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The  
Legal Bulletin

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January - December  
2025



## PREFACE

The present volume of *Legal Bulletin* is a dedicated and carefully curated compilation of significant judicial pronouncements delivered during the year 2025 by various judicial forums, including the Hon'ble Supreme Court of India, different High Courts, and Ld. Appellate Tribunal, wherein substantial issues of law have been settled.

This Bulletin aims to serve as a comprehensive repository of key judgments that have contributed to reinforcing the Directorate's legal stance across a wide spectrum of matters. The year 2025 has witnessed several noteworthy rulings that have not only upheld the actions and decisions of the Directorate but have also provided clarity on important questions of law, procedure, and policy implementation.

In an evolving legal framework, judicial precedents remain indispensable and play a crucial role in guiding administrative actions and ensuring consistency in interpretation. This compilation has been prepared with the objective of equipping officers, legal practitioners and stakeholders with ready access to authoritative decisions that may assist in informed decision-making and effective handling of similar matters.

The Directorate, as a premier investigating agency, is entrusted with the critical responsibility of enforcing the law across a wide spectrum of complex and evolving domains. The diversity of issues investigated often involving intricate questions of law, fact and procedure frequently necessitates judicial scrutiny at multiple levels, including the Hon'ble Supreme Court of India, various High Courts and Ld. Appellate Tribunal.

Each case presents an opportunity for the interpretation and evolution of legal principles, thereby contributing to the development of jurisprudence in areas relevant to the Directorate's functioning. The cases included in this volume have been carefully selected for their legal relevance and precedential value. Each judgment reflects the considered views of the Hon'ble Supreme Court, various High Courts, and Ld. Appellate Tribunal, thereby offering valuable insights into the judicial approach on issues concerning the Directorate.

It is hoped that this *Legal Bulletin (2025)* will function not only as a reference document but also as a practical tool for strengthening institutional knowledge and enhancing legal preparedness within the Directorate.

The Directorate remains steadfast in its commitment to uphold the rule of law and this compilation stands as a reflection of the continued judicial affirmation of its actions.

We trust that this publication will be of enduring value to all those who engage with it.

*Director*  
*Directorate of Enforcement*

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## **JUDGMENTS OF THE HON'BLE SUPREME COURT**

### **1. Mohan Rao v. Directorate of Enforcement & Ors., SLP (Crl.) No. 12599/2025**

**Brief facts-** The petitioner, Mohan Rao, was subjected to a Provisional Attachment Order issued by the Directorate of Enforcement under the Prevention of Money Laundering Act, 2002 (PMLA) in connection with alleged generation of proceeds of crime. Instead of availing the statutory appellate remedy provided under the said PMLA, the petitioner approached the Hon'ble High Court of Kerala under Article 226 of the Constitution, challenging the said Provisional Attachment Order. The Hon'ble High Court, vide order dated 08.07.2025, declined to entertain the Writ Petition filed by the Petitioner, holding that an efficacious alternative remedy has been provided under the provision of the PMLA, and therefore the writ jurisdiction is bad in law and ought not to be exercised. Aggrieved by the said impugned order, the petitioner filed a Special Leave Petition (Crl.) No. 12599/2025 before the Hon'ble Supreme Court of India, along with the tagged matter involving the similar issues challenging the order passed by the Hon'ble High Court refusal to entertain the said Writ Petition.

**Issue-** Whether an exercise of filing Writ Petition under Article 226 of the Constitution of India challenging a Provisional Attachment Order under the Prevention of Money Laundering Act, 2002 is maintainable when the statute provides a specific and efficacious appellate remedy by way of filing appeal before Ld. Appellate Tribunal.

**Judgment -** In this case, a Provisional Attachment Order (PAO) was issued against Mohan Rao under the Prevention of Money Laundering Act, 2002 (PMLA). Instead of availing the statutory appellate remedy, the petitioner directly approached the Hon'ble High Court of Kerala under Article 226 of the Constitution of India challenging the issuance of PAO. The Kerala High Court in Mohan Rao v. Directorate of Enforcement & Ors., vide judgment dated 08.07.2025 in W.A. No. 1310/2025, dismissed the filed Writ Petition, holding that the PMLA provides a specific appellate mechanism before the Appellate Tribunal under Section 26 of PMLA, 2002, which must be exhausted first. The Supreme Court on 01.09.2025 upheld the High Court's reasoning and dismissed the SLP (Crl. No. 12599/2025) along with two connected petitions. It reaffirmed that the writ jurisdiction under Article 226 is discretionary, and courts should ordinarily refrain from exercising it when an effective statutory remedy exists. The Court emphasized the primacy of statutory remedies under the PMLA, observing that interference under Article

226 is justified only in exceptional cases such as violation of fundamental rights, lack of jurisdiction, or gross procedural irregularity and none of which were present here. At last, the Supreme Court held that the High Court's refusal to entertain the Writ Petition was neither arbitrary nor perverse.

In brief, the court held that –

Exhaustion of Statutory remedy is necessary for filing a Writ Petition under Article 226 of Constitution of India.

**Outcome-** The court dismissed the Special Leave Petition with liberty to the petitioner to pursue the appellate remedy.

## **2. Dinesh Parshuram Amin v. Directorate of Enforcement Pravartan Bhawan & Ors., SLP (CrL.) No. 13341/2025**

**Brief facts-** The Petitioner has challenged a Provisional Attachment Order passed by the Enforcement Directorate under the Prevention of Money Laundering Act, 2002 (PMLA) by filing a Writ Petition under Article 226 of the Constitution of India before the Hon'ble High Court of Kerala. The High Court vide its order dated 08.07.2025, declined to entertain the writ petition on the ground that the PMLA provides a specific and efficacious statutory appellate remedy against a provisional attachment order. Being aggrieved by the High Court's refusal order, the Petitioner approached the Hon'ble Supreme Court of India by way of filing Special Leave Petition (Criminal), contending that the High Court ought to have exercised its writ jurisdiction.

**Issue-** Whether the High Court is justified in declining to exercise writ jurisdiction under Article 226 of the Constitution to entertain a challenge against provisional attachment order issued under the Prevention of Money Laundering Act, 2002 on the ground that the statute provides a specific and efficacious appellate remedy.

**Judgment/Order-**The Hon'ble Supreme Court of India held that Constitutional Courts (High Courts and the Hon'ble Supreme Court) generally refrain from exercising writ jurisdiction when an effective statutory appellate forum exists. In this case, the petitioner challenged a provisional attachment order issued under the Prevention of Money Laundering Act, 2002 (PMLA). He had approached the Hon'ble High Court of Kerala under Article 226 of the Constitution (writ jurisdiction), but the High Court has declined to entertain the writ petition filed by the Petitioner, holding that the PMLA provides a specific effective

alternative/appellate remedy which has to be availed by the aggrieved persons. Being aggrieved by the Kerala High Court Order, he filed a Special Leave Petition (Crl.) a constitutional jurisdiction under Article 136/226 which cannot be invoked except for patent illegality or jurisdictional error as observed in referred case titled as *Union of India v. Guwahati Carbon Ltd., 2012*. The Court made it clear that determination to decide as to whether the attached funds truly qualify as “proceeds of crime” or whether the withdrawals were illegal or not, is something which is to be decided lies within the domain of the alternative/Appellate Tribunal, not by the Supreme Court.

In brief, the court upheld that –

Exhaustion of Statutory remedy is necessary for filing Writ Petition under Article 226 of Constitution of India.

Interference of Court under Article 226 is justified only in exceptional cases such as violation of fundamental rights, lack of jurisdiction, or gross procedural irregularity not as regular course of action taken by aggrieved person.

