



2023:KER:52485

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 10TH DAY OF AUGUST 2023 / 19TH SRAVANA, 1945

WP(C) NO. 6275 OF 2019

PETITIONER/S:

THE AXIS BANK LTD.
41/419, GROUND FLOOR, CHICAGO PLAZA, RAJAJI ROAD,
ERNAKULAM KOCHI - 682 035, REPRESENTED BY HEAD AND
AUTHORISED SIGNATORY, MR. MANOJN KUMAR R.

BY ADVS.

M.GOPIKRISHNAN NAMBIAR

SRI.K.JOHN MATHAI

SRI.JOSON MANAVALAN

SRI.KURYAN THOMAS

SRI.PAULOSE C. ABRAHAM

RESPONDENT/S:

- 1 UNION OF INDIA,
REPRESENTED BY ITS REVENUE SECRETARY, MINISTRY OF
FINANCE, NEW DELHI - 110 004.
- 2 THE TAX RECOVERY OFFICER (CENTRAL),
ROOM 304, 3RD FLOOR, CR BUILDING, I.S.PRESS ROAD,
COCHIN - 682 018.
- 3 THE SECURITIES AND EXCHANGE BOARD OF INDIA,
SEBI BHAVAN, PLOT NO.C4-A, G BLOCK, BANDRA, KURLA
COMPLEX, BANDRA (E), MUMBAI - 400 051.
- 4 M/S. D AND A FINANCIAL SERVICE (P) LTD.,
13, COMMUNITY CENTRE, 2ND FLOOR, EAST OF KAILSAH, NEW
DELHI - 110 065.
- 5 ADDL. R5 M.M.RAMACHANDRAN,
AGED 79, S/O.LATE KAMALAKARA MENON, PERMANENT ADDRESS
AT: MATHUKARA MOOTHEDATH HOUSE, KOTTAPPURAM ROAD,
THRISSUR-680 004, KERALA PRESENT ADDRESS AT: APARTMENT
NO.G 23, BUILDING NO.1B, AI KHALIL HEIGHTS, DUBAI
(UNITED ARAB EMIRATES)
- 6 ADDL. R6.ATLAS JEWELLERY PRIVATE LTD
DOOR NO.XI/305 H NEAR FEDERAL BANK LTD., OPP.CIAL,
VAPPALASSERY P.O., NEDUMBASERRY, ANGAMALLY-683 572.
KERALA, REPRESENTED BY ITS DIRECTOR,
MR.M.M.RAMACHANDRAN, (ADDL.R5 & R6 ARE IMPEADED AS PER
ORDER DATED 10-12-2021 IN IA 3/2021.
BY ADVS.
SRI.R.PRASANTH KUMAR, CGC
SRI.JOSE JOSEPH, SC, FOR INCOME TAX



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K.M.JAMALUDHEEN
MARTHANDA VARMA PANDALAI.K
SRI.P.K.RAVINDRANATHA MENON (SR.)
RAJU JOSEPH (SR.)
CHRISTOPHER ABRAHAM
RAJU JOSEPH- SR.COUNSEL FOR R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.08.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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JUDGMENT

Dated this the 10th August, 2023

This writ petition has been filed under Article 226 of the Constitution of India, impugning Ext.P5 order directing the petitioner Bank to remit the amount as per Section 226(3) of The Income Tax Act, 1961, towards the discharge of income tax liability by deceased M. M Ramachandran.

2.The ESCROW account was created by late M. M. Ramachandran for acquisition of shares of ATLAS Group of Companies with the petitioner bank. The Securities and Exchange Board of India ('the SEBI' for short), did not allow the public for buying the shares of group of companies vide order dated 17.06.2021 in Ext.R3(S).

In view of the aforesaid observations and findings, in exercise of the power conferred under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Sections 11(1) and 11B(1) of the SEBI Act read with Regulation 32 of the Takeover Regulations, hereby issue the



following directions:-

94.1. Atlas Jewellery Pvt. Ltd., Al Juraina Precious Metals & Bullions, Al Layyah General Trading, Al Mareiha Precious Metal and Bullions and Mankool General Trading shall joint and severally make a public announcement to acquire shares of the Target Company in accordance with the applicable provisions of the Takeover Regulations, within a period of 45 days from the date of this Order. It is once again reiterated that the aforementioned Noticees are permitted to use the money lying in the escrow account to meet their Open Offer obligations.

