

November 24, 2023

CS&G/STX/DQ2023/42

1) National Stock Exchange of India LimitedExchange Plaza, C-1, Block G,
Bandra Kurla Complex, Bandra (E),
Mumbai – 400 051

Scrip Symbol: KFINTECH

2) BSE LimitedPhiroze Jeejeebhoy Towers,
Dalal Street,
Mumbai – 400 001

Scrip Code: 543720

Sub. : Regulation 30 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”)

Dear Sir / Madam,

This is further to our letter reference no. CS&G/STX/DQ2023/20 dated October 23, 2023, disclosing that the Company had received a copy of the order (“**ED Order**”) dated October 23, 2023, issued by the Office of the Joint Director, Enforcement Directorate, Hyderabad Zonal Office (“**ED**”), to Mr. Adhiraj Parthasarathy, wherein the ED had provisionally attached the 1,000 (one thousand) non-convertible redeemable preference shares of face value INR 200 (Indian Rupees two hundred) each (“**RPS**”) held by Mr. Adhiraj Parthasarathy, and further ordered that such RPS cannot be transferred, disposed, parted with or otherwise dealt with in any manner, whatsoever, until or unless specifically permitted to do so by the ED.

Subsequently, the Company has, on November 23, 2023 at 09:07 p.m., received a copy from Mr. Adhiraj Parthasarathy of the order dated November 20, 2023 passed by the High Court for the State of Telangana at Hyderabad with respect to the writ petition no. 31208 of 2023, between Mr. Adhiraj Parthasarathy and the ED (“**High Court Order**”). The High Court Order *inter alia* states that the ED Order stands suspended pending further orders. Enclosed is a copy of the same herewith.

The Company is in the process of evaluating next steps to be undertaken in this regard.

This is for your information and records.

Thanking you,

Yours faithfully,

For KFin Technologies Limited

Alpana Kundu
Company Secretary and Compliance Officer
ICSI Membership No.: F10191

Encl.: a/a

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTIETH DAY OF NOVEMBER

TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 31208 OF 2023

Between:

Mr. Adhiraj Parthasarathy, S/o. Shri C. Parthasarathy, Aged about 39 years,
Occu: Professional, R/o. 705 Etna, Phoenix Halcyon, Road No.78 Filmnagar,
Hyderabad – 500096.

...Petitioner

AND

The Directorate of Enforcement, Office of the Joint Director, Government of
India, Ministry of Finance, Department of Revenue, 3rd Floor, Shakar Bhawan,
Basheer Bagh, Hyderabad – 500004, Represented by. Shri Benjamin
Chettiar, Deputy Director.

...Respondent

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the affidavit filed therewith, the High Court may be pleased
to issue a writ, or order or direction, more particularly a writ in the nature of
mandamus declaring the Provisional Attachment Order No.12 of 2023
dated 23.10.2023 passed by Respondent under Section 5(1) of the PMLA Act for
being void, illegal and arbitrary and consequently, to set aside the Provisional
Attachment Order No.12 of 2023 dated 23.10.2023 passed by Respondent under
Section 5(1) of the PMLA Act for being void, illegal and arbitrary.

IA NO: 1 OF 2023

✓ Petition under Section 151 CPC praying that in the circumstances stated in
the affidavit filed in support of the writ petition, the High Court may be pleased to
suspend the Provisional Attachment Order No.12 of 2023 dated 23.10.2023 passed
by Respondent under Section 5(1) of the PMLA Act, pending disposal of
WP.No.31208 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the
affidavit filed in support thereof and upon hearing the arguments of Mr. AVINASH
DESAI Senior Counsel representing M/s. MALLU NETHAN REDDY Advocate for the
Petitioner and Mr. DOMINIC FERNANDES Advocate for the Respondent, the Court
made the following.

ORDER:

Heard Mr.Avinash Desai, learned senior counsel appearing on behalf of the petitioner and also Mr.Domnic Fernandes, leaned counsel appearing on behalf the respondent.

The interim relief as sought for by the petitioner in the present writ petition reads as under:

"it is humbly prayed that this Hon'ble court may be pleased to suspend the Provisional Attachment Order No.12 of 2023 dated 23.10.2023 passed by respondent under Section 5(1) of the PMLA Act and pass such other order or orders that this Hon'ble Court deems fit and proper in the facts and circumstances of the case."

It is the specific case of the petitioner that the petitioner has entered into a Subscription Agreement dated 28.05.2021 with KFin Technologies Private Limited currently KFin Technologies Limited (KFin), under which the petitioner was to be issued 1,000 (one thousand) non-convertible redeemable preference shares of KFin having a face value of INR 200 (Two Hundred Rupees only) (RPS). In accordance with the subscription Agreement and after fulfilling certain conditions required under the agreement KFin issued RPS to the petitioner on 25.10.2021.

