



2025:DHC:10228-DB



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

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Judgment reserved on: 24.07.2025
Judgment pronounced on: 21.11.2025

+ **CO.APP. 23/2024 & CM APPL. 51379/2024 (for stay)**

SERIOUS FRAUD INVESTIGATION OFFICEAppellant

Through: Mr. Amit Tiwari, CGSC, Ms.
Ayushi Srivastava and Mr.
Ayush Tanwar, Advocates.
Ms. Parul, SFIO and Mr.
Sanjay Bose, Joint Director.

versus

ASSOTECH LIMITED IN LIQUIDATION & ANR.

.....Respondents

Through: Ms. Ruchi Sindhwani, Sr.
Standing Counsel for the OL.
Mr. Rajshekhar Rao, Sr.
Advocate with Mr. Rishi
Awasthi and Mr. Piyush Vats
for the Ex-Management of the
Respondent/R-2.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

**CM APPL. 51381/2024 (for condonation of delay of 48 days in
filing appeal)**

1. By way of the present Application filed under Section 5 of the Limitation Act, 1963, the Applicant/Appellant seeks condonation of the delay of 48 days in filing the present Appeal.



2. Issue notice. Notice is accepted by Ms. Ruchi Sindhwani, learned Senior Standing Counsel appearing on behalf of the **Official Liquidator¹**, as well as by Mr. Rishi Awasthi, learned counsel appearing on behalf of the Ex-Management of the Respondent Company.
3. Learned Counsels appearing for the Respondent have not opposed the present Application.
4. For the sufficient reasons stated in the application and the fact that the same is not opposed by the learned Counsels for the Respondents, the delay is condoned.
5. Accordingly, the present application stands disposed of.

CM APPL. 51382/2024 (for condonation of delay of 48 days in re-filing appeal)

6. By way of the present application filed under Section 5 of the Limitation Act, 1963, the Applicant/Appellant seeks condonation of the delay of 48 days in re-filing the present appeal.
7. For the sufficient reasons stated in the application and the fact that the same is not opposed by the learned Counsels for the Respondents, the delay is condoned.
8. Accordingly, the present application stands disposed of.

CO.APP. 23/2024 & CM APPL. 51379/2024 (for stay)

9. The instant Appeal has been filed against the Judgment dated 23.04.2024, passed by the learned Single Judge of this Court in Company Application 406/2024 (*For clarification of order dated 04.04.2014*) in Company Petition 357/2015 titled as '*Manmohan Singh Bhalla vs. Assotech Limited*'.

¹ OL



10. The short question raised in the present Appeal is whether the learned Single Judge of this Court, while exercising his jurisdiction in a company matter, could, having directed the initiation of an investigation into the affairs of a company by the Appellant/**Serious Fraud Investigation Office**², by subsequent orders intedict the natural progression of such an Order of investigation, which is statutorily provided for, by passing the Order which is impugned herein.

11. The Appellant herein is aggrieved by the following portion of the Impugned Judgment:

“7. Hence, it is clarified that this Court vide order dated 04.04.2024 has not granted liberty to the SFIO to launch any prosecution against the Ex.-Management *de hor* the provisions of the Companies Act, 2013. The SFIO shall refrain from launching any prosecution against the Ex-Management/directors of the company in liquidation till such time this Court considers the report filed by the SFIO and passes appropriate directions thereupon.”

12. Issue notice. Notice is accepted by Ms. Ruchi Sindhwani, learned Senior Standing Counsel appearing on behalf of the OL, as well as by Mr. Rishi Awasthi, learned counsel appearing on behalf of the Ex-Management of the Respondent Company.

13. With the consent of the learned Counsel appearing for the parties, the present Appeal was taken up for hearing and final disposal. In pursuance thereof, the same is being adjudicated and disposed of by the present Judgment.

14. At the outset, we note that the direction for investigation to the Appellant/SFIO came to be passed by this Court on the basis of the report of the OL *vide* Order dated 08.11.2016, which also sets the concern raised by the OL. The relevant portion of the said Order reads

² SFIO



as under:

“OLR 286/2016

1. The present report filed on behalf of the Official Liquidator attached to this Court prays as follows:-

- “i) Report of the Official Liquidator may kindly be taken on record;
- ii) Sh. Man Mohan Singh Bhalla and Sh. Sanjeev Srivasta, Ex-directors may Cooperate to handing over possession of the flat No.22, Europa admeasuring 475 Sq. ft.'Celeste Tower", Sector-44, Noida (U.P.) to the Official Liquidator forth with;
- iii) The SFIO may be appointed to investigate the Affairs of the company (In Provo Liqn) and submit its report to this Hon'ble Court within a time bound manner.”

