

**IN THE COURT OF SPECIAL JUDGE:  
PC ACT (CBI) - 04, ROUSE AVENUE COURTS, DELHI.**

**CNR No. DLCT11-11000050-2023**

**CT No. 01/2023**

**ECIR/DLZO-1/06/2018**

**U/s 4 r/w Section 3 of PMLA 2002**

**Enforcement Directorate V. M/s SSK Trading Pvt. Ltd &  
Ors.**

**ORDER**

1. By this common order, I shall dispose off three separate applications moved on behalf of **A-31 M/s Attractive Fin-Lease Pvt Ltd** through Rahul Khatana, **A-33 M/s Euro Asia Mercantile Pvt Ltd** through Harish Kumar Malhotra and **A-35 M/s Karishma Industries Pvt Ltd** through director Avinash Kumar Garg for modification/ correction in interim order dated **10.03.2023** wherein **A-9 Surender Kumar Jain** has been wrongly recorded as Director and arraying of the applicant company as accused.

2. It is, inter alia, stated in the applications that applicant companies are a separate and independent entities. The perusal of records of Registrar of Companies (ROC), the present Directors of **A-31 M/s Attractive Fin-Lease Pvt Ltd** are Rajbir Singh Guron (since 01.04.2013) and Rahul Khatana (since 08.11.2016), present Directors **A-33 M/s Euro Asia Mercantile**

Pvt Ltd are are Sh. Harish Kumar Malhotra (since 05.04.2013) and Sh. Avnish Kumar Garg ( since 20.08.2018) and the present Directors of A-35 M/s Karishma Industries Pvt Ltd are Harish Kumar Malhotra (since 12.04.2013) and Avnish Kumar Garg (since 20.08.2018).

2.1 It is further submitted that the shareholding pattern and list of directors of said three above-said companies show that since its inception, A-9 was never the director of the companies/applicants herein. As per the order dated 10.03.2023, the summons to the applicant companies have been issued on the assumption that the applicant companies are the companies of A-9 ( Surender Kumar Jain). As a matter of fact, A-9 was never the director of the said companies and that is why applicant companies herein were not arrayed as accused by the Enforcement Department which is correct as well.

2.2 It is further submitted that applicant companies never took any loan from PNB which is the complainant in FIR No. RCRCBD1/2018/E/0006 nor obtained any proceeds of any such loan from A-9 at any point of time, therefore, the assumption in the absence of any record showing applicant companies as company of A-9 in the order dated 10.03.2023 is wrong one and needs correction and modification.

2.3 In support of the pleas taken in the application, Ld. Counsel has placed reliance on judgments of Hon'ble Supreme Court in **Satender Kumar Antil V. CBI & Anr. SLP (Crl) No. 5191/2021, M/s Jermyn Capital LLC Dubai V. CBI SLP (Crl) No. 9134/2018) and Jitender Kumar @ Ajju V. State (NCT of**

**Delhi) & Anr. 84 (2000) DLT 88 of Hon'ble High Court of Delhi.**

3. It is further argued that the order dated 10.03.2023 which is sought to be corrected being only a typographical error. It is further argued that this Court has done so with respect to A-25/A-26 vide order dated 02.06.2023. It is thus argued that the proceedings against A 31, 33 and 35 are liable to be dropped as they had no connection with A-9.

4. Separate reply to the aforesaid applications are filed by the E.D. It is inter alia stated in the reply that vide order dated 10.03.2023, this Court took cognizance of the case and issued summons to the accused persons including the present applicant companies. As per the order of the Court, amended memo of parties adding the applicants companies as accused was filed on record. It is further stated that once an order of cognizance and summoning is passed, the same cannot be reviewed/modified by this court as has been held in case titled **Adalat Prasad V. Rooplal & Ors (2004) 7 SCC 338.**

5. Ld. SPP for the E.D has further vehemently opposed the present applications by arguing that the relief which has been sought by way of present applications is beyond the scope and power of this Court. The applicants are seeking in a way review/recall of the summoning and cognizance order dated 10.03.2023 vide which the Court has taken cognizance and issued summons to the applicants. It is further argued that the role of applicants companies is duly enumerated in the prosecution complaint filed by them .

**6. Heard and considered.**

7. The primary ground on which the present applications have been preferred by the applicants is the contention that the applicants had no connection at all with A-9 as is noted in the summoning and cognizance order dated 10.03.2023. A-9 never remained the director of the said companies .Therefore, it is prayed that it being a clerical error needs to be rectified and further the bar under section 362 Cr.P.C does not apply herein .

7.1 The present prosecution complaint has been filed by the Enforcement Directorate under Section 44 of Prevention of Money Laundry Act,2002 (PMLA) for the prosecution of the accused named for the offence punishable under Section 3/4 of the said Act. The said complaint was filed against 28 accused persons and the crux of the allegations against A-9 Surender Kr. Jain are pleaded in the said prosecution complaint from Page No. 95. The fake entries were shown in the records of M/s SSK Trading Private Ltd (A-1) with the object to artificially and fraudulently inflate the net worth of the said company in order to secure more loan from the lender bank's . In the said process of fake entries , the role of applicants herein came into picture. The said applicants companies were allegedly found to be involved in money laundering. As per the allegations, A-9 used their accounts for further transactions with M/s SSK Trading Ltd (A-1).

7.2 The Ld. Predecessor of this Court while taking cognizance of the complaint took note of the said part of the allegations and considered the role of the applicants apart from other firms/

companies not named, in summoning and cognizance order dated 10.03.2023. These companies were accordingly summoned and they have not challenged the said summoning order. No doubt, it as has been observed that A-9 is the director of said companies including the applicants herein which appears to be not correct as per the reply now filed by the Enforcement Directorate (E.D). But, the said fact alone cannot not erase the liability of the said companies which, as per the allegations, were used for money laundering by A-9 in order to inflate the accounts of A-1 SSK Trading Private Ltd.

7.3 Even otherwise, the issue with respect to the recall/summoning order is no longer is *res intregera* in view of the law settled down by Hon'ble Supreme Court in case titled Adalat Prasad (supra) case and the said position continues till date being reiterated recently now in case titled **In Re: Expeditious Trial of Cases U/s 138 N.I Act, 1881, Suo Moto Writ Petition ( Criminal) No. 2/2020 dated 16/04/2021.**

7.4 Therefore, in a way, the applicants are seeking dropping of the proceedings by seeking review/recall of the summoning order under the guise that it is a typographical error, which is beyond the power of this court.

8. As far as the last contention on behalf of Ld. Counsel for the applicants that this Court has done so with respect to A-25/A-26 is concerned, the said contention is also a mischievous one. The issue with respect to A-25 and A-26 was in the context of legal entity of proprietorship firm vis-a-vis its proprietor and therefore, the proprietorship firm was deleted from the arrays of the parties as the proprietor was separately named as accused. This is not case with the present applicants.

The judgments relied upon by the applicant's company are not applicable herein as the said issue not issue involved therein .

9. In view of the above, I do not find any merits in the applications moved on behalf of **A-31 M/s Attractive Fin-Lease Pvt Ltd, A-33 M/s Euro Asia Mercantile Pvt Ltd and A-35 M/s Karishma Industries Pvt Ltd. Accordingly, the same are dismissed.**

**It is though clarified that nothing contained herein above, shall tantamount to an expression to the merits of the case.**

Announced in the open Court  
on 24.07.2023.

**(GAGANDEEP SINGH)**  
Special Judge, PC Act, CBI-04  
Rouse Avenue Courts, New Delhi