

ECIR No.07/HIU/2017
CT Case No.08/2020
CNR No.DLCT11-000207-2020

Directorate of Enforcement (DoE)

V.

Palaniappan Chidambaram @ P Chidambram & Ors.

24.03.2021

At 4 pm

Present: Sh. N. K. Matta, learned Special PP for DoE.

1. This complaint in ECIR No.07/HIU/2017 was originally filed on 01.06.2020 with the Bail & Filing Section, Rouse Avenue District Court, New Delhi on its e-mail ID anjanadhall@gmail.com and copy thereof through e-mail was received on this court's e-mail ID readercbi09radc@gmail.com only on 04.08.2020, after it was assigned to this court by the Ld. District and Sessions Judge-cum-Special Judge, CBI (PC Act), Rouse Avenue District Courts, New Delhi when some restricted online functioning of the courts was resumed on relaxation of lockdown guidelines of Covid 19 Pandemic.

2. The complaint was actually contained in attachment received in the said e-mail and the same was though sought to be taken up by the Ld. Predecessor of this court on 05.08.2020, but it actually could not be taken up on that day as it was a password protected attachment. The password of attachment was subsequently provided by the Ld. Special PP for DoE on 25.08.2020 and on perusal of the complaint received on-line, the same was directed to be checked and registered.

3. However, the original complaint in physical form was filed before this court, as per the instant protocol of physical filing, only on 28.09.2020, but still the documents being relied upon by complainant in support of the complaint were not filed and the same were filed with Ahlmad of the court only subsequently.

4. I have heard the extensive arguments advanced by Sh. Amit Mahajan, learned CGSC and Sh. N. K. Matta, Ld. Special PP for DoE and have also carefully perused the entire record of the case.

5. The factual matrix of this case is that the CBI, New Delhi (Central Bureau of Investigation/EOU.IV/EO-II) had registered an FIR vide RC2202017 E0011 dated 15.05.2017 against M/s INX Media Pvt. Ltd. (presently known as M/s 9X Media Pvt. Ltd. and hereinafter referred to as INX Media), M/s INX News Pvt. Ltd. (presently known as M/s Direct News Pvt. Ltd. and hereinafter referred to as INX News), Sh. Karti P. Chidambaram, M/s Chess Management Services Pvt. Ltd. (hereinafter referred to as CMSPL), M/s Advantage Strategic Consulting Pvt. Ltd., Chennai (hereinafter referred to as ASCPL), and others for commission of offences punishable under Section 120B read with Section 420 of the Indian Penal Code, 1860 (IPC) and Sections 8, 13 (2) and 13 (1) (d) of the Prevention of Corruption Act, 1988 (PC Act). Since, the said FIR recorded commission of offences which find mention in the Schedule appended to the Prevention of Money Laundering Act, 2002 (PMLA) and it revealed the generation of proceeds from criminal activities mentioned in the said FIR, the present case vide No. ECIR/07/HIU/2017 was also registered by the Directorate of Enforcement (DoE), Ministry of Finance,

Department of Revenue, Government of India, New Delhi on 18.05.2017 and investigation was taken up to trace the proceeds of crime and future possible action under the PMLA.

6. The FIR No.RC2202017 E0011 was registered by the CBI on allegations that Smt. Indrani Mukerjea, Director and Sh. Pratim Mukerjea, Chief Operating Officer of INX Media entered into a criminal conspiracy with Sh. Karti P. Chidambaram, Director, Chess Management Services and in pursuance of such conspiracy, penal actions arising out of illegal acts committed by INX Media in receiving excess Foreign Direct Investment (FDI) than the amount approved by the Foreign Investment Promotion Board (FIPB) and unauthorized downstream investment by INX Media in INX News without the approval of FIPB, were got scuttled by Sh. Karti P. Chidambaram by influencing the public servants of FIPB Unit, Department of Economic Affairs (DEA), Ministry of Finance (MoF), by virtue of his relations with Sh. P. Chidambaram, the then Union Finance Minister. It was alleged that in pursuance of the above criminal conspiracy and under the influence of Sh. Karti P. Chidambaram and Sh. P. Chidambaram, these unknown officers / officials of the MoF had abused their official positions and had caused undue favours to INX Media and as a consideration for such acts of favoritism, INX Media had paid huge amounts to some companies in which Sh. Karti P. Chidambaram had a substantial interest, directly or indirectly.

