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IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL WRIT JURISDRICTION
W. P (C) No. of 2010

IN THE MATTER OF:

THREE STAR LINES PLANTATIONS
AND RESORTS INDIA LTD. & ORS. ... PETITIONERS

VERSUS

THE COURT OF THE DISTRICT
JUDGE, DELHI & ORS. ... RESPONDENTS

MEMO OF PARTIES

1. Three Star Lines Plantations and
Resorts India Ltd.
602, LIG, Avas Vikas Colony,
Fatehpur, U.P.

2. Sh. Ram Kumar Srivastava,
S/o Sh. Raghunath Prasad,
R/o 6B/409, Avas Vikas Colony,
Farrukhabad, U.P.

3. Smt. Sunita Srivastava,
W/o Sh. R.K. Shrivastava,
R/o 6B/409, Avas Vikas Colony,
Farrukhabad U.P.
... Petitioners

VERSUS

1. The Court of the District Judge,
Tis Hazari, Delhi

2. High Court of Delhi
Through Registrar General
High Court of Delhi
New Delhi

C

3. Securities and Exchange Board of India
(a statutory body established under provisions of
The Securities and Exchange Board of India Act, 1992)
having its Regional Office at :
Block No.1, Rajendra Bhawan
Rajendra Place, District Centre,
New Delhi – 110 008,
through its Legal Officer/Manager

... Respondents

Sunita Srivastava

Petitioners

Through

Ajit Nair
Advocate for Petitioner
Lawyers Chamber,
T-44, Tehsil Lane,
Tis Hazari,
Delhi - 110054

Place: Delhi
Date: 16/3/10

In the court of ens Madhu Jain ADJ chi
Mathuprakash Jagde Delhi
adv dt. 4/12/04
CC No 52/04
"SEBI" vs Threestar.

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EXAMINER

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 10000/2009

P.G.F. & ORS. ..... Petitioners

versus

HIGH COURT OF DELHI & ANR. ..... Respondents

W.P. (C) 1888/2010

THREE STAR LINES PLANTATIONS AND RESORTS INDIA LTD AND ORS ..... Petitioners

versus

THE COURT OF THE DISTRICT JUDGE DELHI AND ORS ..... Respondents

W.P. (C) 4395/2010

RAMESH AWASTHI AND ANR ..... Petitioners

versus

COURT OF DISTRICT JUDGE, DELHI AND ORS ..... Respondents

W.P. (C) 2989/2011, CM APPL.6355/2011

VIVEK NAGPAL ..... Petitioner

versus

REGISTRAR, HIGH COURT OF DELHI AT NEW DELHI AND ANR ..... Respondents

Appearance: None for the petitioners in all matters.
Mr. Viraj R. Datar, Advocate for the respondents.
Mr. Neeraj Malhotra, Sr. Advocate with Mr. Sanjay Mann and Mr. Rupal Luthra, Advocates for R-3/SEBI.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

% **ORDER**
29.01.2018

1. The following order was made on 16.11.2009 in

W.P.(C) 10000/2009:-

"Notice.

Notice is accepted by the respective counsel appearing for the respondents. The learned counsel for the petitioner states that the limited question which arises for consideration of this court in this writ petition is that whether the Court of sessions can assume jurisdiction only after committal of the proceedings by a Magistrate under Section 209 of the Code? This question arises in the backdrop of the two notifications dated 01.12.2004 and 04.12.2004 whereby cases pending before the court of the ACMM, New Delhi were transferred to the court of the Additional Sessions Judge without there being any committal proceedings. Since this is the short point involved in this case, we feel that the High Court should file a short affidavit indicating its stand on the legal position as well as its interpretation of the letter dated 01.12.2004 appearing at Page No. 222 of the paper book. The said affidavit be filed within two weeks. The learned counsel appearing for SEBI may also file a short affidavit within two weeks. The rejoinder, if necessary, be filed within two weeks thereafter. Counsel for the parties shall file short written submissions not exceeding two pages each. Renotify for disposal on 18.12.2009."

2. The backdrop for the reference was that the Securities and Exchange Board of India Act, 1992 (for short "the Act") provided for special offences under Section 24. The Court designated for the purpose of trial of such offences was initially the court of competent criminal jurisdiction not inferior to that of Judicial Magistrate. However, by amendment made in 2002 (hereafter referred to as "amendment"), the expression "forum" which broadly was the court competent to try offences and other causes, was amended retrospectively to the "Court of Session". The reference made for consideration on 16.11.2009 was in the context of that amendment and the

consequential Notifications issued by the High Court on 01.12.2004 enabling the Court of Session to take cognizance of the Notification transferring the pending matters to the Court of Session.

3. The issue referred in the said order and awaiting decision all this while, is now the subject matter of the judgment of the Supreme Court in *SEBI v. Classic Credit Limited* 2017 SccOnline SC 961. In this case, the Court held as follows: -

> *"56. In view of the consideration recorded hereinabove, we are of the view, that the 'forum' for trial earlier vested in the Court of Metropolitan Magistrate (-or, Judicial Magistrate of the first class) was retrospectively amended, inasmuch as, the 'forum' of trial after 'the 2002 Amendment Act' was retrospectively changed to the Court of Session. In this view of the matter, the trials even in respect of offences allegedly committed before 29.10.2002 (-the date with effect from which, 'the 2002 Amendment Act' became operational), whether in respect whereof trial had or had not been initiated, would stand jurisdictionally vested in a Court of Session. And likewise, trials of offences under the SEBI Act, consequent upon 'the 2014 Amendment Act (which became operational, with effect from 18.07.2013) would stand jurisdictionally transferred for trial to a Special Court, irrespective of whether the offence under the SEBI Act was committed before 29.10.2002 and/or before 18.07.2013 (-the date with effect from which 'the 2014 Amendment Act' became operational), and irrespective of the fact whether trial had or had not been initiated. Our above conclusion, affirms the determination recorded by the Delhi High Court in Mahender Singh v. High Court of Delhi (Writ Petition (C) No.141 of 2007, decided on 11.01.2008), but for the reasons recorded hereinabove. The impugned judgment rendered by the High Court of Bombay in M/s. Classic Credit Ltd. v. State of Maharashtra (Criminal Application No.1557 of 2007, decided on 16.01.2008), is liable to be set aside, and is accordingly hereby set aside."*

4. In view of the above decision, it is held that the "Court of Session" is competent to entertain and try causes relating to alleged offences under Section 24. It is also held that the amendment of 2002 has retrospective effect in the circumstances of these cases.

5. The writ petitions are accordingly dismissed in the light of the declaration of law made by the Supreme Court in *Classic Credit Limited (supra)*.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 29, 2018
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