2. The report of the Official Liquidator is taken on record.

3. Mr. Mayank Goel, learned counsel appearing on behalf of the Official Liquidator has drawn attention of this Court to the order dated 08.02.2016 passed by this Court, by way of which, *inter alia*, the Official Liquidator attached to this Court was appointed as Provisional Liquidator for the company in liquidation. The same is reproduced hereinunder:-

“1. These are petitions filed under Section 433 of the Companies Act. It appears that criminal proceedings are also taken out against the respondent company and its Managing Director, Mr. Sanjeev Shrivastava. In this regard, FIR 121/2015 under Section 406,420 and 120B of the IPC was registered with EOW, Delhi.

1.1 Qua registration of FIR, proceedings were taken out against Mr. Sanjeev Shrivastava and others under Section 482 of the Cr.PC alongwith Article 226 of the Constitution.

1.2 The said proceedings were disposed of, vide order dated 04.11.2015. The said order is pivoted on the fact that during the pendency of the proceedings, the parties involved had executed a settlement agreement dated 02.11.2015. Accordingly, the petitioners withdrew the petition. The court, however, kept the settlement agreement on record. The court noted, in nutshell, that the Managing Director and other Directors had agreed to pay a sum of Rs.17.60 Crores to the complainants (i.e. the petitioners herein), within a period of one year.

2. The learned counsel for the respondent company says that out of a sum of Rs.17 .60 Crores, a sum of Rs.1.55 Crores has been paid. However, the learned counsel for the respondent company does not dispute the fact that the schedule of payments provided in the settlement agreement(s), which are of even date (i.e. 02.11.2015), has been breached.



2.1 The learned counsel for the petitioners has provided the details of cheques, which have been dishonoured qua each of the petitioners referred hereinabove. The said details are set out hereinbelow:-

S.No.	Petition No.	Cheque No.	Date of Cheque	Amount (Rs.)
1.	CP 357/2015	015679	27.01.2016	Rs.49,00,000/-
2.	CP 362/2015	015682	14.11.2015	Rs.1,71,05,309/-
3.	CP 363/2015	015683	27.01.2016	Rs.36,00,000/-
4.	CP 433/2015	015683	27.01.2016	Rs.76,50,000/-
5.	CP 434/2015	015689	27.01.2016	Rs.29,00,000/-

3. Having regard to the aforesaid, there is, to my mind, a grave and credible apprehension that the assets of the respondent company may be in peril. It is not disputed that there are several petitions filed against the respondent company. The cause list published today is reflective of this fact.

3.1 Accordingly, CP 357/2015 is admitted.

3.2 The Official Liquidator (OL) attached to this court is appointed as the Provisional Liquidator. The learned counsel for the petitioners will supply a complete copy of the paper book to the OL. Consequently, the following applications filed for the purpose of appointment of the provisional liquidator are disposed of: CA 1550/2015 in CP 357/2015; CA 1563/2015 in CP 362/2015; CA 1566/2015 in CP 363/2015; CA 1801/2015 in CP 433/2015; and CA 1804/2015 in CP 434/2015.

3.3 Citations shall be published by the petitioners in the Business Standard [(in English), Delhi Edition], the Jansatta [(in Hindi), Delhi Edition] and the Official Gazette, as well.

3.4 The respondent company and its Directors, agents and servants are enjoined from transferring, selling or creating any third party interest in its assets.

3.5 The OL will seal the premises in which the assets, books of accounts, documents and other records of the respondent company are stored after preparing an inventory in that behalf.

3.6 The Directors will file the statement of affairs of the respondent company within 21 days from today. The Directors will also appear before the OL, on 01.03.2016,



at 11.00 a.m. for recording of their statement under Rule 130 of the Companies (Court) Rules, 1959.

3.7 The OL will also have the assets of the respondent company valued and, accordingly, place the valuation report so generated, before this court.

3.8 The Directors of the respondent company will also file an affidavit with the OL, setting out the details and the location of the assets, which would include the immovable and movable properties, details of the debtors and creditors, as also the location of all the offices and/or place of business of the respondent company.