7. During investigation of the said case registered by CBI, these allegations were substantially found true and sufficient oral as well as documentary evidence had been gathered by CBI to

this effect. Investigation of the said case revealed that for regularization of excess FDI and downstream investment by INX Media, proceeds of crime were generated on few occasions from criminal activities of the said case and the same were received by Sh. Karti P. Chidambram through some shell companies associated with him. It was also revealed that a false / fake invoice dated 26.06.2008 for an amount of Rs.11,23,600/- was raised in the name of ASCPL towards professional charges for providing management consultancy services to INX Media, though ASCPL did not render any consultancy services to INX Media and after deduction of taxes / TDS, an amount of Rs.9,96,296/- was paid by INX Media to ASCPL. It was also further found during investigation of the said case that ASCPL was beneficially owned by Sh. Karti P. Chidambram through Sh. S. Bhaskararaman, who was a Chartered Accountant by profession and a close confidant of Sh. P. Chidambram and Sh. Karti P. Chidambram and was managing their financial affairs. The above false invoice was found to have been raised as an advance and to give a legitimate colour to the demand of illegal gratification of 1 million US Dollars, as made by Sh. Karti P. Chidambram for the above said acts.

8. Further, investigation of the said case also revealed that four more fake invoices in the names of four other companies for different amounts, totalling to approximately US \$ 700,000 (equivalent to Rs.3.2 corers), in the month of September, 2008 were also raised on INX Media. These four companies are namely ASCPL, Advantage Strategic Consulting Singapore Pvt.

Ltd. (hereinafter referred to as ASCSPL), North Star Software Solutions Pvt. Ltd. (hereinafter referred to as NSSSPL) and Geben Trading Ltd., Athens, Greece (hereinafter referred to as GTL) and likewise ASCPL, the other three companies had also been found to be beneficially owned and controlled by Sh. Karti P. Chidambaram, directly or indirectly. Though, sufficient evidence was found during investigation of the said case to link all these companies with Sh. Karti P. Chidambaram and also to show that these fake invoices were prepared in furtherance of the above criminal conspiracy and at his instance, but the payments against these invoices could not be traced out during the investigation conducted so far by the CBI. However, some further investigation by CBI on this aspect has been kept pending as the execution of few Letters Rogatories (LRs) got issued by CBI from the court to concerned competent authorities of different foreign countries is still pending and besides this, investigation with regard to the sudden flow of substantial questionable funds received by ASCPL from various companies, including M/s Span Fibre (India) Pvt. Ltd. (hereinafter referred to as Span Fibre), and on some other aspects was also kept pending.

9. On the basis of above allegations, a chargsheet for commission of offences punishable under Section 120-B IPC read with Sections 420, 468, 471 IPC and under Sections 9 and 13 (1) (d) read with 13 (2) of the PC Act, 1988 and substantive offences thereof on the part of concerned accused persons was ultimately filed by the CBI before this court on 17.10.2019 against total 14 accused persons, including the accused Karti P. Chidambaram, P.

Chidambaram, Pratim @ Peter Mukerjea, S. Bhaskararaman, INX Media, INX News, ASCPL, ASCSPL, CMSPL and some other officials / officers of the concerned ministry involved in commission of alleged offences. However, Smt. Indrani Mukerjea was not chargesheeted in the said case as she had been granted a pardon and was made an approver in the case.

10. During the course of investigation of the present case under PMLA, as undertaken by the DoE, it has been revealed that the first installment of illegal gratification of Rs.3,08,62,044/-, in furtherance of above criminal conspiracy, was paid by INX Media to ASCPL and two other shell companies beneficially owned or controlled by the accused Karti P. Chidambaram, namely M/s Kriya FMCG Distributors Pvt. Ltd. (hereinafter referred to as Kriya) and M/s CBN Placement and Management Centre (hereinafter referred to as CBNPMC) and this amount was paid during the year 2007-08 through the companies named Span Fibre and M/s Satyam Fibre (India) Pvt. Ltd. (hereinafter referred to as Satyam Fibre). This amount was found to have been paid through 12 fake debit notes / invoices raised by ASCPL, Kriya and CBNPMC on Span Fibre and Satyam Fibre at the instance of accused Pratim Mukerjea and it was shown to have been paid as a commission for sale of Polyester Staple Fibre (PSF) by Span Fibre and Satyam Fibre to different companies names in these fake debit notes, though no such transactions of sale and purchase of PSF between these companies & Span Fibre and Satyam Fibre through ASCPN, Kriya and CBNPMC actually took place. These fake invoices / debit notes are also alleged to have created as a

part of the scheme to camouflage / layer the illegal gratification as genuine business transactions. The bank details of the above three companies receiving payments against these debit notes / invoices confirmed that the amount of these companies were substantially utilized for the benefit of Karti P. Chidambaram and other persons related to him.

