

LEGAL UPDATES

CALCUTTA HC REPEALED SINGLE BENCH ORDER HOLDING PMLA ADJUDICATING AUTHORITY NON-LITIGANT IN MONEY-LAUNDERING MATTERS

The part of the Ld. Single Judge's order that held the Appellant authorities are to permit the Petitioners to operate the bank account and postal accounts were challenged by the PMLA Adjudicating Authority (the Appellant), and the Calcutta High Court granted the relief sought therein and stated that the provisional attachment order had lost its efficacy because the confirmation order was not passed within 180 days as was required by Sec. 5(3) of the PMLA.

The Hon'ble Division Bench stated at the opening that *"the order...issued by the learned Single Judge coupled with the observations and findings rendered therein would have far-reaching consequences."*

Further stated that this was so, finding that the Appellant had also not been given sufficient opportunity to file an affidavit-in-opposition, the Single Judge concluded that the Adjudicating Authority exercising power under the PMLA and any other enactment is a non-litigant and the Adjudicating Authority cannot take offence under the order passed by the Supreme Court while computing 180 days in accordance with Sec. 5(3) of the Act.

The Hon'ble court further argued that the findings and observations in the assailed order, which might have impacted other parties involved, couldn't have been permitted, and says, *"...the learned writ Court...after making such observations holding the appellant as a 'non-litigant' has granted a direction in the penultimate paragraph of the impugned order with an observation that the order passed in the writ petition will not prevent the Adjudicating Authority from passing final order of adjudication..."*

It was also noted that although the Appellant was not a party to the litigation, the Hon'ble High Court vacated the same and the order of provisional attachment was no longer in effect as of that time because a final adjudication order had been issued.

It was also observed that the connected bank account was debited in full even after an attachment order was obtained. The Hon'ble Court further stated that *"It is not clear as to how the bank account of the writ petitioners/respondents could have been debited in its entirety."*, and adds that *"...an order of attachment would mean that status quo needs to be maintained and it could not mean that the person who has attached a property can appropriate the property before a final order was passed."*