**Outcome-**The court dismissed the special leave petition with liberty to the petitioner to pursue the effective alternative appellate remedy.

### **3. JSW Steel Ltd. & Anr. V. Deputy Director, Directorate of Enforcement & Ors., SLP (Crl.) No. 7828-7829/ 2022**

**Brief facts-** JSW Steel Limited entered into a contract dated 16.11.2009 with Obulapuram Mining Company Pvt. Ltd. (OMC) for supply of iron ore. Only partial supplies were made, after which OMC failed to honour the contract despite receiving substantial advances. In 2011, the Supreme Court ordered investigation into large-scale illegal mining by entities connected with OMC. Pursuant thereto, the CBI registered RC 18(A)/2011 and filed a charge-sheet against OMC and its promoters. JSW was initially named but was subsequently exonerated by a supplementary final report dated 06.09.2013. Independently, the Directorate of Enforcement registered ECIR/09/BZ/2012 under the Prevention of Money Laundering Act, 2002 (PMLA) against the promoters of OMC. Owing to non-supply of iron ore, JSW initiated arbitration proceedings. By arbitral award dated 09.05.2014, OMC was directed to refund the outstanding amounts with interest. The award attained finality after dismissal of OMC’s challenge by the Hon’ble High Court of Bombay. Between 2015 and 2016, ED issued two Provisional Attachment Orders (PAOs) attaching specified sums lying in JSW’s bank

accounts, treating unpaid consideration allegedly payable to OMC as “proceeds of crime.” Parallel writ proceedings were filed by JSW challenging the PAOs, ECIR proceedings, and consequential actions emanating therefrom. In the meantime, statutory appeals against the said attachment orders were also filed before the PMLA Appellate Tribunal under Section 26 of PMLA, 2002 and remain pending.

**Issue-** Whether the Directorate of Enforcement can prosecute JSW Steel Limited under Section 3 of the Prevention of Money Laundering Act, 2002 solely on the allegation that amounts withdrawn from its bank accounts pursuant to and during the subsistence of provisional attachment orders constitute “proceeds of crime”

**Judgment/Order-**The Supreme Court held on 7th October, 2025 that PMLA provides a comprehensive mechanism for PAO (Section 5), its confirmation by Ld. Adjudicating Authority (Section 8) and appeal to the Ld. Appellate Tribunal (Section 26). The court further held that Since JSW’s statutory appeals were pending before the Appellate Tribunal, constitutional jurisdiction under Article 136/226 cannot be invoked except for patent illegality or jurisdictional error as observed in case Union of India v. Guwahati Carbon Ltd., 2012. The Court made it clear that determination of whether the attached funds truly qualify “proceeds of crime” or whether the withdrawals were illegal or not, is something which is to be decided lies within the domain of the Appellate Tribunal, not by the Supreme Court.

In brief, the court held that-

Exhaustion of Statutory remedy under PMLA is necessary for filing Writ Petition under Article 226 of Constitution of India. Further, Interference of Court under Article 226 is justified only in exceptional cases such as violation of fundamental rights, lack of jurisdiction, or gross procedural irregularity and not as regular course of action by the aggrieved person.

**Outcome-** The court disposed of the criminal appeal along with the pending applications accordingly.

#### **4. Union of India v. J.P. Singh, SLP (Crl.) No. 5706 of 2023**

**Brief facts** - On 17 March 2017, the Enforcement Directorate (ED) recorded an ECIR against J.P. Singh and others under the Prevention of Money Laundering Act, 2002 (PMLA). During searches conducted on 13 October 2017, the ED seized various electronic devices, documents, and cash from the respondent. The

Ld. Adjudicating Authority, vide order dated 4 April 2018, confirmed the retention/seizure order passed under Section 8(3) of PMLA, affirming the earlier action taken under Section 17(4) of PMLA, 2002. Meanwhile, a complaint under Section 44 of PMLA was filed on 8 February 2018 by the Directorate. Consequently the Ld. Special Court took cognizance vide order dated 19 February 2018. The respondent challenged the confirmation order passed by Ld. Adjudicating Authority before the Ld. Appellate Tribunal, whereby vide order dated 25 April 2019, it was held that the retention order would lapse after 90 days, relying on the amended under Section 8(3) of PMLA, 2002. This view was upheld by the Hon'ble High Court, leading the Union of India to approach the Hon'ble Supreme Court of India.

**Issue** - Whether an order of retention/seizure of property or records passed by the Ld. Adjudicating Authority under Section 8(3) of the Prevention of Money Laundering Act, 2002 (as it stood prior to 19 April 2018) automatically lapses after 90 days, or it continues to remain in force for the entire pendency of proceedings before the Ld. Special Court relating to the offence under the PMLA, 2002, even if the affected person is not arrayed as an accused in the filed Prosecution Complaint under Section 44 of PMLA, 2002.

**Judgment/order**- The Hon'ble Supreme Court of India has passed an order in Union of India v. J.P. Singh, Criminal Appeal No. 1102 of 2025 (arising out of SLP (Crl.) No. 5706 of 2023), which was decided on 5 March 2025 held that the retention orders passed by the Directorate under PMLA continue until final disposal of PMLA proceedings pending before Ld. Special Court and same is not limited to the period of 90 days. In this case, the Enforcement Directorate (ED) registered an ECIR on 17 March 2017 against J.P. Singh and others. During a search on 13 October 2017, the ED seized electronic devices, documents, and cash under Section 17(1) of the PMLA. The Ld. Adjudicating Authority (AA) confirmed the seizure of such records and devices on 4 April 2018 under Section 8(3), following a confirmation of the earlier Section 17(4) order. Meanwhile, a complaint under Section 44 PMLA was filed before the Ld. Special Court on 8 February 2018 and the Special Court took cognizance on 19 February 2018. However, the Ld. Appellate Tribunal (PMLA), vide order dated 25 April 2019, held that the retention order ceased to exist after expiry of 90 days, applying the amended under Section 8(3) (effective from 19 April 2018) of PMLA, 2002. The Gujarat High Court upheld that post- amendment, retention beyond the period of 90 days was impermissible. Being aggrieved, the Directorate, Union of India (ED) against the said impugned order filed an appeal before the Hon'ble Supreme

Court of India. The Supreme Court held that the law in force on 4 April 2018 (date of the Ld. AA order) governs the case. Therefore, the pre-amendment version of Section 8(3) of PMLA, 2002 applied, not the post-19 April 2018 amendment provision. The court noted that under the applicable (pre-amendment) Section 8(3)(a) of PMLA, the order of retention continues till the disposal of the complaint filed under PMLA before a Competent Court. Here, The Court emphasized:

“The order of cognizance is of the offence, not of the offender. It is enough that a complaint alleging the commission of offence under Section 3 PMLA is pending.” Thus, even if the respondent was not named as an accused, as long as the ECIR and complaint are pending, the retention order remains valid.

In brief, court held that –

Even if the person was not named as an accused, as long as the ECIR and complaint are pending, the retention order will continue to operate.