94.2. The Noticees mentioned at sub paragraph 94.1 shall, along with consideration amount, will pay, as per the ratio of, judgment of Hon'ble SC in Clariant International Limited and another vs. SEBI [Appeal (Civil) No. 3183/2003], simple interest at the rate of 10% per annum from the trigger date on the Open Offer price at which they were supposed to make the Open Offer when they had triggered regulation 3(2) of Takeover Regulations, till the date of payment of consideration to the shareholders other than Promoters and the four Dubai based companies, who were holding shares in the Target Company on the trigger date and continued to hold shares till the date of public announcement to be made by the Noticees mentioned at sub paragraph 94.1 and whose shares have been accepted in the current Open Offer directed to be made in this Order, after adjustment of dividend, if any, paid.

95. Further, I, in exercise of the powers conferred upon me in terms of Section 19 read with Sections 11(1), 11(4) and 11B (1) of the



Securities and Exchange Act, hereby direct the following:

95.1. Atlas Jewellery India Ltd.

95.1.1. Atlas Jewellery India Ltd. is hereby directed to comply with the minimum public shareholding norms within six months from the completion of the current Open Offer directed in this Order.

95.1.2. For the violation of clause 35 of the Listing Agreement and regulation 72 (1)(c) of ICDR Regulations, Atlas Jewellery India Ltd., is hereby debarred from accessing the securities market for a period of one year from the date of this order except for the complying with the minimum public shareholding norms as directed in this Order.

95.2.Mr. M.M. Ramachandaran

95.2.1. He is hereby restrained from accessing the securities market, from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, for a period of two years from the date of this order except for the purpose of complying with the minimum public shareholding norms as directed in this Order.

95.2.2. He is further restrained from being associated with any listed company except AJIL or any SEBI registered intermediary, in any capacity including as a Director or key managerial person, directly or indirectly, from the date of this Order till the completion of period of two years from the date of this order.



95.2.3. With respect to the violation of regulation 25 (1) of Takeover Regulations read with regulation 25 (5) of Takeover Regulations, in the facts and circumstances of the case a warning would suffice and is hereby issued.

95.3. Atlas Jewellery Pvt. Ltd.

95.3.1. Atlas Jewellery Pvt. Ltd is also hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner for a period of two years from the date of this order except for the purpose of complying with the Open Offer directions and for complying with the minimum public shareholding norms as directed in this Order.

95.3.2. With respect to the violation of regulation 25 (1) of Takeover Regulations read with regulation 25 (5) of Takeover Regulations, in the facts and circumstances of the case a warning would suffice and is hereby issued.

95.4. Al Juraina Precious Metals & Bullions, Al Layyah General Trading, Al Mareiha Precious Metal and Bullions and Mankool General Trading

95.4.1. They are hereby directed to comply with the minimum public shareholding norms within six months from the completion of the current Open Offer directed in this Order.

95.4.2. They are also hereby restrained from accessing the securities market for a period of two years from the date of this order except for the purpose of complying with the Open Offer directions and for complying with the minimum



public shareholding norms as directed to be made in this Order. They are further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of two years from the date of this order except for the purpose of complying with the Open Offer directions and for complying with the minimum public shareholding norms as directed in this Order.

95.5. Axis Bank Ltd. is hereby directed to release the money lying in the escrow account only for the purpose of compliance with the Open Offer directions made in this Order.

96. This order disposes of the show cause notice dated January 13, 2017.

97. This order shall come into force with immediate effect.

98. A copy of this order shall be served upon all the Noticees, Axis Bank Ltd., recognised Stock Exchanges, Depositories and the Registrar and Share Transfer Agents to ensure compliance with the above directions.

