

THURSDAY | 09 MAY 2024

## Case Update



# CBI COURT SUSPENDS/CANCELS LOC WHERE AUDITOR WHEN NOT FEATURING FIR / CHARGE SHEET



In a significant Order, CBI Court in Misc DJ ASJ- 149/2024 titled “CBI vs. M/s Shree Shyam Pulp & Board Mills Ltd.” has held that Issuance of Look-out-Circular (“LOC”) issued in absence of cogent reasoning and evidence must not act against the liberty of an individual.

The case pertains to an FIR and Chargesheet filed against multiple accused persons allegedly involved in forging and fabricating documents to obtain loans, cash credit limits, and letters of credit. In the FIR., it is alleged that Shree Shyam Pulp and Board Mills Ltd. (“SSPBML”) misused the finances provided by the banks, thereby funding its incurred losses, without indicating any fund diversion in its financial statements. The Applicant was working as the statutory auditor of SSPBML at the time of such alleged fraud.

Rouse Avenue Court vide its order dated 06.05.2024 has made a decisive ruling, ordering the cancellation of the LOC issued against Applicant by the CBI observing that CBI has failed provide any rationale for issuing the LOC against Applicant not being named in the FIR and had cooperated with the investigation of CBI.

It ruled against the fiat issued by CBI without taking into consideration the fact that allegations being against other accused cannot extend to the applicant especially as to when the Applicant has assisted the investigation and provided the material sought by it (when asked upon). Based on the settled principles as enunciated in Sumer Singh Salkan vs. Assistant Director & Ors. W.P(Cr.) No. 1315/2008, Maneka Gandhi vs. Union of India (1978) 1 SCC 248 and Shalini Khanna vs. Union of India & Anr. 2024 SCC OnLine Del 837, CBI Court held that Right to life and liberty includes to move freely and without any restrictions. It was also a case where the Applicant reached out to the CBI demanding reasons for its decision to curtail his travel in the past.

The Court recognized that there was neither any evidence of his involvement in the alleged fraud case, nor is there any risk of him absconding from the investigating authorities. Conclusively, the Court while upholding the fundamental right to travel emphasized that there is a need for proper grounds and evidence before issuing LOCs and came down heavily on CBI for its casual approach in issuing the LoC.

[Link](#)

The Applicant was represented by Mr. Shryeshth Ramesh Sharma, Partner assisted by Mr. Mohit Gupta, Associate at SKV Law Offices.