
(2023) 05 ATPMLA CK 0001

In the Appellate Tribunal Under Prevention Of Money Laundering Act

Case No : MP-PMLA--6213/BNG/2019, 8356, 8357/BNG/2021, 11795, 11784/
BNG/2023, FPA-PMLA-694, 695/BNG/2014

B. Saraswathi

APPELLANT

Vs

Deputy Director Directorate Of Enforcement, Bangalore

RESPONDENT

Date of Decision : 31-05-2023

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1)(e), 13(2)
Prevention Of Money Laundering Act, 2002 — Section 42

Citation : (2023) 05 ATPMLA CK 0001

Hon'ble Judges : G. C. Mishra, Member; Rajesh Malhotra, Member

Bench : Division Bench

Advocate : Rajiv Awasthi, Mrinal Kumar

Final Decision : Disposed Of

Judgement

Misc. Petition No. MP-PMLA-11795&11784/BNG/2023 are filed by the appellants to allow the said applications and thereby dispose of the appeals by setting aside the impugned order dated 27.08.2014 passed by the Ld. Adjudication Authority PMLA, New Delhi alongwith the Provisional Attachment Order No. 05/2014 dated 27.03.2014.

During the course of hearing the learned counsel for applicants/appellants pointed out that Ld. Special Judge, Mysore vide order dated 26.09.2018 in Special Case No. 113/2013 pertaining to commission of offence under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, acquitted accused S. Revanna by granting benefit of doubt.

He further pointed out that after acquittal of appellant S. Revanna, both the applicants/appellants filed an application for discharge in complaint case No. 159 of 2015 under PMLA, 2002 for discharge of the appellants/applicants from the proceedings. The said application for discharge was dismissed by Ld. Special Judge, Bengaluru. Aggrieved by the said order dated 19.02.2021 the present appellants/applicants filed a Criminal Revision No. 1010 of 2021 before Hon'ble

High Court of Karnataka at Bengaluru challenging the said order dated 19.02.2021. He further submitted that Hon'ble High Court of Karnataka at Bangalore vide order dated 25.01.2023 allowed the said criminal revision petition and ordered closure of Special C.C. No. 159/2015 under PMLA, 2002 and that on the basis of said order dated 25.01.2023 Ld. Special Judge, Bangalore closed the proceedings against both the accused persons (herein applicants/appellants).

Prayer was accordingly made to allow both the applications Misc. Petition No. MP-PMLA-11795&11784/BNG/2023 and thereby to set aside the impugned attachment order dated 27.08.2014 passed by the Ld. Adjudication Authority PMLA, New Delhi alongwith the Provisional Attachment Order No. 05/2014 dated 27.03.2014.

On the other hand, Ld. Counsel for respondent ED, on instructions, submitted that the department is contemplating to file SLP against the order dated 25.01.2023 passed by Hon'ble Karnataka High Court and prayer was accordingly made to dismiss the present applications. However, he has not disputed the factual position as submitted by Ld. Counsel for Applicants/Appellants being matter of record.

The Hon'ble High Court of Karnataka has passed the order closing the complaint case under PMLA, 2002 on 25.01.2023. The said order of Hon'ble High Court is yet to be challenged even though 125 days has already been expired. Hence, we are not satisfied with the contention of Ld. Counsel for respondent.

In view of the judgment of acquittal vide order dated 26.09.2018 followed by closure of complaint case PCR No. 21/2015 (Special CC No. 159/2015) vide order dated 20.03.2023, both the applications filed by the appellants vide Misc. Petition No. MP-PMLA-11795 & 11784/BNG/2023 are hereby allowed and consequently both the appeals No. FPA-PMLA-694-695/BNG/2014 are disposed of by setting aside the impugned order dated 27.08.2014 passed by the Ld. Adjudication Authority PMLA, New Delhi alongwith the Provisional Attachment Order No. 05/2014 dated 27.03.2014. All the other pending applications, if any, are also hereby disposed of in view of this final order.

However, it is made clear that this order will be operative after expiry of period of limitation for filing the appeal as provided in Section 42 of PMLA, 2002. It is further clarified that in case any SLP is filed by respondent ED against the order dated 25.01.2023 passed by Hon'ble High Court of Karnataka at Bengaluru in Criminal Revision Petition No. 1010 of 2021 and the same is allowed by Hon'ble Supreme Court of India, then both the parties are at liberty to move appropriate application for restoration and disposal of these appeals on merits.

Applications bearing No. MP-PMLA-11795&11784/BNG/2023 are allowed and appeals are disposed of accordingly.

In the circumstances, there is no order as to costs.

Case records be consigned to record room.