

**High Court of Judicature at Allahabad  
(Lucknow)**

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**AFR**

**Reserved**

**Case :- WRIT TAX No. - 11 of 2023**

**Petitioner :-** Smt. Meera Pandey Thru. Her Attorney

**Respondent :-** Union Of India, Ministry Of Finance Deptt. Of Revenue (Cbd) , New Delhi And Others

**Counsel for Petitioner :-** Abhinav Trivedi, Mudit Agarwal

**Counsel for Respondent :-** A.S.G.I., Dr. Ravi Kumar Mishra, Kushagra Dikshit, Manish Misra, Neerav Chitravanshi

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**Hon'ble Vivek Chaudhary, J.**

**Hon'ble Om Prakash Shukla, J.**

1. Heard Shri J.N. Mathur, learned Senior Counsel assisted by Shri Mudit Agarwal and Ms. Aishwarya Mathur, learned Counsel for the petitioner, Shri Surya Bhan Pandey, learned Senior Advocate/Deputy Solicitor General of India assisted by Dr. Ravi Kumar Mishra representing the respondent no.1/Union of India and Shri Neerav Chitravanshi and Shri Kushagra Dixit, learned Counsel for the respondent nos. 2 and 3.

2. By the present writ petition, primarily the petitioner has challenged the show cause notice dated 05.01.2023 issued under 24(1) of The Prohibition of Benami Property Transactions Act, 1988 (hereafter referred to as 'Benami Transactions Act 1988') and provisional attachment order dated 05.01.2023 issued under Section 24(3) of the Benami Transactions Act, 1988. Petitioner has sought for

further reliefs, but, at the very initial stage, learned counsel for the petitioner states that the main challenge is to the aforesaid show cause notice dated 05.01.2023 and the provisional attachment order dated 05.01.2023. In case the relief is granted to the said extent rest of the consequential orders and further actions would by themselves stand non-est and void.

3. By the impugned notice under challenge, the respondents-authorities have proposed to treat the constructions being raised by the petitioner on her Plot No.35 Srijan Vihar Colony, Gomti Nagar, Lucknow, to be a benami transaction, being carried out by the petitioner on behalf of respondent no.5, her son-in-law. The plot in question was purchased by the petitioner by a sale deed dated 23.04.2016. The Benami Transactions Act,1988 was amended w.e.f. 25.10.2016. The sale deed of the petitioner is admittedly prior to the said amendment.

4. The Supreme Court has considered the validity of the Benami Transactions Act,1988 in the case of **Union of India Vs. Ganpati Dealcom Ltd. & others; (2023) 3 SCC 315** and in Paragraph 127, the Supreme Court has given the following findings:

**"127.** In view of the above discussion, we hold as under:

*127.1. Section 3(2)(sic Section 3) of the unamended 1988 Act is declared as unconstitutional for being manifestly arbitrary. Accordingly, Section 3(2) of the 2016 Act is also unconstitutional as it is violative of Article 20(1) of the Constitution.*

127.2. *In rem* forfeiture provision under Section 5 of the unamended 1988 Act, prior to the 2016 Amendment Act, was unconstitutional for being manifestly arbitrary.

127.3. The 2016 Amendment Act was not merely procedural, rather, prescribed substantive provisions.

127.4. *In rem* forfeiture provision under Section 5 of the 2016 Act, being punitive in nature, can only be applied prospectively and not retroactively.

**127.5. The authorities concerned cannot initiate or continue criminal prosecution or confiscation proceedings for transactions entered into prior to the coming into force of the 2016 Act viz. 25.10.2016. As a consequence of the above declaration, all such prosecutions or confiscation proceedings shall stand quashed.**

127.6. *As this Court is not concerned with the constitutionality of such independent forfeiture proceedings contemplated under the 2016 Amendment Act on the other grounds, the aforesaid questions are left open to be adjudicated in appropriate proceedings."*