**Outcome-** The Hon`ble Court allowed the appeal.

#### **5. Pradeep Nirankarnath Sharma v. Directorate of Enforcement & Anr., SLP (Crl.) No.6185 OF 2023**

**Brief facts** - The appellant, Pradeep Nirankarnath Sharma, a former IAS officer, was prosecuted by the Enforcement Directorate under the Prevention of Money Laundering Act, 2002 (PMLA) in connection with alleged illegal land allotments and abuse of official position during his tenure while discharging his official duties as Collector at Bhuj and Rajkot in the State of Gujarat. The appellant was arrested on 31.07.2016 and upon completion of investigation, the Enforcement Directorate filed a prosecution complaint before the Ld. Special (PMLA) Court on 27.09.2016 for offences under Sections 3 and 4 of the PMLA, alleging commission of money laundering while generating proceeds of crime exceeding the statutory threshold. The appellant filed an application for discharge under Section 227 Cr.P.C, contending that the alleged predicate offences occurred prior to the enforcement of the PMLA or before their inclusion in the Schedule of PMLA hence the provisions of PMLA could not be applied retrospectively. Further it was also contended that no prima facie case of money laundering was made out. The Special Judge (PMLA), Ahmedabad, rejected the discharge application filed by the appellant/accused on 08.01.2018, holding that there was prima facie material showing involvement of the appellant in hawala transactions,

possession and use of proceeds of crime and failure to discharge the reverse burden as provided under Section 24 PMLA, 2002. Consequently, the appellant filed criminal revision challenging the rejection of his discharge application, which was dismissed by the Hon'ble High Court of Gujarat vide order dated 14.03.2023.

**Issue** - Whether prosecution for the offence of money laundering under Section 3 of the PMLA, 2002 can be sustained and discharge of the accused under said prosecution can be refused at the pre-trial stage, when the predicate offences allegedly occurred prior to the enforcement of the PMLA or prior to their inclusion in the Schedule of PMLA at the relevant time.

**Judgment/order-** The Hon'ble Supreme Court of India in Pradeep Nirankarnath Sharma v. Directorate of Enforcement & Anr. Criminal Appeal No. OF 2025 (@ SLP (CRL.) No.6185 OF 2023 on 17 March, 2025 examined the primary issue that was “whether the offence of money laundering under the Prevention of Money Laundering Act (PMLA) is a continuing offence, even if the predicate offence occurred before the enactment of the PMLA”. The Court emphasized that the relevant factor in a money laundering case is not the date of the predicate offence but the continued involvement of the accused with the proceeds of crime. The Court also rejected the plea of retrospective criminal liability, holding that there is no infringement of Article 20(1) of Constitution of India, as the accused is not punished for an act which was not an offence when committed, but for continuing an unlawful conduct which persist over time, thereby extending the liability of the offender under Section 3 of PMLA, 2002.

In brief, the court held that –

- Money laundering is not a static event but an ongoing activity, as long as illicit gains are possessed, projected as legitimate, or reintroduced into the economy.
- The act of laundering money is not a one-time occurrence but rather a process that continues so long as the benefits derived from criminal activity remain in circulation within the financial system or are being actively utilized by the accused.

**Outcome-** The Hon'ble Supreme Court dismissed the appeal while rejecting all the contentions of the Appellant and upholding the accountability for the offence of money laundering when the act of accused endures with the benefit of such tainted money under PMLA is also a subject of judicial scrutiny.

**6. M/s C.L. Gupta Export Ltd. v. Adil Ansari & Ors., Civil Appeal No. 2864/2022**

**Brief facts-** The appellant, M/s C.L. Gupta Export Ltd., was proceeded against the NGT order passed on the allegations of environmental pollution and illegal groundwater extraction. A Joint Committee constituted by the NGT initially found violations, pursuant to which environmental compensation was assessed and substantially paid by the appellant. A subsequent Joint Committee report dated 30.07.2021 recorded full compliance with environmental norms. Despite this, the NGT has imposed an additional Rs. 50 crore compensation based on turnover of the Appellant's Company, directed possible closure of units and referred the matter to the ED under the PMLA to investigate. The appellant challenged these directions before the Hon'ble Supreme Court of India, contending that turnover- based penalty and PMLA reference were passed without jurisdiction of NGT hence, contrary to law.

**Issue-** Whether the National Green Tribunal was justified in imposing environmental compensation of Rs. 50 crores based solely on the basis of the turnover of the industry and simultaneously issued directions to the Enforcement Directorate to initiate action under the Prevention of Money Laundering Act, 2002, despite absence of any recorded subsequent compliance with environmental norms and absence of any registered schedule offence or criminal proceedings under the environmental laws.

**Judgment/order-** The Hon'ble Supreme Court in M/s C.L. Gupta Export Ltd. v. Adil Ansari & Ors. Civil Appeal No. 2864/2022 on August 22, 2025 unequivocally held that the NGT lacks the authority to direct PMLA investigations or prosecutions. Such power lies exclusively with courts constituted under the PMLA or other constitutional courts, not with the NGT. In this case, the NGT imposed an environmental compensation and directed the Enforcement Directorate to investigate a potential money laundering under the PMLA. The bench of Chief Justice of India, Sh. BR Gavai and Justice K Vinod Chandran set aside the direction of the NGT directing to the Enforcement Directorate to examine and take appropriate action under the Prevention of Money Laundering Act, 2002. In this regard, it cited Waris Chemicals (P) Ltd. v. U.P. Pollution Control Board (2025) and stated that Section 3 of the PMLA is dependent on illegal gains of property as a result of criminal activity relating to a scheduled offence. In this case, no FIR or complaint had been filed for any

scheduled offence under environmental laws hence, PMLA provisions were inapplicable.

In brief, the court held that –

National Green Tribunal lacks the authority to direct Enforcement Directorate (ED) for PMLA investigation or prosecution.

**Outcome** – The Hon`ble Supreme Court of India set aside the order of the NGT to the extent of its jurisdiction to direct ED to investigate the case under PMLA

**7. Dhara Prasad v. The Directorate of Enforcement Chennai Zone, SLP (Crl.) No. 12104/2025**

**Brief facts** – The petitioner challenged the Madras High Court’s order arising out of PMLA proceedings initiated by the Directorate of Enforcement by filing an SLP before the Hon`ble Supreme Court of India.

**Issue** – Whether the Supreme Court ought to interfere, in exercise of its jurisdiction under Article 136 of the Constitution, while examining the High Court’s order (dated 09.06.2025) refusing relief to the petitioner in his filed criminal revision arising from proceedings initiated by the Directorate of Enforcement under the Prevention of Money Laundering Act, 2002 (PMLA).

**Judgment/order-** The Hon`ble Supreme Court in Dhara Prasad v. The Directorate of Enforcement Chennai Zone, Special Leave to Appeal (Crl.) No. 12104/2025 on August 25, 2025 refused to interfere with the impugned order passed by the Hon`ble High Court of Madras on 9.06.2025 in the matter of Dhara Prasad v. The Directorate of Enforcement Chennai Zone. In this case, the petitioner sought to adjourn the PMLA proceedings until the conclusion of the predicate offence trials, citing the necessity of establishing the commission of the underlying offences prior to proceeding with money laundering offence charges. The Hon`ble Madras High Court in said case upheld that the Special Court's decision to proceed with the PMLA case, emphasizing that the trial could continue, but the final judgment of the PMLA proceedings should be withheld until the predicate offence trials are concluded. The Madras High Court has considered the Supreme Court's decision in Sidhant Gupta v. Assistant Director, Directorate of Enforcement (Special Leave to Appeal (Crl.) No. 14392 of 2024), which held that a Ld. Special Court is at liberty to proceed with the trial in PMLA cases even when the proceedings in the predicate offences have not concluded, provided that the final judgment in the PMLA case is not pronounced until the

conclusion of the predicate offences. The Court noted that this precedent did not support the petitioner's request to adjourn the PMLA case.

In brief, the court upheld that –

Special Court is at liberty to proceed with the trial in PMLA cases even when the proceedings in the predicate offences have not concluded with subject to the condition that the final outcome shall not be pronounced till the final disposal of Predicate Offence Case.

**Outcome-** The Hon`ble Court dismissed the Special Leave to Appeal while rejecting their contention to adjourn the PMLA proceedings considering stage of predicate offence case.

