14.10.2023

At 11:27 a.m.

Present: Shri Zoheb Hossain, Ld. Special Counsel along with Shri N.K. Matta, Ld. SPP, Advocate Shri Vivek Gurnani, Advocate Shri Kartik Sabharwal, Advocate Ms. Manisha Dulaj, Ms. Smrithi Tripathi, Deputy Director (ED), Shri Imran, Asstt. Director (ED) and Shri Amardeep, IO for ED.

Ld. SPP for ED has addressed submissions by adverting to order dated 30.07.2022 passed in earlier prosecution complaint (in short PC) declining cognizance of offence under Section 3/4 of PML Act, 2002.

Next, he has alluded to judgments of Hon'ble Supreme Court of India in (i) ***Pramatha Nath Talukdar & Anr. Vs. Saroj Ranjan Sarkar*** *AIR 1962 SC 876* (para 50) AND (ii) ***Bindeshwari Prasad Singh VS. Kali Singh*** *(1977) 1 SCC 57* (para 4) to the effect that second complaint is permissible after cognizance has been declined in the earlier complaint under certain circumstances.

Ld. SPP for ED has also referred to paras 52 to 59 of ***Tahir Hussain Vs. Assistant Director, Enforcement of Directorate*** passed in Crl. Rev. P. 775/2022 (Neutral citation No. *2022/DHC/005093*) on the point that even if the source of money (proceeds of crime) is untainted, Section 3 of PML Act, 2002 will be attracted in case the proceeds are used for commission of scheduled offence in furtherance of criminal conspiracy under Section 120B IPC which is a standalone offence under the Schedule.

Contd.../2-

It is submitted that judgments passed by Hon'ble Apex Court in (i) ***Vijay Madan Lal Chaudhary & Ors. Vs. Union of India & Ors.*** *2022 SCC OnLine SC 929; (ii)* ***Directorate of Enforcement Vs. Padmanabhan Kishore*** *2022 SCC OnLine SC 1490* AND (iii) judgment of Hon'ble High Court of Delhi in ***Tahir Hussain (Supra)*** were not cited at the time of submissions in the previous complaint as judgments in ***Directorate of Enforcement Vs. Padmanabhan Kishore (Supra)*** and ***Tahir Hussain (Supra)*** were passed on 31.10.2022 & 24.11.2022 respectively i.e. post order dated 30.07.2022 declining cognizance.

Finally, it is submitted that further investigation has revealed role of Rakesh Relan (A4) and his firm M/s HB Relan & Co. (A5) in projecting proceeds of crime as untainted profits from share trading as recorded in the statement of Rakesh Relan under Section 50 of PML Act, 2002 which is in addition to allegation of proceeds of crime generated on the basis of forged/fake sale invoices of the value Rs.6.60 Crores of M/s Astonishing Sales Pvt. Ltd. (ASPL) and alleged sale of fabric to Shri Shyam Dhani Trading Co. (SSDTC) for an amount of Rs.12.23 Crores on the basis of fake bills verified from the statement of proprietor Shri Sanjay Kumar recorded under Section 50 PML Act, 2002 on 27.02.2022.

Compilation of RUDs w.r.t. 1st PC and second compilation of RUD w.r.t. Rakesh Relan module (projection of proceeds of crime as untainted) are taken on record.

Put up on **25.10.2023 at 2:00 p.m. for clarification/ order.**

(Tarun Yogesh)
ASJ-06,NDD/PHC
New Delhi:14.10.2023