5. Thus, the purchase of the said land being prior to coming into force of the amendment to the Benami Transactions Act, 1988, no proceedings with regard to the same can be initiated by the department. The said fact is also admitted by the respondents in their show cause notice. The respondents have only initiated proceedings with regard to the constructions of residential house being raised by the petitioner on the said plot. The department claims that the petitioner is a *Benamidar* of the said constructions while the son-in-law of the petitioner, namely Sri Indramani Tripathi, is the beneficial owner of the said constructions. However, petitioner disputes the same by claiming that the department did not have any material to reach the said conclusion and the notice is based on the basis of presumptions, surmises and conjectures and thus is without

jurisdiction. On the other hand the department submits that the show cause notice is based upon the sound evidence and concrete findings and the same is a show cause notice to which the petitioner can submit her reply to the department which shall be considered by the department.

6. This writ petition was filed in the year 2023 and on 3.5.2023, the following interim order was granted by this Court.

*"Order on Memo of Petition*

*Heard.*

*Let the Counsel for the petitioner bring on record the reply filed by her to the impugned show cause notice issued during pendency of the present writ petition.*

*Learned Counsel for the Income Tax Department bring on record statement of then Assessee/witness in response to the summons issued to him on 02.12.2022 under Section 131(1A) of the Income Tax Act, 1961, as referred in the impugned order.*

*As we are seiged with the validity of jurisdictional notice issued under Section 24(1) of The Prohibition of Benami Property Transactions Act, 1988 and the arguments which are on the verge of conclusion, list/put up this matter on 05.05.2023 to be taken up immediately after fresh. Any order referring the matter to the Adjudicating Officer under Section 24(5) of the Act, 1988 shall not be passed till the next date of listing.*

*C.M. Application No. IA/06 of 2023*

*This is an application for amendment supported with an affidavit.*

*The amendment application is allowed.*

*Let necessary amendment, as prayed, be carried out.*

*The opposite parties, if so choose, may file response to the amended portion of the writ petition."*

7. The parties have exchanged their affidavits and the matter is now being heard finally.

8. The relevant provisions of the Benami Transactions Act, 1988 for the purpose of the present case reads as follows:-

*"Section 2(8) benami property" means any property which is the subject matter of a benami transaction and also includes the proceeds from such property;*

*Section 2(9) "Benami Transactions"*

*(A) Transaction or an arrangement—*

*(a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and*

*(b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration, except when the property is held by—*

*(i) a Karta, or a member of a Hindu undivided family, as the case may be, and the property is held for his benefit or benefit of other members in the family and the consideration for such property has been provided or paid out of the known sources of the Hindu undivided family;*

*(ii) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 and any other person as may be notified by the Central Government for this purpose;*

*(iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such property has been provided or paid out of the known sources of the individual;*

*(iv) any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendant and the individual appear as joint-owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual; or*

*(B) a transaction or an arrangement in respect of a property carried out or made in a fictitious name; or*

*(C) a transaction or an arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership;*

*(D) a transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious;*

*Explanation.—For the removal of doubts, it is hereby declared that benami transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882, if, under any law for the time being in force,—*

*(i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;*

*(ii) stamp duty on such transaction or arrangement has been paid; and*

*(iii) the contract has been registered.*

*2(10) "benamidar" means a person or a fictitious person, as the case may be, in whose name the benami property is transferred or held and includes a person who lends his name;*

*2 (12) "beneficial owner" means a person, whether his identity is known or not, for whose benefit the benami property is held by a benamidar;*

*24. Notice and attachment of property involved in benami transaction.*

*(1) Where the Initiating Officer, on the basis of material in his possession, has reason to believe that any person is a benamidar in respect of a property, he may, after recording reasons in writing, issue a notice to the person to show cause within such time as may be specified in the notice why the property should not be treated as benami property.*

(2) Where a notice under sub-section (1) specifies any property as being held by a benamidar referred to in that sub-section, a copy of the notice shall also be issued to the beneficial owner if his identity is known.

(3) Where the Initiating Officer is of the opinion that the person in possession of the property held benami may alienate the property during the period specified in the notice, he may, with the previous approval of the Approving Authority, by order in writing, attach provisionally the property in the manner as may be prescribed, for a period not exceeding ninety days [from the last day of the month in which the the notice under sub-section (1) is issued.]