### **8. Udaipur Entertainment World Pvt. Ltd. v. Union of India & Ors., SLP(C) No. 10734/2025**

**Brief facts** – Udaipur Entertainment World Pvt. Ltd. faced proceedings under the PMLA following an alleged Syndicate Bank fraud, pursuant to which the Directorate of Enforcement provisionally attached properties of its real estate project, Royal Raj Villas. During the pendency of PMLA action, the Corporate Debtor underwent CIRP under the IBC and a Resolution Plan was approved by the NCLT. The attachment adversely impacted innocent home buyers who had acquired units through the Successful Resolution Applicant (SRA).

**Issue-** Whether the issuance of Provisional Attachment Order passed by ED under PMLA can override the approval of resolution plan framework under IBC, or whether a harmonious construction permits restitution of attached assets to protect and safeguard the interest of genuine and innocent home buyers, without prejudicing the ED's right to prosecute offenders and confiscate properties traceable as a proceeds of crime.

**Judgment/order-** The Hon`ble Supreme Court of India's order dated 10 October 2025 in Udaipur Entertainment World Pvt. Ltd. v. Union of India & Ors., arising out of SLP(C) No. 10734/2025 and the connected matters, has appreciated the Directorate of Enforcement (ED) for its efforts in restoring the properties attached in a money-laundering case to secure the interests of innocent homebuyers who had fallen victim to a real estate fraud. The Bench noted that an appreciation on record that the agency's initiative ensured the protection of innocent investors i.e. "Lastly, we place on record our appreciation for the efforts made by the learned counsel for the parties and the DoE in restoring the attached properties to secure

the interests of genuine and innocent home buyers,” the Court observed. The ED had earlier attached several flats under Provisional Attachment Order (PAO) No. 05/2019 on the allegation that part of the payments made by some buyers originated from the proceeds of a Syndicate Bank fraud case (ECIR No. JPZO/01/2016). In this case, the restitution was passed by the Hon’ble Supreme Court under the second proviso to Section 8(8) of PMLA, which allows property restoration “in the interest of justice” with the ED’s consent. (Para 2-5), Here, the Court adopted a selective attachment approach, distinguishing tainted assets from untainted ones in this way balancing PMLA’s purpose along with the protection of interest of innocent homebuyers.

In brief, the court held that –

Restitution of attached property to the genuine and innocent homebuyers is permissible even when the attached properties are the part of approved resolution plan in light of second proviso of Section 8(8) of PMLA, 2002.

**Outcome-** The Hon’ble Court disposed of the appeal in the afore stated terms while appreciating the Directorate efforts to secure the interest of genuine and bona fide homebuyers.

### **9. The Union of India through the Assistant Director V. Kanhaiya Prasad, SLP (Crl.) No. 7140/ 2024**

**Brief facts** - Multiple FIRs were registered in Patna, Saran and Bhojpur districts alleging illegal sand mining by M/s Broad Son Commodities Pvt. Ltd., causing a revenue loss of about ₹161 crore. Treating the offences as schedule offences, the Enforcement Directorate registered ECIR No. PTZO/14/2023 and conducted searches and investigation under the PMLA. The respondent, Kanhaiya Prasad, was alleged to have laundered proceeds of crime amounting to about ₹17.26 crore through hawala transactions and investments in properties and trust-related projects. A prosecution complaint under Sections 3 and 4 of PMLA was filed on 10.11.2023, cognizance was taken by the Ld. Special Court and the accused/respondent was granted bail by the Hon’ble High Court of Judicature at Patna, which became the subject of challenge.

**Issue** - Whether the High Court erred in granting bail to the accused under the PMLA without satisfying and recording the mandatory twin conditions prescribed under Section 45 of the Act.

**Judgment/order-** The Hon`ble Supreme Court in the Union of India through the Assistant Director V. Kanhaiya Prasad (CRIMINAL APPEAL NO. 728 OF 2025) on 13 February, 2025 reiterated that twin conditions of bail under Section 45 PMLA are mandatory to be complied with. The Court relied heavily on the three-Judge decision in Vijay Madanlal Choudhary & Ors. v. Union of India & Ors. which held that post-2018 amendments that Section 45 of PMLA operates as a ‘no-bail’ provision unless twin conditions are satisfied. The court also made clear that Article 20(3) of constitution won't apply to person summoned as witness, here by placing reliance on the case of Vijay Madanlal Choudhary & Ors. V. Union of India & Ors. The Court clarified the protection under Article 20(3) of the Constitution (immunity from self-incrimination) would apply only when a formal accusation was made against the person and not when a person is summoned under Section 50 of PMLA. The court observed that:

“Article 20(3) of the Constitution would not come into play in respect of the process of recording statement pursuant to such summon issued under sub-section (2) of Section 50. The phrase used in Article 20(3) is “to be a witness” and not to “appear as a witness”. It follows that the protection afforded to an accused insofar as it is related to the phrase “to be a witness” is in respect of testimonial compulsion in the court room and it may also extend to compelled testimony previously obtained from him. Therefore, it is available to a person against whom a formal accusation relating to the commission of an offence has been levelled, which in the normal course may result in a prosecution.

In brief, court held that –

- Twin conditions of bail under Section 45 of PMLA are mandatory.
- The protection under Article 20(3) of the Constitution will apply only to the accused not to a person summoned under Section 50 of PMLA, 2002.

**Outcome-** The Hon`ble Court allowed the appeal filed by the Directorate challenging the grant of bail to the accused/respondent in the matter.

### **10.Sarla Gupta vs Directorate of Enforcement, Crl. A. No.1622 of 2022**

**Brief facts:** The matter arose from criminal proceedings initiated by the Enforcement Directorate (ED) under Section 44(1)(b) of the *Prevention of Money Laundering Act, 2002* (PMLA) for offences under Section 3. Along with the complaint, the ED relied on certain documents forming the basis of prosecution, while several other materials collected during investigation were not relied upon

and were not supplied to the accused. At the stage of framing of charge, the accused sought production of such unrelayed documents by invoking Section 91 of the *Code of Criminal Procedure, 1973* (CrPC), contending that access to all materials was necessary for an effective defence. The Special Court and High Court rejected this plea, holding that at the stage of charge, consideration is limited to material relied upon by the prosecution. This led to the issue being raised before the Supreme Court, particularly in light of fair trial rights and the stringent framework of the PMLA, including reverse burden under Section 24 and bail conditions under Section 45.

**Issue:** (1) Whether a person from whom or from whose premises documents have been seized by the Enforcement Directorate (ED) under Sections 173 and 184 of the Prevention of Money-Laundering Act, 2002 (PMLA) has the right to get copies of documents seized?

(2) Whether an accused has the right to get copies of documents relied upon in a complaint under Section 44(1)(b)5 of the PMLA and the documents produced therewith?

(3) Whether an accused has the right to seek production of documents not relied upon by the prosecution? If yes, then whether:

(a) at the stage of framing of charge; or

(b) at the stage of entering upon defence; or

(c) for purposes of bail applications governed by Section 45(1)(ii)6 of the PMLA?

**Judgment/ Order:** The Supreme Court laid down a structured, stage-wise framework governing the accused's right to seek production of documents. It reaffirmed that at the stage of framing of charge, the Court must confine itself strictly to the material relied upon by the prosecution, and Section 91 CrPC cannot ordinarily be invoked by the accused to seek unrelayed documents, as this would convert the stage into a mini-trial. However, the Court directed that the accused must be furnished with a list of unrelayed documents to ensure awareness of such materials.

