HC-KAR

NC: 2026:KHC:64372
WP No. 34560 of 2024

CNR: KAHC010740082024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO. 34560 OF 2024 (GM-RES)

BETWEEN:

1. M/S SUN MINERALS
NO.550, 16TH CROSS
INDIRANAGAR
BENNAMANGALA II STAGE
BENGALURU-560 038
REP. BY ITS PARTNER
SMT. N. SHARATH REDDY

2. SRI. N. SHARATH REDDY
S/O N. SURYANARAYANA REDDY
AGED ABOUT 39 YEARS
R/AT NO.551, 16TH CROSS
INDIRANAGAR
BENNAMANGALA II STAGE
BENGALURU-560 038

Digitally signed by PAVITHRA B
Location: HIGH COURT OF KARNATAKA

3. SMT. T. ATHMIKA
W/O SRI. N. SHARATH REDDY
AGED ABOUT 35 YEARS
R/AT NO.551, 16TH CROSS
INDIRANAGAR
BENNAMANGALA II STAGE
BENGALURU-560 038

...PETITIONERS

(BY SRI. M.V. SESHACHALA, SENIOR ADVOCATE FOR
SRI. NAGHARISH G.S, ADVOCATE)

AND:

1. DEPUTY DIRECTOR
   DIRECTOR OF ENFORCEMENT
   GOVERNMENT OF INDIA
   MINISTRY OF FINANCE
   2ND FLOOR, VISTAAR COMMERCIAL COMPLEX
   2-22/6 AIRPORT ROAD, YEYYADI
   MANGALORE-575 008

2. DEPUTY / ASSISTANT DIRECTOR
   BANGALORE ZONAL OFFICE
   DIRECTOR OF ENFORCEMENT
   GOVERNMENT OF INDIA
   MINISTRY OF FINANCE
   3RD FLOOR, 'B'- BLOCK, BMTC
   SHANTINAGAR, TTMC
   K.H.ROAD, SHANTINAGAR
   BANGALORE-560 027

…RESPONDENTS

(BY SRI. ANUPARNA BORDOLOI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE SUMMONS ISSUED UNDER FEMA ACT, DTD. 18.11.2024 BEARING NO.F.NO.T.3/BGZO/66/2018/418 PASSED BY THE R-1 ANNX-Z1 IN VIEW OF DROPPING CRIME NO.24/2023 UNDER ORDER DTD. 31.07.2024 (ANNX-X2) AND STAY OF ECIR/MGSZO/01/2024 (ANNX-X) IN W.P.NO. 22717/2024 UNDER ORDER DTD. 25.09.2024 (ANNX-X3) AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL ORDER

The petitioners are before this Court calling in question the summons dated 18.11.2024 at Anneuxre-Z1 and for issue of writ of mandamus declaring that the first respondent has no authority to issue the summons in the light of the submission of "B" report in Crime No.24/2023 and the order passed in W.P.No.22717/2024 and for other consequential reliefs. The summons was issued under the provisions of Sections 37(1) & (3) of the Foreign Exchange management Act, 1999 r/w Section 131(1) of the Income Tax Act, 1961 and Section 30 of CPC. Through the summons dated 18.11.2024 the respondents have called upon the petitioners to furnish the documents and information listed in the enclosure to the summons.

2. Though, several contentions were urged in defence of the summons issued by the respondent Authorities, the learned Senior counsel Sri.M.V.Sheshachala appearing for the petitioners submit that in response to the impugned summons at Anneuxre-Z1, the petitioners have

already submitted their reply on 18.11.2024. The reason for filing of the instant writ petition is that, in respect of the investments made by the petitioners at South Africa through M/s Vijaya Mining and Infra Corporation Limited and Others, a commercial suit in OS.No.491/2021 was filed for recovery of the investments made through the said parties and the contention was urged that there is an acknowledgment of debt confirmed by the defendants in the commercial suit in the year 2019 and it is in that light, the petitioners cannot comply with the demand of production of the documents listed in the schedule to the summons.

3. The learned Senior counsel submits that the commercial suit filed by the petitioners has resulted in dismissal and which has been assailed before this Court in the commercial appeal. The first summons was issued in the year 2020 and the impugned summons has been issued in the year 2024 and the petitioners have been asked to appear before the Authorities quite frequently and no

further steps have been taken by the Authorities despite submission of the reply to the summons.

4. On the basis of the said submission, the learned Senior counsel submits that the petitioners be provided a further opportunity to submit a comprehensive reply to the summons and also to put forth their defence before the Summoning Authority and the respondents be directed to consider the defence of the petitioners before proceeding under Section 16 of the Foreign Exchange Management Act, 1999 (hereinafter referred to as "the Act" for short).

5. The learned counsel appearing for the respondents, on the other hand, submits that the issuance of summons is only to solicit the relevant information and documents from the petitioners and the petitioners have every opportunity to put forth their defence either by producing the documents and information called upon or to put forth the reason as to why the information and documents called upon cannot be produced at this juncture.

6. If the explanation offered by the petitioners is acceptable to the Competent Authority, the proceedings either be closed or in the event of non-acceptance of response of the petitioners, the Authorities will have to proceed further in terms of Section 16 of the Act and it is only when the Authorities invoke the provisions of Section 16 of the Act and approach the Competent Authority by filing a complaint, the petitioners will be issued with necessary notice and provided with the opportunity of hearing. Therefore, filing of the instant writ petition is premature.

7. In support of the said contention, the learned counsel has placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Vijay Mallya Vs. Enforcement Directorate, Ministry of Finance***[1]. Learned counsel takes this Court to the observation of the Hon'ble Apex Court made in paragraph Nos.15 and 16 of the Act. There is

[1] (2015) 8 SCC 799

considerable force in the submission of the learned counsel for the respondents.

8. Be that as it may, since the learned Senior counsel appearing for the petitioners submitted that without going into the merits of the contentions an opportunity for submission of the comprehensive objections or reply to the summons be provided to the petitioners, this Court deems it just and appropriate to dispose of the instant writ petition with the following observations and directions.

(i) The writ petition is ***disposed of.***

(ii) Liberty is reserved to the petitioners to submit a comprehensive reply or objections to the summons dated 18.11.2024 at Annuexure-Z1 within a period of 30 days from the date of receipt of certified copy of this order and also appear before the Investigating Officer on ***21.12.2026*** for further proceedings.

(iii) Till such time the proceedings are concluded before the Investigating Officer, no precipitative action shall be taken against the petitioners.

(iv) The Investigating Officer may take a final decision as to whether the response/reply/objection of the petitioners to the impugned summons are acceptable or not within a time frame of three months from the date of appearance of the petitioners before the Investigating Officer.

(v) All the contentions of the parties are kept open to be urged before the Competent Authority in the event of any proceedings are initiated.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB
List No.: 1 Sl No.: 33