3.9 In case police assistance is required, the same shall be extended by the Station House Officer (SHO) of the concerned area on a request being made by the OL in that behalf.

4. The OL will file his report before the next date of hearing.

5. List on 20.07.2016.”

4. Further, Mr. Goel, learned counsel appearing on behalf of the Provisional Liquidator has invited my attention to a communication dated 14.10.2016 (annexed as Annexure-F to the present OLR), received by them in response to a notice under Rule 130 of the Companies (Court) Rules, 1959 dated 16.09.2016, in Company Petition No.357/2015, issued to Mr. Manoj Srivastava, Ex-Director of the company in liquidation.

5. Mr. Mayank Goel, learned counsel appearing on behalf of the Official Liquidator would strenuously urge that, in gross violation of the order dated 08.02.2016 passed by this Court, *inter alia*, large sums of money have been transferred by the Ex-Management to M/s Lindex Impex Private Limited. In addition to cash transactions, Ex-Directors of the company have sold immovable property belonging to the company in liquidation and received the proceeds qua the same in their accounts.

6. Further, it has been brought to the notice of this Court, that despite directions of this Court in this behalf, the Ex-Directors have steadfastly neglected, failed and avoided to furnish the Statement of Affairs and the details of the assets in the Balance Sheets; have furthermore failed to hand over peaceful physical possession of all the flats/properties, vehicles, plant and machinery, and cash-in-hand belonging to the company in liquidation to the Provisional Liquidator.

7. It is, therefore, *inter alia*, prayed that the Serious Fraud Investigation Office (SFIO) be directed to investigate the affairs of the company in liquidation and submit a report in this behalf to this Court.

8. Mr. Rishi Kumar Awasthi, learned counsel appearing on behalf of the Ex-Management, has invited my attention to the orders dated 23.09.2016 and 20.10.2016, passed by a Division Bench of this Court in Company Appeal No.17/2016, whereby the operation of



the order dated 08.02.2016 has been stayed. However, a perusal of the said orders clearly shows that the entirety of the order dated 08.02.2016 has not been stayed.

9. Mr. Awasthi, learned counsel appearing on behalf of the Ex-Management would further urge that on 20.10.2016, oral directions have been issued by the Hon'ble Division Bench to the counsel appearing on behalf of the Official Liquidator, to not proceed further qua liquidation of the respondent-company, till the decision in the said Company Appeal No.17/2016. However, a perusal of the order dated 20.10.2016, in the said Company Appeal No.17/2016 does not indicate any such direction having been issued.

10. A perusal of the communication dated 14.10.2016, received from Mr. Manoj Srivastava, Ex-Director of the company in liquidation, in reply to the notice dated 16.09.2016 under Rule 130 of the Companies (Court) Rules, 1959 clearly manifest that, *inter alia*, the following acts were committed by the Ex-Management of the company in liquidation, which are *prima facie* in violation of the said order dated 08.02.2016:

(i) The company in liquidation holds 100% shareholdings of M/s Lindex Impex Private Limited and vide agreement dated 21.03.2016 the shareholdings of M/s Lindex Impex Private Limited have been sold to Mr. Joydeep Nayar, Mr. Parmjit Gandhi and M/s Khyati Buildtech Private Limited with 33.33% shareholding each.

(ii) Payments have been made to the company in liquidation in different bank accounts, details of which are as under:-

- 1) Rs.50,00,000/- in HDFC Bank- .Account No-00880350000674 on 20/04/16.
- 2) Rs.50,00,000/- in HDFC Bank- Account No-00880350000674 on 20/04/16.
- 3) Rs.5,00,000/- in HDFC Bank- Account No-00880350000674 on 02/05/16.
- 4) Rs.,25,00,000/- in Canara Bank -Account No1177201004113 on 05/III/16.
- 5) Rs.30,00,000/- in Punjab National BANK (Noida) Account No. -3702002100038992 on 18/05/16.
- 6) DD of Rs.1,50,00,000/- was also handed over to Assotech Limited.

(iii) Various immovable properties, belonging to the company in liquidation have been disposed of and the sale proceeds received thereof have been misappropriated by Mr. Sanjeev Srivastava and Mr. Rajeev Srivastava.