The Court distinguished this from the stage of defence evidence, holding that under Sections 233 and 243 CrPC, the accused has a much stronger and near-mandatory right to seek production of documents and summon witnesses. These provisions, being couched in mandatory terms, must be interpreted liberally to uphold the right to fair trial under Article 21. The Court emphasized that this right becomes even more crucial under the PMLA, given the reverse burden of proof

under Section 24, and denial of access to relevant material would render the defence illusory.

Further, the Court held that at the stage of bail under Section 45 PMLA, limited invocation of Section 91 CrPC is permissible. However, such requests must be carefully scrutinized, and the ED may object if disclosure would prejudice the investigation. In such cases, the Court may examine documents in-camera and permit disclosure only where it does not harm the investigation or where non-disclosure would affect fairness. Once investigation is complete, such objections would ordinarily not survive.

**Outcome:** The Supreme Court harmonized the rights of the accused with investigative interests by holding that unrelayed documents cannot be sought at the stage of framing of charge, but a list of such documents must be provided. It strengthened the accused's right at the defence stage by recognizing a near-compulsory entitlement to summon documents under Sections 233 and 243 CrPC, and allowed limited use of Section 91 at the bail stage subject to safeguards. The impugned orders were set aside to the extent they denied access to relevant materials, and directions were issued to ensure disclosure consistent with fair trial under Article 21.

### **11.M/s M3M India Pvt. Ltd. vs. Union of India, SLP (C) No. 4027/2025**

**Brief Facts:** In *M/s M3M India Pvt. Ltd. vs. Union of India*, the matter arose from a Special Leave Petition challenging an order of the Sikkim High Court. Before the Supreme Court, the dispute was confined to an interim issue regarding substitution of provisionally attached properties under the *Prevention of Money Laundering Act, 2002* (PMLA). The petitioners, linked with M3M group entities, sought to substitute properties attached under Attachment Order No. 06/2024 dated 18.07.2024 with other unencumbered assets. They proposed 317 commercial units in the "M3M Broadway" project, Gurugram. The ED-appointed valuer assessed these properties at approximately Rs.317 crores. The Enforcement Directorate did not oppose substitution in principle but insisted on safeguards such as proof of clear title, absence of encumbrances, deposit of original documents, indemnity bonds, disclosure of funding sources, and protection of third-party rights. The petitioners accepted these conditions.

**Issue:** Whether properties provisionally attached under the Prevention of Money Laundering Act, 2002 (PMLA) can be substituted with other assets, and if so, whether such substitution can be permitted without strict safeguards to ensure that

the substituted assets are untainted and adequately secure the alleged proceeds of crime.

**Judgment/ Order:** The Supreme Court held that under the PMLA, substitution of attached properties cannot be unconditional as the statute seeks to preserve assets linked to proceeds of crime. While accepting that the value of substituted assets was verified and not disputed, the Court permitted substitution strictly subject to conditions proposed by the ED. It directed that the petitioners must establish a clear, marketable, and unencumbered title, supported by documentary proof and certification. They were required to undertake that the properties would not be alienated during the pendency of proceedings, deposit original title deeds, furnish indemnity bonds, and disclose the source of funds to ensure that the substituted assets were not tainted. The Court also safeguarded the interests of bona fide third-party purchasers and directed full cooperation with the investigation. It clarified that substitution would be without prejudice to the ED's rights and would not affect the merits of the case.

**Outcome:** The Special Leave Petition was disposed of by allowing substitution of the attached properties with the proposed assets, subject to stringent safeguards. The Court emphasized that the order was passed in the peculiar facts of the case and should not be treated as a precedent, and all pending applications were accordingly disposed of.

### **12. Pankaj Bansal v. Union of India & Ors., SLP (Crl.) No. 9220-21/2023**

**Brief Facts:** In *Pankaj Bansal v. Union of India*, the appellants Pankaj Bansal and his father Basant Bansal challenged orders of the Punjab & Haryana High Court which had upheld their arrest and remand by the Enforcement Directorate (ED) under the *Prevention of Money Laundering Act, 2002* (PMLA). The case originated from an FIR dated 17 April 2023 alleging corruption involving certain individuals linked to the M3M Group. Though earlier FIRs and an ECIR existed against the IREO Group, the appellants were not initially named. A second ECIR was registered on 13 June 2023. Notably, the appellants had obtained interim anticipatory bail from the Delhi High Court in the first ECIR. However, while complying with ED summons, they were served fresh summons in the second ECIR and arrested on 14 June 2023. They challenged their arrest and remand on the ground of violation of Section 19 safeguards and constitutional protections, but the High Court dismissed their petitions, leading to the appeals.

**Issue:** Whether the arrest and remand of the appellants by the Enforcement Directorate under the PMLA were valid when the grounds of arrest were not properly communicated in writing as required under law and constitutional safeguards.

**Judgment/ Order:** The Supreme Court allowed the appeals and held that the arrest of the appellants was illegal and violative of Section 19(1) of the PMLA as well as Article 22(1) of the Constitution. The Court ruled that the requirement to “inform” the grounds of arrest must be meaningful, and mere oral communication or reading out of grounds is insufficient. It laid down that the ED must mandatorily furnish written grounds of arrest to the accused to enable effective exercise of legal rights, including seeking bail. The Court also found inconsistency in ED practices across cases and held that uniform compliance with this safeguard is necessary for fairness and transparency.

Further, the Court declared the remand orders invalid, observing that the Magistrate failed to independently verify compliance with Section 19 requirements. It reiterated that remand cannot cure an illegal arrest and that the Magistrate must record satisfaction regarding the legality of arrest and existence of “reasons to believe.” The Court also expressed concern over the ED’s conduct in registering a second ECIR immediately after the appellants secured anticipatory bail, indicating possible arbitrariness. It clarified that non-cooperation or evasive replies alone cannot justify arrest unless supported by material giving rise to a bona fide “reason to believe.” The Court also overruled contrary High Court views that written grounds of arrest were not necessary.

**Outcome:** The Supreme Court set aside the High Court orders, arrest orders, arrest memos, and remand orders, and directed release of the appellants. The judgment significantly strengthens procedural safeguards under the PMLA by mandating written communication of grounds of arrest and reinforcing strict judicial scrutiny over arrest and remand.

### **13. Arvind Kejriwal vs Directorate of Enforcement, SLP (Crl.) No. 5154/2024**

**Brief Facts:** In *Arvind Kejriwal v. Directorate of Enforcement*, the appellant challenged the legality of his arrest by the Enforcement Directorate (ED) on 21 March 2024 under the *Prevention of Money Laundering Act, 2002* (PMLA). The arrest stemmed from an ECIR dated 22 August 2022 based on predicate offences investigated by the CBI relating to alleged corruption. The ED had conducted a

detailed investigation and filed multiple prosecution complaints, while the CBI also filed chargesheets; however, charges had not yet been framed. Kejriwal was issued several summons by the ED from October 2023 onwards but did not appear in response to nine notices, leading to his arrest. His challenge to the arrest was rejected by the trial court and the Delhi High Court, prompting an appeal before the Supreme Court. During the pendency of proceedings, the 18th Lok Sabha General Elections intervened, leading the Court to consider the limited question of interim bail.

**Issue:** Whether, pending adjudication on the legality of arrest under Section 19 of the PMLA, the appellant was entitled to interim bail on grounds of personal liberty under Article 21, particularly in light of the intervening general elections and surrounding circumstances.