(4) The Initiating Officer, after making such inquires and calling for such reports or evidence as he deems fit and taking into account all relevant materials, shall, within a period of ninety days [from the last day of the month in which the notice under sub-section (1) is issued],-

(a) where the provisional attachment has been made under sub-section (3),--

(i) pass an order continuing the provisional attachment of the property with the prior approval of the Approving Authority, till the passing of the order by the Adjudicating Authority under subsection (3) of section 26; or

(ii) revoke the provisional attachment of the property with the prior approval of the Approving Authority;

(b) where provisional attachment has not been made under sub-section (3),-

(i) pass an order provisionally attaching the property with the prior approval of the Approving Authority, till the passing of the order by the Adjudicating Authority under sub-section (3) of section 26; or

(ii) decide not to attach the property as specified in the notice, with the prior approval of the Approving Authority.

(5). Where the Initiating Officer passes an order continuing the provisional attachment of the property under sub-clause (i) of clause (a) of sub-section (4) or passes an order provisionally

*attaching the property under sub-clause (i) of clause (b) of that sub-section, he shall, within fifteen days from the date of the attachment, draw up a statement of the case and refer it to the Adjudicating Authority.*

*[Explanation.- For the purposes of this section, in computing the period of limitation, the period during which the proceeding is stayed by an order or injunction of any court shall be excluded:*

*Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (4) available to the Initiating Officer for passing order of attachment is less than thirty days, such remaining period shall be deemed to be extended to thirty days:*

*Provided further that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (5) available to the Initiating Officer to refer the order of attachment to Adjudicating Authority is less than seven days, such remaining period shall be deemed to be extended to seven days.]"*

9. The case of petitioner is that the petitioner has been a regular assessee of the Income Tax department for long and is regularly filing her Income Tax returns. Petitioner belongs to an affluent family. Her husband is a retired IAS Officer and her son is a successful lawyer practicing in the High Court at Allahabad. The son-in-law of the petitioner, respondent no.5, to whom the department claims to be the beneficial owner, is an IAS officer of Uttar Pradesh cadre.

10. Submission of learned counsel for the petitioner is that the department has no evidence to prove any benami transaction or that the petitioner was a *Benamidar* of the constructions in question and respondent no.5 is the beneficial owner, while on the other hand, the



claim of the department that it is respondent no.5, who has paid and invested the entire amount for the said constructions. The department in support of the show cause notice has based its case upon the statement given by the contractor Sri Krishna Kumar Dubey, Partner of M/s. Vishnu Mitra Buildcon.

11. A perusal of the show cause notice shows that the total value of the constructions in dispute is around Rs.1.05 crores and out of the same an amount of Rs.95.00 lakhs has been transferred to M/s. Vishnu Mitra Buildcon from the Bank account of petitioner herself. Admittedly, the construction of the house was still underway, when on 5.1.2023 the show cause notice was issued.

12. Learned counsel for the parties have taken the Court through the detailed evidence on the basis of which the notice dated 5.1.2023 is issued. The only relevant portion, as per both the parties, is the statement of Sri Krishna Kumar Dubey, Partner of M/s. Vishnu Mitra Buildcon given on 4.1.2023. The relevant portion of the statement of Sri Krishna Kumar Dubey reads as follows:-

*“प्रश्न 9: आपको दो फोटो (नीचे लगी) दिखाई जा रही हैं। कृपया इसकी पुष्टि करें की ये फोटो आपके द्वारा Plot No.35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर बनाए जा रहे भवन की हैं।*

*उत्तर: जी हैं श्रीमान, मुझे दिखाई गयी ये दो फोटोज Meera Pandey/Vineet Pandey/Neelendra Pandey/ Indramani Tripathi के Plot No.35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर मेरे द्वारा निर्मित किए जा रहे semi-furnished भवन की ही हैं। इस construction का लगभग 90% से ज्यादा कार्य पूरा हो चुका है।*

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**प्रश्न11:** श्रीमती मीरा पाण्डेय को आप कैसे जानते हैं तथा उनसे आप कितनी बार मिल चुके हैं?

