Ct.No.1 *D/L 08* *25*.02.2026

Saikat Mukherjee

MAT/2133/2024
with
IA NO: CAN/1/2024
with
CAN/2/2024

SURAJ CHOKHANI AND ANR.
VS.
DIRECTOR OF ENFORCEMENT

Mr. Vijay Aggarwal, Adv. (Virtually)
Mr. Anuj Singh, Adv. (In Court)
Mr. Yash Aggarwal, Adv.
Ms. Muskan Agarwal, Adv.
Mr. Shivam Chaturvedi, Adv.
Ms. Rupal Singh, Adv.
Ms. Anukriti Poddar, Adv.
...For the Appellants

Mr. Arijit Chakrabarti, Adv.
Mr. Debsoumya Basak, Adv.
Ms. Swati Kumari Singh, Adv.
...For the Enforcement Directorate

Per, **Sujoy Paul, CJ.**

In Re: CAN 2 of 2024

1. Parties are represented through their respective learned counsel.

2. This is an application for condonation of delay in filing the instant appeal.

3. On perusal of the petition for condonation of delay and after hearing the learned advocates for the contending parties, we are satisfied that the present appellants are successful in explaining the delay in preferring the instant appeal.

4. Accordingly, delay in filing the instant appeal is hereby condoned.

5. Consequently, I.A. No.: Can 2 of 2024 is **disposed of**.

In Re: MAT 2133 of 2024

6. Heard on admission.

7. This intra-court appeal takes exception to the order of learned Single Judge passed in WPA 18698 of 2024 on 5^{th} August, 2024. The appellants challenged the seizure and other procedures adopted by the Enforcement Directorate in the said petition filed on 19^{th} July, 2024. Admittedly, during the pendency of the said writ petition, the adjudicating authority passed the adjudication order on 30^{th} July, 2024. After taking note of this order, learned Single Judge opined that petitioners have an efficacious statutory remedy under section 26 of Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the said Act' in short). On this pretext of availability of alternative remedy, interference was declined.

8. Shri Vijay Aggarwal, learned counsel for the appellants by taking this court to certain paragraphs of writ petition urged that petitioners devoted sufficient paragraphs to show as to why the bar of alternative remedy will not come in his way. The jurisdictional aspect as well as violation of principle of natural justice are those factors which can be reason to entertain a petition despite availability of alternative remedy. The reliance is placed on the judgment of Supreme Court in ***M/s. Godrej Sara Lee Ltd. vs. The Excise and Taxation Officer-cum-Assessing Authority & Ors. (Civil Appeal No.5393 of 2010)***. For these reasons, Shri Aggarwal submits that the learned Single Judge was not justified in relegating the petitioners to avail the alternative remedy.

9. *Per contra*, learned counsel for the Enforcement Directorate supported the impugned order and informed that petitioners have already availed the statutory alternative remedy under section 26 of the said Act and his appeals are pending consideration before Appellate authority. The appeals riped up for final hearing and next date of final hearing is 11th March, 2026, before the Appellate Tribunal. The learned Tribunal directed the parties to come with the written notes/list of dates and events/synopsis so that matters can be finally heard.

10. Faced with this, learned counsel for appellants submits that since the appellate provision is pregnant with a limitation period, the appellants availed the remedy of appeal but that does not bar him to file this intra-court appeal and prays for its adjudication on merits.

11. We have heard the parties on the aforesaid aspect.

12. It is not in dispute that assailing the legality, validity and propriety of adjudication order dated 30th August, 2024, the appeals filed by appellants are pending before the Appellate Tribunal and are listed for final hearing on 11th March, 2026. Nothing could be pointed out to us that while exercising power under section 26 of the said Act, the Appellate authority/Tribunal is not competent to decide the question of facts and law. Certain issues raised by learned counsel for the appellants appear to be mixed question of facts and law.

13. Be that as it may, the fact remains that the appeals of petitioners are pending consideration before the Appellate authority/Tribunal. Since it could not be pointed out that Appellate authority is not competent to decide the question of facts and law, we find no reason to entertain this intra-court appeal. Reference may be made to a five judges bench judgement of Supreme Court in the case of ***K.S. Rashid & Son v. Income Tax Investigation Commission, (1954) 1 SCC 69***. Relevant Paragraph 11 reads thus:

> *"11. ……… For purposes of this case it is enough to state that the remedy provided for in Article 226 of the Constitution is a discretionary remedy and the High Court has always the discretion to refuse to grant any writ if it is satisfied that the aggrieved party can have an adequate or suitable relief*

elsewhere. So far as the present case is concerned, it has been brought to our notice that the ***appellants before us have already availed themselves of the remedy provided for in Section 8(5) of the Investigation Commission Act and that a reference has been made to the High Court of Allahabad in terms of that provision which is awaiting decision. In these circumstances, we think that it would not be proper to allow the appellants to invoke the discretionary jurisdiction under Article 226 of the Constitution at the present stage, and on this ground alone, we would refuse to interfere with the orders made by the High Court****. …….”*

(Emphasis Supplied)

14. The appeal is **disposed of** by reserving liberty to the appellants to press their pending appeals before the Appellate authority/Tribunal.

15. It is made clear that this court has not expressed any opinion on merits.

16. With the disposal of the instant appeal, CAN 1 of 2024 is also **disposed of**.

17. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)