It is further case of the petitioner that the subscription agreement under Schedule 5, paragraph 5.3.1 provides that the RPS shall be redeemed or bought back at the discretion and by KFin on the 2nd anniversary of the allotment of the same i.e., on 25.10.2023, which is the Redemption Date, by paying the applicable Termination Fees. It is further submitted that, under Schedule 5, paragraph 5.3.3 of the Subscription Agreement, KFin also has a right to buy back the RPS instead of redeeming the same. Upon such redemption or buy back on the Redemption Date i.e., on 25.10.2023, as agreed, KFin is liable to pay Termination Fees which as per formula mentioned and agreed in the Subscription Agreement i.e., INR 134,02,00,001 (Rupees One Hundred Thirty-Four Crores Two Lakhs and one only), to the petitioner. While so, on 23.10.2023 i.e. two days prior to the redemption date the respondent

attached the RPS in KFin under PAO No.12 of 2023, erroneously claiming that, the value of the properties is Rs.134,02,00,001/-(Rupees One Hundred Thirty Four Crore and Two lakhs and rupee one only), and that allegedly, the same are part of proceeds of crime as defined under the PMLA.

The learned senior counsel for the petitioner primarily contends that, the petitioner is not in possession of the RPS at the rate at which they are valued under the PAO 12 of 2023, as the RPS were neither redeemed nor did KFin buy back them and therefore, the respondent authority cannot invoke subject PAO against the petitioner and pass the impugned Provisional Assessment order vide PAO 12 of 2023, dated 23.10.2023 by attaching a non assessing asset, which would have been created on 25.10.2023 upon redemption, if the respondent had not attached the shares.

The learned counsel for the respondents Mr.Domnic Fernandes, on the other hand, contends that there is no illegality in the order impugned and the same is as per the provisions of the PML Act, 2002 and no interference of this Court is necessary, at this stage, since the petitioner has an effective alternative remedy. Therefore, the petitioner is not entitled for any relief.

The learned counsel for the respondent places reliance upon the Judgment reported in **2014 SCC online Hyderabad page 819 in Sri P.Trivikrama Prasad v Enforcement Directorate passed in WP.No.21124 of 2014 dated 16.10.2014** and contends that, the petitioner is not entitled for the relief as prayed for, in the present writ petition.

The learned Senior Counsel appearing on behalf of petitioner, on the other hand, places reliance upon the Judgment of the Apex Court reported in **(1998) 8 SCC 1 in between WHIRLPOOL CORPORATION Vs. REGISTRAR OF TRADE MARKS, MUMBAI AND OTHERS** and in particular, paragraph No.15 and contends that, petitioner is entitled for

the relief as prayed since for since the order impugned is passed without jurisdiction.

PERUSED THE RECORD

The relevant Provisions read as under:

Section 5 of the PMLA-2002 reads as under:

S.5-Attachment of property involved in money-laundering.--

"Attachment of property involved in money-laundering.-(1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that-

- (a) any person is in possession of any proceeds of crime; and
- (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter, he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country:

Provided further that, notwithstanding anything contained in first proviso, any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.

The petitioner filed an affidavit in the form of undertaking dated 20.11.2023 and paragraph Nos.4, 5 and 6 of the said affidavit reads as under:

4. It is submitted that KFin Technologies Private Limited was supposed to pay Rs.134,02,000,0001 (Rupees One Hundred thirty Four Crores Two Lakhs and One Rupee only) on 25.10.2023 to the petitioner to the Following bank account:

Name of Bank: State Bank of India

Account No.42330823095

Beneficiary Name: Adhiraj Parthasarathy

Branch Address: Plot 124, First Floor, Srinagar Colony, Hyderabad 500 073.

IFSC Code: SBIN0014447

5. It is submitted that if the Impugned Order is suspended and KFin Technologies Private Limited transfers the said amount to the Petitioner's Bank Account, the petitioner hereby undertakes to not alienate, transfer, use the said amount without the permission of this Hon'ble Court.

6. It is submitted that, the petitioner will be put to irreparable loss if the Impugned Order is not suspended. It is submitted that no prejudice will be caused to the Respondent if the said amount are released into the bank account of the petitioner, as the petitioner is undertaking not to alienate, transfer, use the amount without the permission of this Hon'ble Court.