**उत्तर:** मैं श्रीमती मीरा पाण्डेय को प्रत्यक्ष रूप से नहीं जानता हूँ तथा मैं उनसे एक बार भी नहीं मिला हूँ, न ही फोन अथवा ईमेल द्वारा कभी भी उनसे कोई संपर्क हुआ है। मैं मीरा पाण्डेय के पति को भी नहीं जानता हूँ, न ही उनसे कभी मिला हूँ।

**प्रश्न12:** क्या आप श्री नीलेंद्र पाण्डेय को जानते हैं?

**उत्तर:** जी हां श्रीमान, मैं श्री नीलेंद्र पाण्डेय जी से 2014 में अपने रिश्तेदार दिनेश कुमार मिश्र जी के माध्यम से मिला था।

**प्रश्न13:** कृपया बताएं श्री नीलेंद्र पाण्डेय से आपके क्या व्यावसायिक संबंध हैं।

**उत्तर:** नीलेंद्र जी ने एक घर Plot No.35, Srijan Vihar Colony, Gomti Nagar, Lucknow जमीन पर बनाने का contract मुझे दिलवाया था। इसके अलावा मेरा एक दूसरा प्रोजेक्ट भी दिलवाया जो की है—Plot No. 98, Srijan Vihar Colony, Gomti Nagar, Lucknow जिसका स्वामित्व Dr. Sambhavi Singh का है।

**प्रश्न14:** क्या आप श्री इन्द्रमणि त्रिपाठी को जानते हैं?

**उत्तर:** श्रीमान, मेरी जानकारी में श्री इन्द्रमणि त्रिपाठी जी अभी LDA के VC हैं। Plot No. 35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर बन रहे घर के असली मालिक वही हैं। उनके आफिस के स्टाफ और उनकी पत्नी समय समय पर भवन की site पर निर्माण देखने आते थे।

**प्रश्न15:** कृपया बतायें की Plot No.35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर बनाए जा रहे भवन के निर्माण से सम्बंधित खर्चों के बारे में आपकी बात किससे होती थी?

**उत्तर:** इस भवन के निर्माण के खर्चों से सम्बंधित बात श्री नीलेंद्र पाण्डेय जी से होती थी। जब निर्माण सम्बन्धी किश्त अकाउंट में आती थी या जब मुझे किश्त की जरूरत होती थी तब श्री नीलेंद्र पाण्डेय जी से ही बातचीत होती थी। यह बातचीत कभी फोन द्वारा या कभी उनके आफिस में खुद जा कर करता था। मेरी उनकी मुलाकात उनके दोनों घरों पर होती थी जिनके पते

हैं—3/299, Vishal Khand, Gomti Nagar, Lucknow तथा H.No.57, Srijan Vihar Colony, Gomti Nagar, Lucknow ।

**प्रश्न16:** कृपया बताएं की Plot No.35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर बनाए जा रहे भवन के निर्माण से सम्बंधित खर्चों के लिए श्री नीलेंद्र पाण्डेय क्या कभी नगद में भी पैसे देते थे?

**उत्तर:** श्रीमान, कभी कभी जरूरत पड़ जाने पर श्री नीलेंद्र पाण्डेय नगद में भी पैसे दे दिया करते थे। कुल मिलाकर शायद 15 लाख रूपया नगद में दिया होगा।

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**प्रश्न20:** कृपया बताएं कि Plot No.35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर भवन का निर्माण किसके रहने/उपयोग के लिए किया जा रहा था?

**उत्तर:** Plot No. 35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर बन रहे भवन का असली स्वामित्व श्री इन्द्रमणि त्रिपाठी का है, तथा यह भवन श्री इन्द्रमणि त्रिपाठी के उपयोग के लिए है।

**प्रश्न21:** Plot No. 35, Srijan Vihar Colony, Gomti Nagar, Lucknow पर बन रहे भवन के निर्माण के दौरान भवन के स्वामी के रूप में निर्माणाधीन भवन को देखने कौन कौन आते थे?

