) FEMA,1999. In terms thereof, the officers of ED shall exercise powers which are conferred on Income Tax Authorities under Income Tax Act, 1961 for the purpose of Section 37 of the FEMA, 1999.

5. Attention is also drawn to Section 132(8-A) Income Tax Act, 1961, which is in the following terms:-

"132. Search and seizure — [(8-A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order:]

Provided that the [[Principal Director or Director] or, as the case may be, [Principal Commissioner or Commissioner]] shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of all the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.

6. It is submitted that since freezing order was passed on 23.05.2023, the maximum period thereof [in terms of Section 132(8-A) Income Tax Act, 1961] was 60 days from the date of issuance thereof, and the said time period has already lapsed.

7. Learned counsel for the ED draws attention to the contents of paragraphs 4 and 5 of its counter-affidavit. The same are reproduced as under:

"4. That, the premise of the present petition that the freezing of bank account is not as per law, is incorrect as the ED has passed a freezing order u/s 37 of the FEMA r/w Section 132(3) of the Income Tax Act and the same is very well under the prescribed legal framework. A true copy of the seizure order dated 21.05.2023 is annexed herewith and marked as

ANNEXURE R-1.

5. The answering Respondent further submits that necessary steps are already being initiated and, upon conclusion of the ongoing investigation, a complaint under the appropriate provisions of FEMA shall be filed before the competent authority without any undue delay.”

8. A perusal of the above reinforces that the freezing order under Section 37 FEMA, 1999 is circumscribed by the limitation/s imposed under Section 132(8-A) of the Income Tax Act, 1961. In terms thereof, the impugned freezing order could not have been in operation for more than 60 days.

9. In the circumstances, the impugned freezing order dated 23.05.2023 has already lapsed on expiry of period referred to under Section 132(8-A) of the Income Tax Act, 1961. Consequently, the respondent no.2 (ICICI Bank) shall not treat the impugned freezing order dated 23.05.2023 as being in operation.

10. The petition is disposed of in the above terms. Pending application also stands disposed of.

11. Needless to say, this order shall not be construed as having any bearing / impact on any ongoing investigations, if any, against the petitioner, and other rights of the respondent no.1 under FEMA, 1999.

SACHIN DATTA, J

JULY 25, 2025/*at*