**Judgment/ Order:** The Supreme Court granted interim bail to Arvind Kejriwal till 1 June 2024, directing him to surrender on 2 June 2024. The Court clarified that it was not deciding the legality of the arrest at this stage but only granting temporary relief. It emphasized that interim bail is a recognized facet of personal liberty under Article 21 and can be granted in appropriate circumstances. The Court considered factors such as the ongoing elections, the appellant's status as a public figure, absence of criminal antecedents, and the fact that the legality of arrest itself was under judicial scrutiny. While noting his non-compliance with ED summons as an adverse factor, the Court held that it was not decisive.

The Court rejected the argument that granting interim bail would give undue advantage to politicians, stating that bail decisions are fact-specific. It highlighted the significance of general elections as a democratic exercise and held that such a circumstance justified temporary release. At the same time, the Court imposed strict conditions, including furnishing bail bonds, refraining from official duties such as visiting the Chief Minister's office or signing files (except where necessary for approval by the Lieutenant Governor), abstaining from public comments on the case, and not interacting with witnesses or accessing case materials.

**Outcome:** The Supreme Court allowed interim bail for a limited period, balancing personal liberty with the integrity of the investigation. It clarified that the order was purely temporary, did not reflect on the merits of the allegations or legality of arrest, and should not be treated as granting any special privilege. The main issues regarding compliance with Section 19 PMLA and validity of the arrest were left open for final adjudication.

**14. Directorate of Enforcement v. Bibhu Prasad Acharya & Anr,  
Criminal Appeal Nos. 4314–4316/2024**

**Brief Facts:** In *Directorate of Enforcement v. Bibhu Prasad Acharya & Anr.*, the Directorate of Enforcement (ED) filed complaints under the Prevention of Money Laundering Act (PMLA) against the respondents, who were public servants. The Special Court had taken cognizance without prior sanction under Section 197 CrPC. The respondents challenged the same, contending that they were public servants removable only by the Government and that the alleged acts were connected with discharge of official duties, thus requiring prior sanction. The High Court quashed cognizance against them, leading to appeals before the Supreme Court.

**Issue:** Whether Section 197(1) Cr.P.C Applicable To Complaint Under Section 44(1)(B) Of PMLA?

**Judgment/ Order:** The Supreme Court held that by virtue of Section 65 PMLA, provisions of the CrPC apply to PMLA proceedings unless inconsistent with the Act. It found no inconsistency between PMLA and the requirement of prior sanction under Section 197 CrPC, and clarified that Section 71 PMLA does not override such applicable CrPC provisions. The Court further held that both conditions under Section 197 CrPC were satisfied: (i) the respondents were public servants removable only with Government sanction, and (ii) the alleged acts had a reasonable nexus with discharge of official duties, applying the “reasonable nexus test” laid down in *P.K. Pradhan v. State of Sikkim* and *Prakash Singh Badal v. State of Punjab*. It also noted that there was no allegation that the respondents acted beyond their authority. Hence, prior sanction was mandatory before taking cognizance.

**Outcome:** The Supreme Court upheld the High Court’s decision quashing cognizance against the respondent public servants for want of prior sanction under Section 197 CrPC. However, liberty was granted to the ED to seek fresh cognizance upon obtaining the requisite sanction.

## **JUDGMENTS OF THE HON'BLE HIGH COURTS<sup>1</sup>**

### **15. Lovee Narula v. Directorate of Enforcement, Bail Application No. 3808/2024**

**Brief facts** - An FIR dated 12.03.2024 was registered by the Crime Branch, Delhi, alleging an organised racket involved in the manufacture and sale of spurious anti-cancer medicines. On the basis of the FIR, the Directorate of Enforcement registered an ECIR under Sections 3 and 4 of the PMLA, alleging generation of proceeds of crime. The applicant, Lovee Narula, engaged in medical distribution, was alleged to have purchased and sold spurious injections without invoices. The ED alleged that the applicant earned ₹7,45,000/- as profit, treated as proceeds of crime. The applicant was initially examined as a witness and later arrayed as an accused in the supplementary prosecution complaint. He was arrested by the ED on 22.05.2024 and remanded to custody. His regular bail application was rejected by the Ld. Special Court, leading to the bail proceedings filed before the Hon'ble High Court of Delhi.

**Issue** - Whether the petitioner, accused of money laundering under the PMLA with alleged generation or utilization of proceeds of crime below ₹1 crore, is entitled to get a regular bail in the absence of any illegality in arrest under Section 19 PMLA despite the rigours of Section 45 PMLA, 2002, particularly when the prosecution relies on statements recorded under Section 50 of PMLA and the placed documentary evidence at a pre-trial stage.

**Judgment/order-** The Hon'ble Delhi High Court's order in Lovee Narula v. Directorate of Enforcement, Bail Application No. 3808/2024, decided on 28 January 2025 affirms the high threshold for granting bail to accused under PMLA. The Court held that even if petitioner's individual gain is less than ₹1 crore, total proceeds of the syndicate exceeded the threshold, bringing Section 45 of PMLA rigors into play. The court pointed that the applicant failed to establish a "reasonable grounds to believe" that he is not guilty nor that he would not commit the same again while enlarged on bail. Thus, twin conditions is not satisfied in this case when it is mandatory requirement to be complied with. At last, the Court dismissed his bail application by holding that "The petitioner failed to satisfy the twin conditions under Section 45." On issue of illegal arrest, Court noted that the ED followed due process and substantiated the 'reason to believe' with concrete

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<sup>1</sup> Certain judgments have been assailed before the Hon'ble Supreme Court and their outcome is awaited.

evidence that the applicant was involved in the crime thus observed that the Section 19 PMLA was not violated in the case. Secondly, the applicant contended that the statements made by co-accused under Section 50 PMLA formed the sole basis of his arrest and thus, there was no justification to arrest him. The Court relied on *Abhishek Banerjee & Anr. V. ED* (2024 (SC) 674), where the Hon'ble Supreme Court referring to *Vijay Madanlal Choudhary v. UOI* (2022 (SC) 633), observed that statements recorded by the authorities under Section 50 PMLA in the course of inquiry are deemed to be the judicial proceedings carrying high weightage and admissible in evidence.

In brief, the court held that –

Section 45 PMLA apply even if petitioner's individual gain is less than money threshold i.e. ₹1 crore provided that the total proceeds exceeded the threshold.

Twin conditions of section 45 of PMLA are mandatory requirement to be complied with.

**Outcome-** In view of the same, the Court was not inclined to release the applicant on bail and the application, is, hereby, dismissed along with the pending applications, if any.

### **16.Pramod Kumar Singh @ Pramod Singh vs Union of India, Bail Application No. 4732/2025**

**Brief facts-** The case arises from an application for bail filed before the High Court of Jharkhand in B.A. No. 4732 of 2025 by Pramod Kumar Singh, who was working as a Block Account Manager at PHC, Jharia cum Jodapokhar, Dhanbad. The petitioner was arrested on 18.02.2025 under Section 19 PMLA, 2002, his bail application was earlier rejected by the Ld. Special Judge, PMLA, Ranchi, leading to the bail application filed before the Hon'ble High Court.

**Issues-** 1. Whether learned Additional Special Judge, PMLA, Ranchi erred in its interpretation of Section 45 of PMLA while deciding bail application by effectively requiring the petitioner/accused to prove his innocence at the bail stage.

2. Whether prolonged incarceration of the petitioner without a reasonable prospect of an expeditious trial, constitute the violation of his fundamental rights.