**उत्तर:** महोदय, भवन के निर्माण के दौरान श्रीमती वत्सला त्रिपाठी निर्माणाधीन भवन को देखने आती थी।”

13. A perusal of the statement clearly shows that Sri Krishna Kumar Dubey, Partner of M/s.Vishnu Mitra Buildcon has not given any basis or reason as to how he believes that the original owner of the constructions is respondent no.5 and even the department has not put a single question to Sri Krishna Kumar Dubey with regard to the basis of his knowledge. In support of his statement Sri Krishna Kumar Dubey has not provided any documentary or other evidence.

Similarly, the department has also not referred to any other evidence in the show cause notice to support the said statement.

14. Section 24 (1) of the Benami Transactions Act states that "where the Initiating Officer, on the basis of material in his possession, has reason to believe". Thus, there are two pre-conditions to the issuance of the notice under Section 24(1) of the Benami Transactions Act; (i) The Initiating Officer should have material in his possession and; (ii) the material should be sufficient to cause a reason to believe. It goes without saying that while interpreting a taxing statute, the principle of strict interpretation is to be applied.

15. As per record, in the present case a mere statement of the contractor without any substantial supportive evidence is made the basis of the entire proceedings. Such a mere statement without any supportive evidence cannot under law be held to be a sufficient material in possession of an Initiating Officer to arrive at a reason to believe that constructions are benami. There has to be sufficient material in possession of the Initiating Officer on the basis of which he can come to a logical conclusion that can be called a reason to believe for initiating proceedings.

16. In the case of **Indra Prastha Chemicals (P) Ltd. Vs. CIT (2005) UPTC 53**, a Division Bench of this Court held:-

*"..... the 'reason to believe under Section 147, must be held in good faith and should have a rational connection and relevant bearing on the formation of the belief and should not be extraneous or irrelevant. Further, this Court in proceedings under Article 226 of the Constitution of India can scrutinize the reasons recorded by the AO for initiating the proceedings under Sections 147/148 of the Act. The sufficiency of the material cannot be gone into but relevancy certainly be gone into."*

17. In the present case except for an oral statement of a contractor, who has not given any reason for making such a statement, and from whom the department has also not even asked as to on what basis he is making the said statement, the entire proceedings are initiated. There is not even an iota of material placed by the department before this Court, referred to in the show cause notice, on the basis of which the Court could believe the said bare statement and conclude that a reason to believe can be arrived at.

18. Admittedly, the petitioner has already submitted her Income Tax Returns for the relevant period and the said proceedings are not yet completed. As such, in the absence of the same the department also cannot claim that her earnings for the relevant year are beyond her known sources of income.

19. The department-respondents while making its submissions tried to rely upon the statement made by an Architect Sri Sanjay Mathur dated 16.01.2023; a jeweler namely Sri Vishal Gupta, proprietor of the firm M/s. Shiv Nath Traders recorded dated 24.01.2023 and the statement of Khazan Chandra dated 25.1.2023. The department has also placed reliance upon certain material

collected from the mobile data of Sri Krishan Kumar Dubey. All the said statements and data collected are not referred to in the show cause notice and are of later date to the show cause notice dated 5.1.2023. The said statements and data cannot be referred to or relied upon by the department while defending the impugned notice dated 5.1.2023, as all the said evidences are collected by the department after the notice is issued and cannot be included in the material in possession of the Initiating Officer for forming the reason to believe for issuance of the impugned notice. It is also not disputed by the department that an amount of Rs.95.00 lakhs is transferred from the Bank account of the petitioner to the account of the construction firm while the construction is underway and thus nearly the entire amount is already spent by the petitioner on constructions from her own account.

20. While interpreting the term "reason to believe" Courts in **Calcutta Discount Co. Ltd. Vs. Income Tax Officer & others; (1961) 41 ITR 0191, CST Vs. Bhagwan Industries (Pvt.) Ltd. 1973 (31) STC 293 (Para9,10, &11), Madhya Pradesh Industries Ltd Vs. ITO (1965) 57 ITR 0637 (Paras 3,6)**, has time and again held that the words "reason to believe" are stronger than the words "is satisfied" or "reason to suspect" and the Constitutional Courts have consistently held that the Officer cannot record his satisfaction for "reason to believe" on an arbitrary or irrational basis. The same has to be recorded based upon reasons supported by relevant material.

