

making any adjudication into alleged contravention but only for the purpose of deciding whether an inquiry should be held against him or not. That after considering the cause, if any, shown by such person, the Adjudicating Authority is required to form an opinion as to whether an inquiry is required to be held into the allegations of contravention. It is only then the real and substantial inquiry into allegations of contravention begins.

We submit that there is no good ground of initiating any substantive inquiry against our client and the proceedings against him are required to be dropped.

No Personal Allegation against our Client

9. The Show Cause Notice indicates that there is no personal allegation against our Client of having violated any of the provisions of FEMA. Show Cause Notices dated 25.11.2011 in respect of holding IPL season II tournament in South Africa have been issued to the BCCI in which notice has been issued to our Client with the aid of Section 42 (1) of the FEMA which provides for vicarious liability. The other noticees are Mr. Shashank Manohar, the then Honorary President, BCCI, Mr. N. Srinivasan, Honorary Secretary, BCCI, Mr. M.P. Pandov, Honorary Treasurer, BCCI and Mr. Ratnakar Shetty, CEO, BCCI.
10. Our Client through his constituted attorney voluntarily received the show cause notices from the office of the Enforcement Directorate so that he can participate in the adjudication proceedings. It is pertinent to point out here that the FEMA permits participation in such proceedings through authorized representatives. It is pertinent to point out that the said show cause notice has been issued in respect of agreement dated 30.3.2009 signed between BCCI and CSA (Cricket South Africa) and transactions undertaken pursuant to that agreement. The said agreement has been executed by Mr. N. Srinivasan, Secretary BCCI. All the remittances sent were authorized by the Treasurer, BCCI. The adjudication proceedings are essentially directed against the BCCI. The alleged infringement of not obtaining prior approval of the BCCI is also technical in nature and there are various instances where ex post facto approval is given by RBI. Further any contravention of any regulations under FEMA, if any, would have been done by the Secretary BCCI as he alone is authorized by BCCI under its constitution to file all necessary papers, seek all statutory and regulatory approvals, as also open any accounts etc under his signature.
11. The Enforcement Directorate (ED) Show Cause Notices reveal that ED has been investigating alleged violations under FEMA in relation to BCCI contracts and in respect of the general conduct of the IPL. The allegations reflect collective responsibilities rather