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

\+ W.P.(CRL) 1154/2015, CRL.M.A. 8232/2015

ABHILASHA AGARWAL ..... Petitioner

Through: Mr. M. Dutta, Advocate.

Versus

DIRECTOR ENFORCEMENT DIRECTORATE & ORS ..... Respondents

Through: Mr. Harish Kumar, Advocate for Mr. Gaurav Sarin, Advocate.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 07.12.2018

The petitioner seeks that ECIR No. 318/DLZO/2009 dated 18.12.2009 be quashed and further investigations be stayed. It is the petitioner's case that the offence for which he is sought to be prosecuted was not defined under Prevention of Money Laundering, 2002, at the time of the alleged illegalities i.e. in 2006. The amendment to the statute adding the relevant section has been brought into force only on 1st June, 2009, without retrospective effect. It has been so held in ***Tech Mahindra Limited vs. Joint Director, Directorate of Enforcement*** in Case No. 17525/2014 decided on 22.12.2014. It reads as under:-

> *"70. It is settled principle of law that no person can be prosecuted on the allegation which occurred earlier by applying the provision of law which has come into force after the alleged incident. In other words, there can be no retrospective application of criminal liability for the incident occurred prior to introduction of such liability in the statute*

book.

> *71. Admittedly, prior to Amendment Act, 2009, none of the provisions which are now invoked by the Enforcement Directorate were on the statute book except Section 467 IPC. Thus, the petitioner cannot be prosecuted by invoking those provisions."*

The learned counsel for the petitioner submits that the SLP against the said order has been dismissed *in limine*.

In view of the above, further proceedings in the said ECIR shall remain stayed till the next date.

List on 25.04.2019.

NAJMI WAZIRI, J.

DECEMBER 07, 2018/RW