**Judgment/order-** The Hon`ble Jharkhand High Court in Pramod Kumar Singh @ Pramod Singh vs Union of India through its Directorate on August 20, 2025 ruled that settled position of law is that mere delay in trial pertaining to grave offences as one involved in the case cannot be used as a ground to grant bail thus the court dismissed the bail application, citing the failure to meet the twin conditions stipulated under Section 45(1) of the Prevention of Money Laundering Act (PMLA). The Court in Paragraph 85 stated “it is settled proposition of law which has been settled by the Hon`ble Apex Court that the period incarceration (herein about 06 month) or delay in trial alone cannot be ground to release the petitioner on bail, rather in case of scheduled offences/special offences the seriousness of the matter and the societal impact should be taken in to consideration by the Court concerned while enlarging the petitioner on bail.” The Court reiterated that bail cannot be granted unless there are reasonable grounds to believe the accused is not guilty, and he is not likely to commit any offence while on bail. On facts, the Court held that the petitioner was allegedly the central figure in generation, layering, and projection of proceeds of crime.

In brief, the court held that –

Twin conditions stipulated under Section 45(1) of the Prevention of Money Laundering Act (PMLA) are mandatory and long incarceration in such grave offences should be considered in the light of its societal impact while enlarging accused on bail.

**Outcome-** The court dismissed the application filed by the accused seeking his bail

**17.Saurabh Sharma v. Directorate of Enforcement, MCRC No. 19270/2025**

**Brief facts-** The applicant, Saurabh Sharma, filed his first application for regular bail under Section 483 of BNSS read with Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (PMLA), in connection with ECIR/BHZO/19/2024 registered by the Directorate of Enforcement, Bhopal. He has been in custody since 10.02.2025. The Enforcement Directorate alleged that the applicant generated and laundered proceeds of crime worth approximately ₹108 crores, using shell companies, unsecured loans, and financial transactions to conceal the source of funds.

**Issue-** Whether the applicant is entitled to get a regular bail under Section 45 of the Prevention of Money Laundering Act, 2002 (PMLA) despite allegations of money laundering arising from a schedule offence registered under the Prevention of Corruption Act, 1988.

**Judgment/order-** The Hon`ble High Court of Madhya Pradesh judgment dated 27 September 2025 in Saurabh Sharma v. Directorate of Enforcement (MCRC No. 19270/2025) dismissed the bail application of applicant, Saurabh Sharma by holding that the applicant failed to satisfy the twin conditions of Section 45 of PMLA. The application was filed by the Applicant, Saurabh Sharma , seeking regular bail in connection with ECIR/BHZO/19/2024 registered by the Directorate of Enforcement, Bhopal Zone, Bhopal (M.P.), for offences punishable under Section 3 and Section 4 of the Prevention of Money Laundering Act, 2002 (PMLA, 2002). The Applicant was taken into custody on 10.02.2025. The ECIR was registered subsequent to FIR No. 0195/2024 dated 19.12.2024, lodged by SPE Lokayukta under Sections 13(2) read with 13(1)(B) of the Prevention of Corruption Act, 1988 (as amended in 2018), alleging acquisition of disproportionate assets. The Applicant was previously granted default bail in the predicate offence on 01.04.2025 due to the failure of the investigating agency to file a charge sheet within the statutory time period. Here, The court noted that ED's material placed on record and co-accused statements revealed that applicant orchestrated a network of shell entities and proxies, Massive layering of funds through loans, fake companies and family accounts, Applicant personally managed operations, proving *mens rea* and active involvement and clear nexus between proceeds of crime and laundered assets. At last, the court made clear that any observations made herein are only for the purpose of deciding the bail application and shall not be construed as an expression on the merits of the case while conducting trial against the Petitioner/Accused.

In brief, the court held that –

Twin conditions of section 45 of PMLA are mandatorily complied with.

**Outcome-** The court rejected the bail application.

**18. Bhupesh Arora v. Directorate of Enforcement, Bail Application No. 4035/2025**

**Brief facts-** An ECIR dated 14.10.2022 was registered by the Directorate of Enforcement under Sections 3 and 4 of the PMLA, 2002 on the basis of a

predicate FIR alleging a large-scale cyber fraud through a fake investment app “LOXAM,” which cheated investors by offering unrealistically high returns. The applicant, Bhupesh Arora, was arrested on 11.07.2025 under Section 19 of the PMLA and remains in judicial custody. Consequently, a prosecution complaint was filed on 27.08.2025 and the matter was at the pre-cognizance stage, with ongoing investigation qua the applicant stated yet to be complete. The ED alleges that the applicant was the central mastermind and ultimate beneficiary of an international money-laundering syndicate, operating through numerous shell companies, mule accounts, payment gateways and hawala channels to launder the proceeds of crime and project them as untainted monies. The applicant sought interim bail on humanitarian grounds, citing the proposed hip replacement surgery of his mother and other medical issues pertaining to his family members.

**Issue-** Whether an accused under Sections 3 and 4 of the PMLA is entitled to get an interim bail on humanitarian/medical grounds when the alleged medical emergency of a family member is not shown to be imminent or life-threatening and whether the rigours of Section 45 PMLA shall apply in such circumstances.

**Judgment/order-** The Hon`ble Delhi High Court order in Bhupesh Arora v. Directorate of Enforcement (Bail Appln. 4035/2025) on 11th November, 2025 denied interim bail of petitioner as the Hon`ble Court found that no imminent surgical procedure requiring petitioner’s presence. The Bail is sought on the ground that there is a serious medical emergency concerning his mother, Smt. Asha Rani, who is suffering from a severe hip ailment and the Applicant’s attendance is required to complete the pre-operative formalities and to ensure that the mother receives proper pre & post-operative care. Therefore, applicant seeks Interim Bail strictly on humanitarian and compassionate grounds. The court found that on 21.11.2025, the OPD slip is not a scheduled surgery date, only a follow-up/plan and the petitioner’s own stand that they may shift to private hospital further weakened “urgency.” Hence, the High Court found the mother’s condition non-emergent and completely manageable irrespective of Petitioner’s/accused presence.

In brief, the court held that –

Enlarging accused on bail was denied on the medical ground pertaining to his family provided that the condition is non-emergent and manageable therefore does not require his presence.

**Outcome-**The court disposed of the bail application.

## **19. Mohit Deora v. Directorate of Enforcement, Bail Application No. 8051 of 2025**

**Brief facts** - The Enforcement Directorate recorded an ECIR under the Prevention of Money Laundering Act, 2002 against the petitioner on the basis of complaint cases relating to GST fraud and scheduled offences registered by LEA Agency. The petitioner was alleged to be the mastermind of a syndicate that created numerous shell companies using dummy directors to generate fake GST invoices and fraudulently avail and pass Input Tax Credit (ITC). The syndicate allegedly floated about 135 fake firms and caused wrongful ITC claims of approximately ₹750 crores, resulting in loss to the government exchequer. The petitioner was arrested on 08.05.2025 and after rejection of bail by the Ld. Special Court, he approached the Hon'ble High Court seeking his regular bail under PMLA proceedings.

**Issue-** Whether the petitioner is entitled to grant of regular bail under Section 45 of the Prevention of Money Laundering Act, 2002, in connection with ECIR arising from alleged generation and utilization of fake GST invoices and ineligible Input Tax Credit (ITC).

**Judgment/order-** The Hon'ble Jharkhand High Court in Mohit Deora v. Directorate of Enforcement, B.A. No. 8051 of 2025 decided on 12.11.2025 denied bail to petitioner as he failed to satisfy twin conditions of Section 45 and observed that “Paragraph 152. It is, thus, evident by taking into consideration the provision of Sections 19(1), 45(1) and 45(2) of PML Act, 2002 that the conditions provided therein are required to be considered while granting the benefit of regular bail in exercise of power conferred under statute apart from the twin conditions which has been provided under Section 45. Thus, Section 45 of the PML Act, 2002 turns the principle of bail is the rule and jail is the exception on its head. The power of the Court to grant bail is further conditioned upon the satisfaction of the twin conditions prescribed under Section 45(1) (i) and (ii) PML Act, 2002.” The Court held that there was enough material to establish that the petitioner was prima facie guilty and that his release would “send a wrong signal to society and embolden economic offenders. The Court observed in “paragraph - 159... Further, this Court is conscious of this fact that while deciding the issue of granting bail in grave economic offences, it is the utmost duty of the Court that the nature and gravity of the alleged offence should have been kept in mind because corruption poses a serious threat to our society should be dealt with by iron hand.”