11. A statement depicting the bank transactions pertaining to the company in liquidation have been placed on record. A perusal thereof shows the extent of fraudulent defalcation of the funds of the company in liquidation by the Ex-Management. Furthermore, from the material on record, the Official Liquidator has been able



to demonstrate the sale of immovable assets belonging to the company in liquidation, in violation of the order passed by this Court on 08.02.2016 and mis-appropriation of the proceeds from the sale thereof.

12. In view of the foregoing, in my view, so as to prevent the ExManagement from continuing to flagrantly violate the order passed by this Court on 08.02.2016, and in view of the material that has been placed on record by the Official Liquidator, it would be just, necessary and proper and in the interest of justice to direct the SFIO to conduct an enquiry to investigate the affairs of the company in liquidation, in accordance with law, and in the first instance submit a report in this behalf to this Court, within four weeks from today.

13. Further, the Ex-Managing Director and Ex-Directors of the company in liquidation are directed to remain personally present in Court on the next date of hearing, in order to enable this Court to examine them if required, on that date, qua the state of affairs of the company in liquidation.”

(emphasis supplied)

15. Pursuant to the directions issued to the SFIO in para 12, the SFIO initially filed an interim report. Thereafter, by Order dated 06.07.2023, a further direction was issued to submit a final report, which the SFIO duly submitted on 04.04.2024. In this regard, the learned Single Judge, *vide* Order dated 04.04.2024, directed as under:

“6. At this stage, Learned counsel for the SFIO appears and he submits that he is placing its report in a sealed cover in terms of directions of this Court dated 06.07.2023. Let the report be kept on the record and be reserved till further order.

7. In the meanwhile, the SFIO shall proceed as per law.”

16. Thereafter, on Co. Appl. 406/2024 (*For clarification of order dated 04.04.2014*) filed by the Ex-Management of the Respondent Company, the learned Single Judge, in the company petition, passed the Impugned Order dated 23.04.2024, which reads as under:

“CO.APPL. 406/2024 (For clarification of order dated 04.04.2014)

1. This application has been moved on behalf of the applicant/ExManagement seeking certain clarifications and directions against the SFIO in terms of the previous directions of



this Court dated 04.04.2024.

2. Mr. Sudhir Nandrajog, learned Senior Counsel has alluded to the order dated 08.11.2016, whereby this Court had made the following observations:

“5. Mr. Mayank Goel, learned counsel appearing on behalf of the Official Liquidator would strenuously urge that, in gross violation of the order dated 08.02.2016 passed by this Court, inter alia, large sums of money have been transferred by the Ex-Management to M/s Lindex Impex Private Limited. In addition to cash transactions, Ex-Directors of the company have sold immovable property belonging to the company in liquidation and received the proceeds qua the same in their accounts.

6. Further, it has been brought to the notice of this Court, that despite directions of this Court in this behalf, the Ex-Directors have steadfastly neglected, failed and avoided to furnish the Statement of Affairs and the details of the assets in the Balance Sheets; have furthermore failed to hand over peaceful physical possession of all the flats/properties, vehicles, plant and machinery, and cash-inhand belonging to the company in liquidation to the Provisional Liquidator.

12. In view of the foregoing, in my view, so as to prevent the ExManagement from continuing to flagrantly violate the order passed by this Court on 08.02.2016, and in view of the material that has been placed on record by the Official Liquidator, it would be just, necessary and proper and in the interest of justice to direct the SFIO to conduct an enquiry to investigate the affairs of the company in liquidation, in accordance with law, and in the first instance submit a report in this behalf to this Court, within four weeks from today.”

3. It is further pointed out that while the investigation by SFIO was pending, in the interregnum, vide order dated 11.02.2019, certain directions have been passed in furtherance of the revival of the company in question by the ex-management and Mr. N.K. Mody, retired Judge from the Madhya Pradesh High Court, was appointed as a Court Commissioner to supervise the completion of the three pending projects, namely, Celesta Tower, Sector-44, Noida; Windsor Court, Sector-78 and; The Nest, Crossing Republik, Ghaziabad.

4. It is submitted that pursuant to the revival scheme approved by this Court, out of the 1200 residential units, possession has already been offered towards as many as 1000 units to the home buyers. It is submitted that the ex management has infused a substantial sum of money to revive the projects and a request is made that this Court may first have a look into the report submitted by the SFIO and before a decision is taken on merits of the same, the SFIO may



not launch any prosecution against the Ex-Management till such time.

