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2021

In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)

W.P.A. No.4845 of 2021

Knight Riders Sports Private Limited
Versus
Adjudicating Authority (PMLA) and others

Mr. Amit Desai,
Mr. Rustam Mulla,
Mr. Deepan Kr. Sarkar,
Mr. Arunabha Deb,
Mr. Hashad Gada,
Mr. Ayush Jain,
Mr. S. Kinkabhwala.

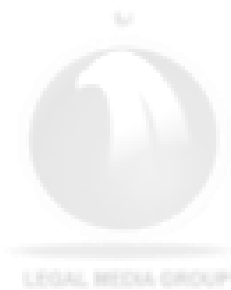
...for the petitioner.

Mr. Ranjan Kr. Roy.

...for the respondent nos.1 and 2.

Mr. Avishek Guha,
Ms. Ruchika Mall.

...for the respondent no.4.



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Supplementary affidavit filed by the petitioner today be kept on record.

Learned senior counsel appearing for the petitioner argues that, despite a provisional order of attachment dated January 31, 2020 passed by the Deputy Director, Office of the Special Director, Eastern Region, Enforcement Directorate, respondent no.2 having spent its force after 180 days therefrom

in terms of Section 5(3) of the Prevention of Money Laundering Act, 2002, the Enforcement Directorate has been continuing to issue notices for hearing on the basis of the said provisional order dated January 31, 2020.

Learned senior counsel appearing for the petitioner, among other things, argues that the extension of limitation granted by the Supreme Court on various occasions, pertained only to limitations regarding proceedings and the stipulation under Section 5(3) of the 2002 Act is not covered by said limitation.

Learned senior counsel appearing for the respondent nos.1 and 2 objects to the petitioner's prayer for stay of further proceedings on the basis of the said provisional notice on the ground that the Supreme Court orders, extending limitation, clearly applied not only to general laws but also special statutes. It is argued that the period envisaged under Section 5(3) of the 2002 Act comes within the purview of the said orders, thereby extending the period of 180 days further.

However, the petitioner has made out a strong *prima facie* case as regards the respondent nos.1 and 2 having acted *de hors* Section 5(3) of the 2002 Act in continuing further proceedings in terms



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of the order of attachment dated January 31, 2020, since *prima facie* it appears that the extension granted by the Supreme Court was restricted to limitation for institution and termination of proceedings.

The language of Section 5(3) of the 2002 Act is very clear as to the period of 180 days operating in respect of orders of attachment and says in positive language that such order of attachment shall cease to have effect after the expiry of such period. The said restriction/stipulation does not relate to any period of limitation prescribed under the general or special laws pertaining to institution or termination of “proceedings” but directly deals with the tenure of operation of the order of provisional attachment.

Hence, the writ petition is required to be heard on its merits.

The respondents shall file their affidavit(s)-in-opposition within a fortnight from date. Reply, if any, shall be filed within a week thereafter. It is made clear that the affidavit(s)-in-opposition and reply shall comprehensively cover the contentions raised in the supplementary affidavit as well.

The respondent nos.1 and 2 are restrained from issuing any notice of hearing/taking any other action on the basis of the provisional order of



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attachment dated January 31, 2020 until further orders.

The matter shall next be enlisted for hearing fairly at the top of the list on May 12, 2021.

After the order is passed, learned senior counsel appearing for the respondent nos.1 and 2 prays for stay of operation of this order.

However, since such a stay would negate the entire effect of the restraint order and revive the proceedings, thereby subjecting the petitioner to the risk of rendering their writ petition infructuous, such prayer for stay of this order is refused.

(Sabyasachi Bhattacharyya, J.)



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