99. This order is without prejudice to any other actions that SEBI may take in accordance with securities laws.

3. Order dated 17.06.2021 was challenged by the 6th respondent, Atlas Jewellery Private Limited before the



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SEBI Appellate Authority. When this challenge was made, Sri. M. M Ramachandran was alive. The Appellate Tribunal, by order dated 16.09.2022, dismissed Appeal No.572/2020. After the judgment of the Appellate Tribunal, Mumbai, it is reported that, Mr. M.M Ramachandran died on 02.10.2022. Admittedly, no further action has been taken by the ATLAS Jewellery Private Limited Or ATLAS Jewellery India Limited, in pursuance to the directions issued by the SEBI in compliance of the order dated 17.06.2021.

4. The question before this Court is that whether this ESCROW account which was created by late M.M. Ramachandran and Atlas Jewellery Private Limited, jointly for the offer for buying back shares of Atlas India Ltd. could not go through and the direction issued by the SEBI by its order dated 17.06.2021, could not be implemented, the revenue would be entitled to appropriate the money lying in the ESCROW account towards the discharge of his



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liabilities of late Mr.M.M.Ramachandran and ATLAS Jewellery Pvt.Ltd.

5. It is not the case of the SEBI that in pursuance to the directions issued by the SEBI, fresh public offer has been issued for buying back shares by the Atlas Jewellery Private Limited. Therefore, the money lying in the ESCROW account has not been utilized for the purpose for which the ESCROW was created. If the SEBI has any right over the money, it can take recourse to the remedy available to it. However, this Court would not like to comment about the rights of the SEBI over the money lying in the ESCROW account, which was created for buying back shares of Atlas Jewellery India Ltd, the target Company.

6. The petitioner - Bank may inform the Income Tax Authorities in respect of the orders passed by the SEBI and the Enforcement Directorate before relieving the amount towards discharge of the income tax liabilities. This Court



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fails to find out any provision of law wherein it can restrain the income tax authorities from recovering the income tax dues from the amount lying in the ESCROW account created jointly by late M.M.Ramachandran and Atlas Jewellery Private Limited.

With the aforesaid directions and observations, this Writ Petition stands disposed of.

**Sd/-
DINESH KUMAR SINGH,
JUDGE**

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APPENDIX OF WP(C) 6275/2019

PETITIONER EXHIBITS

- EXHIBIT P1** A TRUE COPY OF THE NOTICES DATED 01.05.2017 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER BANK.
- EXHIBIT P1(a)** A TRUE COPY OF THE NOTICES DATED 28.04.2017 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER BANK.
- EXHIBIT P2** A TRUE COPY OF THE REPLY DATED 05.05.2017 SENT BY THE PETITIONER BANK TO THE 2ND RESPONDENT.
- EXHIBIT P3** A TRUE COPY OF THE LETTER DATED 10.05.2017 SENT BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXHIBIT P4** A TRUE COPY OF THE NOTICE DATED 21.02.2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER BANK.
- EXHIBIT P5** A TRUE COPY OF THE ORDER DATED 21.02.2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER BANK.
- EXHIBIT P6** THE TRUE COPY OF THE ESCROW AGREEMENT EXECUTED IN JUNE, 2014, WHEREIN THE PETITIONER IS ONE OF THE PARTIES TO THE AGREEMENT.
- EXHIBIT P7** THE TRUE COPY OF THE EXTRACT OF THE NRE SAVINGS BANK ACCOUNT OF M.M.RAMACHANDRAN, FOR THE PERIOD BETWEEN 16.05.2014 AND 02.07.2019.
- EXHIBIT P8** THE TRUE COPY OF THE ACCOUNT STATEMENT OF ESCROW ACCOUNT NO.914020021163610, FOR THE PERIOD BETWEEN 10.06.2014 AND 02.07.2019.
- EXHIBIT P9** THE TRUE COPY OF THE ACCOUNT STATEMENT OF ESCROW ACCOUNT NO.916040050031872, FOR THE PERIOD BETWEEN 30.08.2016 AND 03.07.2019.
- EXHIBIT-P9(a)** THE TRUE COPY OF THE ACCOUNT STATEMENT OF ESCROW ACCOUNT NO.916040050033250, FOR THE PERIOD BETWEEN 30.08.2016 AND 03.07.2019.