5. Learned counsel for the SFIO has objected to any orders enabling the ex-management to have access to the SFIO report.

6. Considering that the completion of the projects is underway at the site at the instance of the ex-management, and although some aspects of the tasks performed by the Court Commissioner also have to be look into, and considering the stakes of the homebuyers, any prosecution of the directors/ex-management might impair the progress and completion of the projects.

7. Hence, it is clarified that this Court vide order dated 04.04.2024 has not granted liberty to the SFIO to launch any prosecution against the Ex.-Management *de hor* the provisions of the Companies Act, 2013. The SFIO shall refrain from launching any prosecution against the Ex-Management/directors of the company in liquidation till such time this Court considers the report filed by the SFIO and passes appropriate directions thereupon.

8. Re-notify on the date already fixed i.e. 18.07.2024.”

(emphasis supplied)

CONTENTIONS OF APPELLANT:

17. The contention of the learned **Central Government Standing Counsel**³ for the Appellant is that the provisions of the **Companies Act, 2013**⁴, particularly Sections 210 and 212 thereof, constitute a Comprehensive Code in themselves, governing the process of investigation into the affairs of a company.

18. Learned CGSC for the Appellant submits that once an investigation has been ordered by this Court *vide* Order dated 08.11.2016, by operation of Section 210(2) of the Act, there arises a statutory mandate to give effect to such order and to carry out an investigation into the affairs of the company in accordance with law.

19. It is further submitted that once the matter has been assigned to the Appellant/SFIO for the purpose of investigating the affairs of the company, the provisions of Section 212 of the Act, come into

³ CGSC

⁴ Act



operation, mandating the SFIO to conduct the investigation strictly in accordance with the procedure laid down under the Act.

20. Learned CGSC further submits that the statutory scheme provides that, upon completion of the investigation, the SFIO is required to submit a report to the Central Government under Section 212(12) of the Act, and thereafter, the Central Government is empowered to take appropriate action as prescribed under Section 212(14) of the Act.

21. It is also the contention of the learned CGSC that it is unprecedented for a Court, having once ordered an investigation, to introduce any restriction upon the natural consequences of any such investigation, particularly the prosecution, which may arise as a result of such an investigation.

22. In conclusion, learned CGSC contends that the Impugned Order is completely illegal and against the scheme of the Act and of the general propositions of criminal law.

CONTENTIONS OF THE RESPONDENT:

23. **Per contra**, learned Senior Counsel for the Ex-Management of the Respondent, while conceding that there appears to be no express statutory provision or binding precedent that permits an interdiction of the natural consequences which would flow from an investigation, nevertheless seeks to rely upon a series of orders passed by this Court.

24. Learned Senior Counsel for Respondent No. 2 draws attention to the Order dated 08.11.2016 and, in particular, paragraph 12 thereof, and submits that the consistent intent of this Court was merely to direct the Appellant to conduct an investigation and submit its report before the Court.



25. He further relies upon the Order dated 04.04.2024 and, in particular paragraphs 6 and 7 thereof, to contend that the intent evidenced by the original Order directing investigation was continued by this Court directing that the report of the Appellant/SFIO was to be taken on record and kept in abeyance until further orders.

26. Learned counsel for the Respondent would thereafter conclude by submitting that the Impugned Order, when read in conjunction with the Orders dated 08.11.2016 and 04.04.2024, reflects a consistent judicial intent to maintain oversight and control over the post-investigation process and there is, resultantly, no error in the Order, and no requirement of any interference by this Court.

ANALYSIS:

27. We have heard the learned counsel appearing for the parties and have meticulously perused the Appeal along with the documents placed on record.

28. We are afraid that we cannot agree with the contentions of the learned Senior Counsel for the Ex-management of the Respondent Company. Accepting this contention would amount to the creation of an entirely new jurisprudence, wherein it could be contended that the Courts could prescribe a procedure distinct from and in derogation of that which is expressly stipulated by the statute. Such an interpretation or argument is clearly unsustainable in law.

29. If the arguments of the learned Senior Counsel of the Ex-Management of the Respondent Company are to be accepted, it would imply that the entire scheme contemplated under Section 212 of the Act could be superseded by the directions of the Courts, thereby reducing the Appellant to become an investigating agency for the



Courts. Such a proposition cannot be sustained either in law or in principle, as it would be contrary to the legislative intent underlying the Statute.

