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

+ W.P.(C) 9611/2022

+ W.P.(C) 9612/2022

AMARENDRA DHARI SINGH

..... Petitioner

Through: Mr. Siddharth Luthra, and Mr.
Siddharth Aggarwal, Sr. Advs. with
Mr. Madhav Khurana, Mr. Kartikeye
Dang and Mr. Harsh Yadav, Advs.

versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Adv.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% **24.06.2022**

CM APPL. 28685/2022 (exemption) in W.P.(C) 9611/2022

CM APPL. 28687/2022 (exemption) in W.P.(C) 9612/2022

Exemptions allowed subject to all just exceptions.

W.P.(C) 9611/2022 & W.P.(C) 9612/2022

The present writ petitions have been filed for following prayer:

In W.P. (C) No. 9611/2022-

a) *Issue a writ/order/direction quashing/setting aside the Judgement dated 25.05.2022 passed by the Ld. Adjudicating Authority (PMLA) in O.C No. 1529/2021 dated 23.09.2021 titled Deputy Director, Directorate of Enforcement Vs. Amarendra Dhari Singh confirming the Provisional Attachment Order No. 6/2021 dated 31.08.2021 against the Petitioner in relation to his Fixed*



Deposit Receipts for a sum of Rs. 13,33,66,280/- (Rupees Thirteen Crores Thirty Three Lacs Sixty Six Thousand Two Hundred and Eighty only)”

In W.P. (C) No. 9612/2022-

a) Issue a writ/order/direction quashing/setting aside the Judgement dated 24.05.2022 passed by the Ld. Adjudicating Authority (PMLA) in O.C No. 1515/2021 dated 26.08.2021 titled Deputy Director, Directorate of Enforcement Vs. Amarendra Dhari Singh confirming the Provisional Attachment Order No. 4/2021 dated 30.07.2021 against the Petitioner in relation to his Fixed Deposit Receipts for a sum of Rs. 14,45,33,720/- (Rupees Fourteen Crores Forty-Five Lacs Thirty-Three Thousand Seven Hundred and Twenty only)”

Issue notice.

Mr. Zoheb Hossain, learned counsel for the respondent accepts notice and he seeks time to file counter affidavit.

Let counter affidavit be filed within four weeks time with a copy to the learned counsel for the petitioner.

List the matter before the Roster Bench on 28th July, 2022.

CM APPL. 28684/2022 (stay) in W.P.(C) 9611/2022

CM APPL. 28686/2022 (stay) in W.P.(C) 9612/2022

Mr. Siddharth Luthra and Mr. Siddharth Aggarwal, learned senior counsel for the petitioner have submitted that after the impugned orders dated 24.05.2022 and 25.05.2022, the petitioner had the 45 days time to file an appeal. It has been submitted that after the present writ petitions were filed, the respondent compelled the banks to attach the FDRs and took steps for the provisional attachment as confirmed by the adjudicating authority.

Mr. Siddharth Luthra, learned senior counsel has invited the attention of this Court to a communication dated 23.06.2022 written by Union Bank



of India to the petitioner. The communication dated 23.06.2022 is reproduced herein below;

“

Lr No:04811/FDs/ED/714	Date: 23.06.2022
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To,
Shri Amarendra Dhari Singh
D-285, Defense Colony
New Delhi - 110024

Subject: Transfer of Deposits amounting of Rs. 20,82,70,054/- attached to the account of the Directorate of Enforcement.

Sir,

With reference to the captioned subject , this is to inform that the Directorate of Enforcement vide their letter no ECIR/DLZO-I/43/2021/790 dated 30.05.2022 & ECIR/DLZO-I/ 43/20211789 dated 30.05.2022 instructed the branch to transfer the Fixed Deposits attached vide their attachment order No. 04/2021 dated 30.07.2021. The office of Directorate of Enforcement vide their emails dated 21 June'2022 and 22 June' 2022 were following up continuously with the bank for compliance of their letters. The details of Fixed Deposits are as mentioned below:

SNo	FD NO	Amount
1	048120100112719	15,310,936.00
2	048120100116539	24,019,115 .00
3	048120100116627	15,269,171.00
4	4048120100116636	15,266,788 .00
5	048120100116663	24,521,042.00
6	048120100117811	15,356,640.00
7	048120100117981	15,355,4 32.00
8	048120100118245	15,284,186.00
9	048113350000206	9 30,000 .00
10	048113 350000209	2,500,000.00



11	048113350000224	4,570,000.00
12	048113350000226	20,000.00
13	048113350000234	1,605 ,000 .00
14	048113350000420	480,000.00
15	048120100258516	11,930,982.00
16	048120100258756	11,929,058 .00
17	048120100258914	11,928,125.00
18	048120100308945	10,814,815.00
19	048120100309139	10,813,764.00
20	048120100316096	1,265,000.00
		20 208,270,054.00

Being a Public Sector Bank, we are bound to comply with the directions of law/enforcement authorities in absence of any stay/restraining order from competent court, we have complied to the directions of Directorate of Enforcement after obtaining permission from the competent authority.

