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

+ **CRL.M.C. 8074/2024**

ALCHEMIST ASSET RECONSTRUCTION
CO LTD

.....Petitioner

Through: Mr. Dayan Krishnan,
Senior Advocate with Mr.
Ashu Kansal, Adv.

versus

REGISTRAR OF COMPANIES GOVT. OF INDIA
MINISTRY OF CORPORATE AFFAIRS

.....Respondent

Through: Mr. Chetan Sharma, ASG
and Mr. Shashank Dixit,
CGSC with Mr. Amit
Gupta, Mr. Saurabh
Tripathi and Mr. Shubham
Sharma, Advs.

+ **CRL.M.C. 8075/2024**

ALOK DHIR

.....Petitioner

Through: Mr. Mohit Mathur, Senior
Advocate with Mr. Ashu
Kansal, Mr. Deepal Goel
and Mr. Vignesh, Advs.

versus

REGISTRAR OF COMPANIES GOVERNMENT
OF INDIA MINISTRY OF CORPORATE
AFFAIRS

.....Respondent

Through: Mr. Chetan Sharma, ASG
and Mr. Shashank Dixit,
CGSC with Mr. Amit
Gupta, Mr. Saurabh
Tripathi and Mr. Shubham
Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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15.10.2024

**CRL.M.A. 30881/2024 in CRL.M.C. 8074/2024 (exemption
from filing the certified copies of impugned order and all
documents)**



CRL.M.A. 30882/2024 in CRL.M.C. 8074/2024 (exemption from filing typed copies of dim annexures)

CRL.M.A. 30885/2024 in CRL.M.C. 8075/2024 (exemption from filing the certified copies of impugned order and all documents)

CRL.M.A. 30886/2024 in CRL.M.C. 8074/2024 (exemption from filing typed copies of dim annexures)

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

CRL.M.C. 8074/2024 & CRL.M.A. 30880/2024, CRL.M.A. 30883/2024

CRL.M.C. 8075/2024 & CRL.M.A. 30884/2024, CRL.M.A. 30887/2024

3. The present petitions are filed challenging the order dated 08.08.2023, passed by the learned Additional Sessions Judge (ASJ)-03 & Special Judge (Companies Act), Dwarka Courts (SW), New Delhi, issuing summons to the petitioners in the complaint filed by the respondent under Section 76A of the Companies Act, 2013 read with Rule 21 of the Companies (Acceptance of Deposits) Rules, 2014.

4. The complaint was filed in regard to non-compliance of Section 73 of the Companies Act, 2013. It was alleged that during the financial year 2017-18 and 2018-19, the petitioner company in CRL.M.C. 8074/2024, had accepted unsecured loan of ₹6,00,00,000/- and ₹17,00,00,000/- respectively from a Director and the said loan was obtained without any declaration in writing to that effect.

5. The learned senior counsel for the petitioners submit that pursuant to the show cause, the reply was specifically sent by the petitioner company pointing out that the company has obtained the necessary declaration from the Director in writing to the effect that the amount has not been given out of the funds



acquired by borrowing or account loan or deposits from others, and hence the provisions of Section 72 of the Companies Act, 2013 have been duly complied with. A copy of the declaration was also sent to the respondent.

6. They vehemently contend that the complaint has been filed solely for the reason that the reply was not found convincing to the Officer concerned and that the said declaration, according to the Officer concerned, was not found during the course of inspection.

7. They submit that there is a factual error in regard to the allegations made by the respondent since the concerned declaration had in fact been made and was duly uploaded in terms of Circular dated 12.04.2019 issued by the respondent.

8. They submit that once a declaration had in fact been made, the very basis of the complaint erases. They submit that the learned Trial Court does not have any power to recall the order issuing summons.

9. Issue notice.

10. Mr. Shashank Dixit, learned Central Government Standing Counsel, accepts notice on behalf of the respondent.

11. The learned Trial Court is directed not to proceed further with the complaint till the next date of hearing.

12. List on 11.02.2025.

13. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

OCTOBER 15, 2024 / 'KDK'