30. The direction by the learned Single Judge that the report would be subject to the scrutiny of the Court and post which, it would be the Court's prerogative to pass any direction for launch of prosecution as against the Respondents, is clearly contradictory to the statutory mandate as also an arrogation of the statutory power by the Court, which, as is evident is clearly impermissible and against the law. It has been consistently held that Courts cannot arrogate to themselves power that statutorily is to be exercised by the mandated or designated authority.

31. A three-Judge Bench of the Hon'ble Supreme Court in ***State of Bihar v. J.A.C. Saldanha***⁵ drew a pertinent distinction between the role of the executive in the investigation of an offence and the subsequent action, and the distinct role of the judiciary. The relevant portion of the said judgment reads as under:

“25. There is a clear-cut and well demarcated sphere of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the executive through the police department the superintendence over which vests in the State Government. The executive which is charged with a duty to keep vigilance over law and order situation is obliged to prevent crime and if an offence is alleged to have been committed it is its bounded duty to investigate into the offence and bring the offender to book. Once it investigates and finds an offence having been committed it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the court requesting the court to take cognizance of the offence under Section 190 of the Code its duty comes to an end. On a cognizance of the offence being taken by the court the police function of investigation comes to an end subject to the provision contained in Section 173(8),

⁵ (1980) 1 SCC 554



there commences the adjudicatory function of the judiciary to determine whether an offence has been committed and if so, whether by the person or persons charged with the crime by the police in its report to the court, and to award adequate punishment according to law for the offence proved to the satisfaction of the court. There is thus a well defined and well demarcated function in the field of crime detection and its subsequent adjudication between the police and the Magistrate. This had been recognised way back in **King Emperor v. Khwaja Nazir Ahmad [AIR 1944 PC 18 : 1944 LR 71 IA 203, 213]** where the Privy Council observed as under:

“In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities and it would, as Their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions begin when a charge is preferred before it, and not until then.”

26. This view of the Judicial Committee clearly demarcates the functions of the executive and the judiciary in the field of detection of crime and its subsequent trial and it would appear that the power of the police to investigate into a cognizable offence is ordinarily not to be interfered with by the judiciary.”

32. We are also of the considered view that the learned Single Judge, in the present case, while passing the Order dated 04.04.2024, was well cognizant of this aspect and it is in that context that paragraph 7 of the said Order clearly and fairly states that the Appellant shall proceed as per law.

33. This position, however, seems to have changed in the subsequent order dated 23.04.2024, which is impugned herein.

34. It is reiterated once again that the bullet once fired would have



to necessarily find its target on the basis of the procedure as set down under the statute and cannot, by way of an Order of the Court, be either diverted or sought to be interdicted.

35. There is yet another aspect of the matter. The Impugned Order dated 23.04.2024 and in particular paragraph 7 thereof, which is clearly the bone of contention as between the parties, seems to suggest two contradictory positions. The first part of the said paragraph reads as follows:

“Hence, it is clarified that this Court vide order dated 04.04.2024 has not granted liberty to the SFIO to launch any prosecution against the Ex.-Management de hors the provisions of the Companies Act, 2013.....”

36. This portion suggests that the Court was of the view that the provisions of the Act must be strictly adhered to, and that any prosecution which may follow must be in consonance with the statutory framework.

37. The second part of the afore-noted paragraph 7 of the Impugned Order interdicts the very same procedure and reads as follows:

“..... The SFIO shall refrain from launching any prosecution against the Ex-Management/directors of the company in liquidation till such time this Court considers the report filed by the SFIO and passes appropriate directions thereupon.”

38. Clearly, the said direction is not only against the statutory provisions, but prescribes an additional condition for initiating any prosecution, by making the launch of prosecution, subject to scrutiny by the Courts. As already held hereinbefore, the natural consequences as mandated by the statute would have to follow and the Courts cannot, by judicial orders, divert the course of the statutory stream or ascribe to themselves a power or function that is neither prescribed



nor provided for by the Statute.

39. It is undisputed by the learned Senior Counsel for the Ex-Management of the Respondent Company that there is no express statutory provision or binding precedent that permits an interdiction of the natural consequences that would flow from an investigation.

40. The various provisions of the Act empower the Central Government to take recourse to investigation and prosecution, and the SFIO is mandated to conduct the investigation and take further action pursuant to such investigation as directed by the Central Government. The provisions of the Act are unambiguous on these aspects, and once an investigation has commenced, the Courts have no role to play either in the investigation or the prosecution, provided they are carried out in accordance with the statute. However, as is evident, the procedure sought to be followed in the present case by the Impugned Order is one that is neither prescribed nor contemplated under the scheme of the Act. Such a course of action cannot be sustained in law.

