

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 10181 of 2022**

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AATASH NORCONTROL LIMITED

Versus

DIRECTORATE OF ENFORCEMENT

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Appearance:

MR SAURABH SOPARKAR, SENIOR ADVOCATE with

MR ADITYA A GUPTA, ADVOCATE for the Petitioners

MOHIT A GUPTA(8967) for the Petitioner(s) No. 1,2

for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

Date : 13/06/2022

ORAL ORDER

1. Leave to correct the pagination of the writ petition.
2. The present writ petition has been filed seeking quashing and setting aside of the order dated 25.05.2022 passed by the respondent no. 2 – the Adjudicating Authority, PMLA, New Delhi in OC No. 1517 of 2021. Further a prayer has been sought for quashing the Provisional Attachment Order No.03 of 2021 dated 13.08.2021 passed by the respondent No.1 in ECIR/AMZO/13/2020 and also to quash consequential steps including a notice dated 28.05.2022 received by the petitioner on 31.05.2022 issued under section 8(4) of the Prevention of Money Laundering Act, 2002 (for short, “the PMLA, Act”).
3. Learned senior advocate Mr.Saurabh Soparkar has submitted that against the order dated 25.05.2022, the petitioners have already preferred an appeal being Appeal No.4685 of 2022 before the Appellate Tribunal under the PMLA Act. Learned Senior advocate has further submitted that pursuant to the order dated 25.05.2022 within a short span of three days, a notice for taking possession under Sub-Section

(4) of Section 8 of the PMLA Act, has been issued on 28.05.2022 by the respondent authorities for attaching the properties. It is further submitted and asserted by learned senior advocate that the Appellate Authority under the PMLA Act, is not available and the petitioner is remediless, since neither his appeal is being proceeded further nor the respondent authorities are restraining themselves in proceeding with the impugned show-cause notice. Learned senior advocate has further submitted that in fact, the provisions of the PMLA Act itself are not applicable to the present petitioners as the alleged predicted offences were not scheduled offences at the time of commission. It is further asserted by the learned senior advocate that as such assets attached are not proceeds of crime by any stretch of imagination and the respondent No.1 has failed to demonstrate as to how the assets attached proceeds, generate, criminal activity. It is further submitted that even the fixed deposit of Rs.43,75,82,000/- have been earned by the operation of VTPMS under the concession agreement and have been created under the order dated 07.08.2019 passed by the Arbitrator. Thus, he has submitted that the further proceedings initiated pursuant to the impugned show-cause notice may be stayed.

4. Under the circumstances and in light of aforesaid facts, issue **NOTICE** to the respondents returnable on **30.06.2022**. Meanwhile interim relief in terms of paragraph No.10(B), is granted.

Direct service is permitted.

(A. S. SUPEHIA, J)

MAHESH BHATI/39