21. So far as the issue of maintainability of the petition, raised by the respondents is concerned, the Constitutional Courts have repeatedly held that the basis of a notice cannot be a mere pretence but must be supported by sufficient reasons and material. It is open for the Courts to examine whether the reasons for the belief have a rational connection or relevant bearing to the formation of belief and are not extraneous or irrelevant.

22. Suffice is to refer the judgment of Supreme Court in **Johri Lal (HUF) Vs. Commissioner of Income Tax; (1973) 88 ITR 0439**, the relevant paragraph no.5 reads as follows:-

*"Before proceedings under Section 34(1)(a) could be validly initiated the Income-tax Officer must have reasons to believe that, by reason of the omission or failure on the part of the assessee to make a return of his income under Section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits and gains chargeable to Income-tax, have escaped assessment for that year, or have been unassessed, or assessed at too low a rate, or have been made a subject matter of the excessive relief under the Act, or excessive loss or depreciation allowance have been computed. The formation of the required opinion by the Income-tax Officer is a condition precedent. Without formation of such an opinion he will not have jurisdiction to initiate proceedings under Section 34(1)(a). The fulfilment of this condition is not a mere formality but it is mandatory. The failure to fulfil that condition would vitiate the entire proceedings. As held by this Court in Sheo Nath Singh v. Appellate Assistant Commissioner of Income-tax, (Central), Calcutta, the Income-tax Officer would be acting without jurisdiction if the reason for his belief that the conditions are satisfied, does not exist or is not material or relevant to the belief -required by this Section. It is true that the Courts will not go into the sufficiency of the reasons which persuaded the Income-tax Officer to initiate proceedings under Section 34(1) (a) of the Act. But the Courts will examine the relevancy of the reasons which persuaded the Income-tax Officer to take proceedings under Section 34(1)(a). The formation of the*

required belief is not the only requirement. The Income-tax Officer is further required by Section 34 to record his reasons for taking action under Section 34(1)(a) and obtain the sanction of the Central Board of Revenue or the Commissioner, as the case may be."

*(emphasis added)*

23. Thus, in the aforesaid facts & circumstances, this Court has no hesitation in holding that there was no material in possession of the Initiating Officer which could be held to be sufficient for holding a reason to believe that the petitioner is a *Benamidar* of respondent no.5, her son-in-law, with regard to the constructions in question for initiating proceedings under Section 24(1) of the Benami Transactions Act.

24. As regards, the order of provisional attachment under Section 24(3) of the Benami Transactions Act is concerned, Section 24(3) requires that Initiating Officer is of the opinion that the person in possession of the property held Benami may alienate the property during the period specified in the notice. Without such a satisfaction the property can not be attached by the Initiating Officer.

25. In the present case, no such material has been referred to by the Initiating Officer in the impugned attachment order or placed before this Court which could demonstrate that the property is likely to be sold and thus require him to resort to Section 24(3) for provisional attachment. Thus, the order of provisional attachment is also without any basis.



26. In view of the aforesaid, it is held that the show cause notice dated 05.01.2023 issued under 24(1) of the Benami Transactions Act, is issued without any relevant material in possession of the Initiating Officer which would cause him to have reason to believe to initiate such proceedings and similarly the order of provisional attachment dated 05.01.2023 is also held to be without any basis.

27. Thus, the impugned show cause notice dated 05.01.2023 issued under 24(1) of the Benami Transactions Act and also the provisional attachment order dated 05.01.2023 issued under Section 24(3) of the Act, are hereby set aside. All the consequential orders and proceedings on the basis of aforesaid show cause notice dated 5.1.2023 and the provisional attachment order dated 5.1.2023, stand non-est and void.

28. The writ petition is ***allowed***.

**(Om Prakash Shukla,J.) (Vivek Chaudhary,J.)**

**Order Date:- 25th April, 2024**

Arjun/-