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EXHIBIT-P9(b) THE TRUE COPY OF THE ACCOUNT STATEMENT OF ESCROW ACCOUNT NO.916040050035609, FOR THE PERIOD BETWEEN 30.08.2016 AND 03.07.2019

EXHIBIT-P9(c) THE TRUE COPY OF THE ACCOUNT STATEMENT OF ESCROW ACCOUNT NO.916040050040287, FOR THE PERIOD BETWEEN 30.08.2016 AND 03.07.2019.

RESPONDENT EXHIBITS

EXHIBIT R3 (a) TRUE COPY OF THE LETTER DATED 2-5-2017 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R3 (b) TRUE COPY OF THE LETTER DATED 14-7-2017 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R3 (c) TRUE COPY OF THE EMAIL ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R3 (d) TRUE COPY OF THE EMAIL ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R3 (e) TRUE COPY OF THE EMAIL ISSUED BY THE TAX RECOVERY OFFICER DATED 25-2-2019

EXHIBIT R3 (f) TRUE COPY OF THE EMAIL ISSUED BY THE TAX RECOVERY OFFICER DATED 26-2-2019.

EXHIBIT R3(g) TRUE COPY OF THE SHOW CAUSE NOTICE DATED 13/1/2017 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R3(h) TRUE COPY OF THE REPLY FILED BY ATLAS JEWELLERY INDIA LIMITED TO EXT-R3(g) SHOW CAUSE NOTICE

EXHIBIT R3(i) TRUE COPY OF THE AGRUMENT NOTES SUBMITTED BY M.M.RAMACHANDRAN ALONG WITH ATLAS JEWELLERY PRIVATE LIMITED TO EXT.R3(g) SHOW CAUSE NOTICE

EXHIBIT R3(j) TRUE COPY OF THE SHOW CAUSE NOTICE DATED 15/2/2018 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT R3(k) TRUE COPY OF THE SETTLEMENT APPLICATION FILED BY M.M.RAMACHANDRAN ALONG WITH ATLAS JEWELLERY PRIVATE LIMITED

EXHIBIT R3(l) TRUE COPY OF THE SETTLEMENT APPLICATION FILED BY MANKOOL GENERAL TRADING FZE

EXHIBIT R3(m) TRUE COPY OF THE SETTLEMENT APPLICATION



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	FILED BY AL MAREIJA PRECIOUS METALS AND BULLIONS FZE
EXHIBIT R3(n)	TRUE COPY OF THE SETTLEMENT APPLICATION FILED BY AL LAYYAH GENERAL TRADING FZE
EXHIBIT R3(o)	TRUE COPY OF THE SETTLEMENT APPLICATION FILED BY AL JURAINA PRECIOUS METALS AND BULLIONS FZE
EXHIBIT R3(p)	TRUE COPY OF THE DRAFT LETTER OF OFFER
EXHIBIT R3(q)	TRUE COPY OF THE SHARE HOLDING PATTERN OF ATLAS JEWELLERY INDIA LIMITED
Exhibit R3(r)	TRUE COPY OF THE EMAIL DATED 10-12-2020
Exhibit R3(s)	TRUE COPY OF THE ORDER OF THE WHOLE TIME MEMBER DATED 17-6-2021
Exhibit R3(t)	TRUE COPY OF ADJUDICATION ORDER DATED 31-8-2021
Exhibit R5 A	TRUE COPY OF THE SEBI'S FINAL ORDER NO.WTM/MB/CFD/DCR/12284/2021-22 DATED 17.06.2021
Exhibit R5 B	TRUE COPY OF THE PETITIONERS' REPRESENTATION DATED 08.10.2021 GIVEN TO 4TH RESPONDENT/3RD RESPONDENT
Exhibit R5 C	TRUE COPY OF THE LETTER DATED 14.08.2021 BY THE PETITIONER TO THE 1ST RESPONDENT