41. It is a well-settled principle of law that when a statute prescribes that a particular act must be done in a particular manner, it must be done in that manner or not at all. This principle was first enunciated in **Taylor v. Taylor**⁶. The said principle was subsequently affirmed by the Privy Council in **Nazir Ahmad v. Emperor**⁷, and has since been consistently reiterated by the Hon'ble Supreme Court in numerous decisions, including **Deewan Singh v. Rajendra Pd. Ardevi**⁸ and **M.P. Wakf Board v. Subhan Shah**⁹, thereby making it a well-established doctrine in Indian legal jurisprudence. The Hon'ble Supreme Court, in

⁶ (1876) 1 Ch D 426

⁷ 1936 SCC OnLine PC 41

⁸ (2007) 10 SCC 528

⁹ (2006) 10 SCC 696



Dhanajaya Reddy v. State of Karnataka¹⁰, observed on this doctrine in the following terms:

“26. Relying upon *Nazir Ahmad case* [AIR 1936 PC 253 (2)] and applying the principles laid down in *Taylor v. Taylor* [(1876) 1 Ch D 426] this Court in *Singhara Singh case* [AIR 1964 SC 358] held: (AIR p. 361, para 8)

“8. The rule adopted in *Taylor v. Taylor* [(1876) 1 Ch D 426] is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on Magistrates the power to record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him.””

(emphasis supplied)

42. Further, a Constitution Bench of the Hon’ble Supreme Court in ***Public Interest Foundation v. Union of India***¹¹, reaffirmed this principle while referring to its earlier precedents. The Apex Court observed as under:

“99. In *D.R. Venkatachalam v. Transport Commr.*, (1977) 2 SCC 273, it was observed: (SCC p. 282, para 17)

“17. In ultimate analysis, the rule of construction relied upon by Mr Chitale to make the last mentioned submission is: ‘*Expressio unius est exclusio alterius*.’ This maxim, which has been described as ‘a valuable servant but a dangerous master’ (per Lopes, J., in Court of Appeal in *Colquhoun v. Brooks*, (1888) LR 21 QBD 52 (CA)) finds

¹⁰ (2001) 4 SCC 9

¹¹ (2019) 3 SCC 224



expression also in a rule, formulated in *Taylor v. Taylor*, (1875) LR 1 Ch D 426, (Ch D p. 430) applied by the Privy Council in *Nazir Ahmad v. King Emperor*, 1936 SCC OnLine PC 41, which has been repeatedly adopted by this Court. That rule says that an expressly laid down mode of doing something necessarily implies a prohibition of doing it in any other way.”

100. Similarly, in *State v. Sanjeev Nanda*, (2012) 8 SCC 450, this Court observed thus: (SCC p. 468, para 28)

“28. It is a settled principle of law that if something is required to be done in a particular manner, then that has to be done only in that way or not, at all. In *Nazir Ahmad v. King Emperor*, 1936 SCC OnLine PC 41, it has been held as follows: (SCC OnLine PC)

“... The rule which applies is a different and not less well recognised rule—namely, that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all.”

101. Another judgment where this principle has been reiterated is *Rashmi Rekha Thatoi v. State of Orissa*, (2012) 5 SCC 690 wherein it was observed thus: (SCC p. 703, para 37)

“37. In this regard it is to be borne in mind that a court of law has to act within the statutory command and not deviate from it. It is a well-settled proposition of law what cannot be done directly, cannot be done indirectly. While exercising a statutory power a court is bound to act within the four corners thereof. The statutory exercise of power stands on a different footing than exercise of power of judicial review.””

DECISION:

43. In view of the aforesaid discussion, and in light of the clear statutory mandate governing investigations and prosecutions under the Act, this Court is of the considered view that the Impugned Judgment dated 23.04.2024 is unsustainable in law. The directions issued therein by the learned Single Judge not only travel beyond the scope of the Act but also seek to expropriate powers that find no place in the statutory framework. Accordingly, the Impugned Judgment dated 23.04.2024 is set aside.

44. The present Appeal, along with pending applications, if any,



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stands disposed of.

45. No Order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
NOVEMBER 21, 2025/rk/sm/va