11. It has also been revealed during investigation of this case under PMLA that alleged gratification received in ASCPL was invested in the shares of M/s Vasan Health Care Pvt. Ltd. (hereinafter referred to as Vasan Health Care) and M/s AGS Health Care Pvt. Ltd. (hereinafter referred to as AGS Health Care) and the proceeds of crime were multiplied by sale of these shares. ASCPL was incorporated in the year 2005-06 showing wife and brother-in-law of accused S. Bhaskararaman as shareholders. During the period from 2007 to 2010 accused S. Bhaskararaman, his wife V. Padma, Sh. C.B.N. Reddy, Proprietor of Kriya and also a Director of CBNPMC and the company Kriya acquired 90,000 shares of ASCPL at premium by paying Rs.87,50,000/-, while M/s Ausbridge Holdings and Investment Pvt. Ltd. (hereinafter referred to as AHIPL) acquired 2,00,000 shares (partly paid shares) of AHIPL during the period from 2010-11 by paying Rs.5,00,000/- only and no premium was paid by AHIPL. The shareholding of (ASCPL through AHIPL in the year 2010-11 was acquired when the proceeds of crime generated by ASCPL in furtherance of above conspiracy started multiplying and the company received huge amount of money from sale of shares of Vasan Health Care and AGS Health Care. It has been

revealed that accused Karti P. Chidambaram owned 95% of shares of AHIPL and thus held 66.87% of shares of ASCPL through this company between the period from 25.03.2011 to 05.10.2011, though earlier he was managing the affairs of ASCPL through the relatives of accused S. Bhaskararaman. He also subsequently distanced himself from the affairs of ASCPL when certain media reports appeared about the role of his father in granting FITB approvals.

12. Investigation revealed that out of the above amount of Rs.3.08 crores received by ASCPL and other associate companies of it, an amount of Rs. 1.50 Crores was used for purchase of 1,50,000 shares of Vasam Health Care and out of these, 66,245 shares valuing Rs.66,24,500/- were sold and remaining 83,755 shares of Vasam Health Care were still in possession of ASCPL. The remaining 1.58 Crores out of Rs.3.08 Crores were still with ASCPL and are the proceed of crime as both Kriya and CBNPMC either channeled the money back to ASCPL or transferred / used it as per instructions of accused Karti P. Chidambaram.

13. Further, 30,000 shares of Vasam Health Care, out of total 66,245 shares sold, were sold by ASCPL to M/s Sequoia Capital India Growth Investment Holding at a profit of Rs.22.20 Crores and remaining 36,245 shares were sold to M/s Vasam Medical Hall at a profit of Rs.18.64 Crores. Again, out of the sale proceeds of these shares, further properties including shares of AGS Health Care valuing Rs.11 Crores were acquired by ASCPL and a profit of Rs.18.49 Crores approximately was also earned by

the company on sale of these shares. Thus, besides the original illegal gratification amount of Rs.3.08 Crores received by ASCPL and its associate companies, the above amounts of Rs.22.20 Crores, Rs.18.64 Crores and Rs. 18.49 Crores are also alleged to be the tainted money having been earned by way of multiplication of original proceeds of crime on account of profits derived on investments of the original amount.

14. The second installment or second installment (First part) of illegal gratification given by INX Media to ASCPL for FITB approval and regularization is stated to be the amount of Rs.11,23,600/- (inclusive of taxes), which was paid through the fake invoice dated 26.06.2008 raised upon INX Media by ASCPL towards consultancy charges, as has already been discussed.

15. The third installment or second installment (second part) of illegal gratification paid by INX Media to different companies associated with accused Karti P. Chidambaram is alleged to be the amount of Rs. 3.36 Crores approximately (Rs. 3.32 Crores approximately as per chargesheet of CBI case), which was meant to be paid through four fake invoices raised upon ASCPL in name of companies ASCPL, ASCSPL, NSSSPL and GTL in the month of September 2008, as already discussed.

