

When Amount received can be termed as proceeds of crime liable to be confiscated or for compensation

In ***RAVINA AND ASSOCIATES PVT LTD & ANR. v. CENTRAL BUREAU OF INVESTIGATION & ANR. [CRL.M.C. 1372/2021 CRL.M.A. 8423/2021 dated September 2, 2021]***, Ravina And Associates Pvt Ltd. (**“the Petitioner”**) were maintaining accounts with National WestMinister Bank, London in which the amount transferred by TPE (**“Techno promexport Russia”**) to RAPL (**“Ravina And Associates Pvt Ltd.”**) had been frozen by the order of the Special Court and could not be operated. And the frozen amount is received in India is beyond the amount in relation to the impugned transactions with TPE. So the amount which does not relate to the impugned transaction along with the interest accrued thereon be directed to be released to the Income-Tax authorities for recovery of the tax demand due towards the Petitioner as the Department sought recovery of income tax penalty and interest payable by Ms. Ravina Khurana and by RAPL.

The issue before Delhi High Court is whether the entire amount frozen in accounts with National WestMinister Bank London is the case property or alleged proceeds of the crime and may be liable for confiscation in case the Petitioner's are convicted and thus cannot be utilized for fulfilling the tax demands due against the Petitioners.

The Hon’ble Delhi High Court held that under the Section 13 sub-section (2) of Prevention of Corruption Act, 1988, in the matter of imposition of fine the legislatures have provided that the Courts in fixing the amount of fine shall take into consideration the amount or the value of the property which the accused person has obtained by committing the offence. In this case the amounts transferred by TPE to RAPL in the NatWest Bank, London account, in relation to the impugned transaction is totalling to a sum of USD 2,15,71,843.90. However, the amount which was frozen and received in India is beyond the amount in relation to impugned transactions with TPE, considering this, the Court.

Directed:

- The amount received in excess of the amount received from TPE by RAPL qua the impugned transaction cannot be prima facie termed as case property or the proceeds of the crime liable to be confiscated or for compensation in case the Petitioners are charged and convicted
- Learned Special Judge is directed to retain the amount received in lieu of the frozen amount of USD 2,15,71,843.90 alongwith the interest accrued thereon from the date of receipt till date and transfer the balance amount alongwith the interest accrued thereon received in the amount at SBI, Tis Hazari to the income-tax department with the amount due towards the Petitioner’s income tax liability.

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