The paragraph No.26 of the Counter affidavit filed by the respondent, reads as under:

26. It is respectfully submitted that as discussed above, the Termination agreement was on 28-05-2021 between C. Parthasarathy & ors, General Atlantic and KFinTech, wherein C. Parthasarathy and his group entities relinquished all the rights in the company. In consideration and as per the arrangement made by C. Parthasarathy, his son Adhiraj Parthasarathy (AP) was solely nominated by the CP group under the Share Subscription Agreement dt. 28-05-2021 to receive the 1000 now-convertible Redeemable Preference Shares (RPS) of face value Rs. 200. Accordingly, the RPS numbering 1000 were issued to Adhiraj Parthasarathy on 25.10.2021. **As per the conditions laid down in the said agreement, these shares/RPS are eligible for redemption after a period of Two years from allotment i.e., on 25.10.2023.** The value of the redemption is Rs. 164,00,00,001/-, Further. As per the terms of the Subscription agreement, the RPS may be transferred amongst Adhiraj

Parthasarathy C. Parthasarathy, Rajat Parthasarathy, C. Parthasarathy HUF and Compar Estates and Agencies Private Limited but cannot be transferred to any third party. The terms enumerated in the Schedule 5 of the Subscription agreement states as under-

7.Transferability

The Subscription Securities shall be freely transferable between the subscriber and the Permitted Assignees, subject to their entering into a deed of adherence to this Agreement.....

Further the 'Permitted Assignees', as per the said agreement mean the Persons set out in Schedule 8 of the said agreement. The list of Persons as per the said Schedule- C. Parthasarathy - HUF and Compar Estates and Agencies Private Limited. Thus, the interest in these RPS lies exclusively with C. Parthasarathy and his concerns.

This Court opines that under Section 5(1)(a) of PML Act, 2002, it is a precondition that the person should be in possession of proceeds of crime whereas in the present case, admittedly the petitioner is not in possession of the RPS at the rate which they are valued under the PAO 12 of 2023, as the RPS were neither redeemed nor did KF in buy back them. This Court is of the firm opinion that the respondents act of attachment prevented the realisation of the value of the redemption which would have fructified on 25.10.2023 and the fact that the subject shares/RPS are eligible for redemption on 25.10.2023 is a fact admitted by the respondent in the counter affidavit filed in the present writ petition at para No.26.

This Court opines that the order impugned is contrary to Section 5(1)(a) of the PMLA-2002 which clearly indicates that, the person should be in possession of proceeds of crime, whereas, in the present case, admittedly, the petitioner is not in possession of the RPS, even as per the counter affidavit as on the date of passing of the impugned order dated 23.10.2023.

This Court is of the firm opinion that the Judgment reported in 2014 SCC online Hyderabad in Sri P.Trivikrama Prasad v

Enforcement Directorate at page 819 passed in W.P.No.21124 of 2014 dated 16.10.2014 relied upon by the counsel for the respondent is not applicable to the facts and circumstances of the present case in view of the fact that in the said case challenge was to an order of attachment under Section 5 of the Act on the adequacy of reasons as well as the merits of the case and it was held that these were issues which were best dealt by the Adjudicating Authority as the reasons for such attachment would be considered properly. Whereas in the present case issue pertains to very initiation of proceedings against the petitioner under the PML Act, 2002, and the challenge to the impugned order of attachment is on the ground of lack of jurisdiction.

The Apex Court in a judgment dated 20.04.2021, reported in (2021) 6 SCC 771 in M/s. Radhakrishnan Industries vs. State of Himachal Pradesh referring to Whirlpool Corporation vs. Registrar of Trade Marks (reported in 1998 (8) SCC 1) at para 27 observed as under:

"The principles of law which emerge are that

27.1 The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

27.2 The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

27.3 Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

27.4 An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

27.5 When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

27.6 In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

Taking into consideration the averments made by the petitioner at paragraph Nos. 4, 5 and 7 of the affidavit filed in support of the writ petition before this Court on 20.11.2023 in the present writ petition and also the counter filed by the respondent, at paragraph No.26, (referred to and extracted above), and duly taking into consideration the observations of the Apex Court at para 27 of its judgment dated 20.04.2021 reported in 2021 (6) SCC page 771 in M/s Radha Krishnan Industries v State of Himachal Pradesh, Clause 27.1 and 27.3, the Provisional Attachment Order No.12 of 2023 dated 23.10.2023 passed by the respondent under Sub-Section (1) of Section 5 of the Prevention of Money Laundering Act, 2002 stands suspended pending further orders since the same is wholly without jurisdiction as it attaches a non-existing asset.

List on 15.12.2023

//TRUE COPY//

SD/-MD.ISMAIL
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. Shri Benjamin Chettiar Deputy Director The Directorate of Enforcement, Office of the Joint Director, Government of India, Ministry of Finance, Department of Revenue, 3rd Floor, Shakar Bhawan, Basheer Bagh, Hyderabad – 500004 (by RPAD).
2. One CC to M/s. MALLU NETHAN REDDY, Advocate [OPUC].
3. One spare copy
ZEE

HIGH COURT

SNJ

DATED:20/11/2023

LIST ON 15.12.2023

ORDER

WP.No.31208 of 2023

DIRECTION