16. Thus, it has been alleged in the complaint that a total amount of Rs. 65.88 Crores approximately ($\text{Rs.}3.08+22.20+18.64+18.49+ 0.11+3.36 = \text{Rs.}65.88$ Crores), as detected till date, is the amount of properties involved in money laundering as a result of criminal activities relating to the Scheduled offences of the above case registered by CBI and the

money was laundered by the accused persons in the form of various movable and immovable assets in India and some foreign countries. It has further been revealed during investigation that another subsidiary company of ASCSPL, namely M/s Advantage Estrategia Esportiva S.L.U., Barcelona, Spain and beneficially owned by accused Karti P. Chidambaram, was also involved in laundering of the tainted money as proceeds of crime were transferred in this company from ASCSPL and were invested in properties in and outside India. Further, out of this amount of Rs.65.88 Crores, properties worth Rs.53.93 Crores have already been attached by the DoE and the attachment stands confirmed by the Ld. Adjudicating Authority, PMLA vide order dated 29.03.2019. The appeals filed by ASCPL and accused Karti P. Chidambaram against the said order of Ld. Adjudicating Authority are stated to be pending before the Ld. Tribunal, PMLA and some further investigation to identify the remaining tainted amount and the assets of accused P. Chidambaram and Karti P. Chidambaram acquired through tainted money in India and abroad is also stated to be pending.

17. Thus, in view of the above background and after going through the contents of this complaint and the documents referred to therein and being relied upon in support of the allegations contained in complaint, I find sufficient material and grounds for proceeding further in the matter against all the ten accused persons named in the complaint, out of which six accused are companies, for commission of offence under Section 3 read with Section 70 of the PMLA, which is punishable under Section 4 of

the said Act.

18. The present complaint has been filed by DoE through Sh. Sandeep Thapliyal, who was an Assistant Director of DoE, and it had been filed by him in his official capacity of a public servant. As per provisions contained in the amended Section 44 (1) (a) of the PMLA, an offence punishable under Section 4 of the said Act and any scheduled offence connected to that offence are triable by the Special Court constituted under the Act for the area in which the offence has been committed. Further, as per amended Section 44 (1) (c) of the PMLA, if the cognizance of the scheduled offence has been taken by some other court than the court of Special Judge constituted under the Act, then on an application moved in this regard by the concerned person authorized to file a complaint under PMLA, the other court is required to commit the case pertaining to scheduled offence to the Special Court so that the same can be dealt with by the Special Court under the PMLA and thus, both the cases are required to be tried by one and the same Special Court. As already discussed, the CBI case pertaining to commission of scheduled offences of this case is already pending before this Court.

19. As per Section 46 of the PMLA, save as otherwise provided in the Act, the provisions of the Code of Criminal Procedure, 1973 (Cr.P.C.) (including the provisions as to bails or bonds) are applicable to proceedings in a PMLA case before a Special Court and the Special Court shall be deemed to be a Court of Sessions.

20. Section 200 of the Cr.P.C. deals with cognizance of offences in a complaint case generally and as per provisions

contained in this Section, no pre-summoning evidence is required to be recorded in a complaint case which has been instituted by a public servant in writing, while acting or purporting to act in discharge of his official duties. However, Chapter VII of the PMLA deals with the Special Courts constituted under the Act and the special procedure applicable in PMLA cases. As per amended Section 44 (1) (b) of the PMLA, a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of offence under Section 3, without the accused being committed to it for trial and further, according to amended Section 44 (1) (d), a Special Court while trying the scheduled offence or the offence of money laundering shall hold trial in accordance with the provisions of the Cr.P.C., as it applies to trial before a Court of Sessions. Hence, in considered opinion of this court and the above specific provisions contained in Section 44 of the PMLA, there is no requirement of recording of any pre-summoning evidence or of any pre-charge evidence in the matter even otherwise and trial for an offence under Section 3 read with Section 70 of the PMLA in this case, as made punishable by Section 4 of the Act, has to be conducted in accordance with procedure laid down in Chapter XVIII of the Cr.P.C., which does not lay down any separate procedure for trial of cases instituted on a police report or otherwise than on police report, as is the case with trial of warrant cases before a Magistrate as per provisions contained in Chapter XIX of the Cr.P.C.

21. It has been stated that only accused Palaniappan

Chidambaram @ P. Chidambaram (A1) and Subramaniam Bhaskararaman @ S. Bhaskararaman (A8) were arrested during investigation of the case and they both are presently on bail.

22. Hence, let summons for appearance to all the accused persons through the complainant of the case be issued by all the prescribed modes for **07.04.2021** and notices to sureties of A1 and A8 for producing the said accused persons before this court on the above date be also issued.

(M.K. Nagpal)
Special Judge (PC Act)
CBI-09 (MPs/MLAs Cases)
RADC, New Delhi/24.03.2021