*Yours' Sincerely
Sd/-
(Branch Head)''*

Learned senior counsel submits that the department after being served with the notices of the present writ petitions compelled the banks to take over the possessions in terms of the impugned orders. It has been submitted that the respondent may be restrained from taking over the possessions in terms of the impugned orders for which appeals are to be filed as per the statutes.

Issue notice. Mr. Zoheb Hossain, learned senior standing counsel for the department accepts notice.

Learned senior standing counsel has submitted that in fact, under Section 8 (4) department is under an obligation to take the possession of the



property in question forthwith attached under Section 5 of Prevention of Money Laundering Act, 2002 and frozen under Section 17 (1 A) after confirmation by the Adjudicating Authority.

Learned senior standing counsel has submitted that the objective of Prevention of Money Laundering Act, 2002 is to ensure that the proceeds of crime are not withered away. Thus, the department in its own right has proceeded forthwith to take over the possession of the provisional attachment order after being confirmed by the Adjudicating Authority. Learned counsel has also submitted that in the similar matter, in **“Directorate Of Enforcement & Anr. V. M/s Vikas WSP Ltd & Ors.”** LPA 362 of 2022, the Division Bench of this Court has passed an order of the status quo as on day with regard to the ownership, possession and encumbrance upon the properties in question to be maintained by both the sides.

Sh. Siddharth Luthra, learned senior counsel for the petitioner have submitted that the petitioner has no intention to wither away the properties in any manner. However, the department may not proceed forthwith for taking over the possession of provisional attachment of the remaining properties.

Learned senior counsel have relied upon judgment dated 11.01.2021 in **“Bliss Abode Pvt. Ltd vs. Zonal Office, Directorate of Enforcement W.P. (C) No. 301/2021** wherein it was *inter alia* held:

“11. In Arun Kumar Saha (supra), the Bombay High Court has, in view of the submission on behalf of the UOI that the period of 10 days mentioned in the notice of eviction shall begin to run after the expiry of the period of 45 days prescribed for preferring the appeal, recently held that the notice of eviction would not be



implemented for a period of 55 days from the date of service of the order of confirmation of attachment.

12. Mr. Agarwal, Id. Counsel, however submits that since the order has now been supplied to the Petitioner, he would not insist on a period of 45 days or 55 days being provided to the Petitioner. He submits that any reasonable period may be provided to enable the Petitioner to avail of its appellate remedy. Mr. Mahajan, Id. counsel, however submits that only a period of ten days ought to be provided as per the Rules.

13. In view of the submissions made by Id. Counsels for the parties and considering the facts and circumstances of the present case, 20 days' time is granted to the Petitioner to avail of its appellate remedies and physical possession of the immovable property shall not be taken for a period of 20 days from today. The question of law raised is left open."

Sh. Siddharth Aggarwal, learned senior counsel has also relied upon ***"Arun Kumar Saha and Anr. V. The Union of India and Anr"*** W.P. (C) No. 1207/2020. The reliance has also been placed upon ***"B. Kamalam v. The Joint Director, Directorate of Enforcement and Anr."*** 2014 SCC OnLine Mad 9183.

Sh. Siddharth Aggarwal, learned senior counsel has also submitted that in fact, status quo ante has to be restored by the department in respect of possessions of provisional attachment which has already been done by them. The reliance has placed upon ***"Yogesh Narayanrao Deshmukh & Anr. V. Directorate of Enforcement"*** SLP No. 4840/2022.

Let the reply to the application be filed by the respondent/department.

Till that time, both the parties are directed to maintain status quo in respect to the ownership, possession and encumbrance upon the properties. The issue as to restoring the status quo ante shall be considered after the



reply is filed by the respondent.

List the matter before the Roster Bench on 28th July, 2022.

DINESH KUMAR SHARMA, J
(VACATION BENCH)

JUNE 24, 2022

Pallavi