In brief, the court held that –

Twin conditions mentioned under Section 45 PMLA are mandatorily complied with considering the serious of alleged offence having huge impact on our economy.

**Outcome-** The court dismissed the regular bail application filed by the Petitioner/Accused.

**20.Md. Jahangir Alam v. Directorate of Enforcement, Bail Application No. 9669 of 2025**

**Brief facts-** The bail application was filed by the petitioner, Md. Jahangir Alam, under Sections 483 and 484 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Sections 45 and 65 of the Prevention of Money Laundering Act, 2002, seeking regular bail in connection with ECIR No. RNSZO/16/2020 registered by the Directorate of Enforcement for the offence of money laundering punishable under Sections 3 and 4 of PMLA. The ECIR emanates from FIR No. 13/2019 registered by the Anti-Corruption Bureau, Jamshedpur, alleging payment of illegal commission and bribery in allotment of government tenders in the Rural Works Department, Jharkhand.

**Issue -** Whether the petitioner is entitled to grant of bail under Section 45 of the Prevention of Money Laundering Act, 2002, on the ground of parity in connection with alleged possession and handling of proceeds of crime arising from corruption in tender allotment.

**Judgment/order-** The Hon`ble Jharkhand High Court in Md. Jahangir Alam v. Directorate of Enforcement B.A. No. 9669 of 2025 Order Pronounced on 19/11/2025 rejected bail to the petitioner by holding that PMLA bail involves a very high threshold due to Section 45 PMLA and petitioner failed to meet the said conditions. On issue of Parity, Court made it clear that Principle of Parity apply only when accused persons' roles are identical, not merely similar. The court observed in paragraph 140, that “*the law is well settled that the principle of parity is to be applied if the case on fact is exactly similar then only the principle of parity in the matter of passing order is to be passed but if there is difference in between the facts then the principle of parity is not to be applied*”. The court further held that long incarceration is not a ground in PMLA unless custody becomes grossly disproportionate. The court observed that personal liberty is utmost requirement to maintain the individuality of the person concerned but at

the same time it is equally settled that the balance between personal liberty and societal impact of the alleged offence should be taken care of by the Court concerned.

In brief, the court held that –

Twin Conditions mentioned under Section 45 PMLA are mandatory to be complied with the further clarification about the principle of parity where it was clarified that the same can be considered when the role are identical not merely similar.

**Outcome-** The court dismissed the regular bail application filed by the Petitioner/Accused.

### **21. Khilji Mohsinahmed Mustakali v. Assistant Director, Directorate of Enforcement & Anr., Bail Application No. 2430/ 2025**

**Brief facts** – The bail application arises from rejection of bail under Section 483 BNSS, 2023 read with Section 45 of the PMLA, 2002, in connection with ECIR No. ECIR/MBZO- II/20/2024, registered on the basis of FIR No. 295 of 2024 under Sections 318(4), 338 and 340(2) of the Bharatiya Nyaya Sanhita, 2023.

**Issues** – 1. Whether the monies withdrawn from shell company bank accounts constitute “proceeds of crime” under Section 2(1)(u) PMLA?

2. Whether the rigours of Section 45 PMLA bar the grant of bail?

**Judgment/order** – The Hon`ble Bombay High Court held that associating funds (allegedly from gambling/illegal business) with shell accounts opened through cheating and forgery and projecting them as legitimate APMC/business transactions, created a direct nexus between the funds and the scheduled offences (cheating/forgery). The "criminal overlay" of cheating/forgery turned the funds into property derived/obtained "as a result of" criminal activity relating to scheduled offences. The Court reasoned that the Explanation to Section 2(1)(u) PMLA covers property indirectly derived or obtained as a result of criminal activity relatable to a scheduled offence. Here, the scheduled offences (Sections 318(4), 338 and 340(2) BNS) were integral to routing, disguising and withdrawing the funds thus, the funds withdrawn became "tainted" as proceeds of those offences, even if they originally arose from non-scheduled gambling operations. In brief, the court held that the money credited into and ultimately withdrawn from the shell- company bank accounts, operated through deception

and forged instruments, constituted "proceeds of crime" within Section 2(1)(u) PMLA, notwithstanding that gambling itself is not a scheduled offence. On issue of bail, the Court observed that the allegations involve a well- designed and sophisticated scheme of cheating and forgery, large-scale laundering of funds running into hundreds of crores and exploitation of the vulnerabilities of APMC-related accounts and shell entities to disguise criminal proceeds. Given the applicant's alleged central role in opening and operating the accounts, executing withdrawals and receiving commission, the Court found there to be a "strong case" of his involvement in the scheduled offences so under the offence of commission of in money-laundering. The Court further held that, considering the nature and scale of the offence and the applicant's position in the operation, there existed: (i) a strong possibility of the applicant causing disappearance of evidence if released; and (ii) no assurance that he would not commit further offences while on bail. The bail application was therefore rejected.

In brief, the court held that –

While rejecting regular bail of the accused, the Hon'ble Court observed and classified that the money credited into and ultimately withdrawn from the shell-company bank accounts, operated through deception and forged instruments, constituted as "proceeds of crime" within Section 2(1)(u) PMLA, notwithstanding that gambling itself is not a scheduled offence.

Twin conditions as mentioned in section 45 of PMLA are mandatory.

**Outcome-** The court rejected the bail.

### **22. Directorate of Enforcement(ED) v. Prakash Industries Ltd, LPA 102/2023**

**Brief facts-** The dispute arose from the allocation of the Fatehpur Coal Block in favour of M/s Prakash Industries Ltd. (PIL). The Enforcement Directorate alleged that PIL fraudulently obtained the coal block allocation by misrepresenting its financial status and net worth before the Ministry of Coal while applying for allocation. It was further alleged that even before the formal allocation was granted, PIL falsely informed the Bombay Stock Exchange that the coal block had already been allotted, which allegedly caused an artificial rise in the company's share price. Subsequently, PIL issued preferential shares at inflated prices and allegedly generated undue financial gains from the sale of those shares. Based on these allegations, the Central Bureau of Investigation registered a case

for offences including cheating and criminal conspiracy, while the Enforcement Directorate initiated proceedings under the Prevention of Money Laundering Act (PMLA), recorded an ECIR and provisionally attached properties alleged to be proceeds of crime. The Provisional Attachment Order was challenged by PIL before the High Court, where the Single Judge set aside the attachment. The Directorate of Enforcement then filed appeals challenging the correctness of that decision, leading to litigation.

**Issue-** Whether the Enforcement Directorate can use seized or collected documents solely for investigation purposes and is restrained from publicly disseminating such information in view of the right to privacy and statutory limitations.

**Judgment/order-** The Hon`ble Delhi High Court wherein the allowed the appeal, and the judgment of the Learned Single Judge was set aside. The core dispute emanated from the allocation of the Fatehpur Coal Block to M/s Prakash Industries Limited (PIL), which was subsequently cancelled by the Hon'ble Supreme Court. The ED initiated proceedings under the Prevention of Money Laundering Act, 2002 (PMLA), alleging that M/s Prakash Industries Limited (PIL) obtained the coal block through fraudulent misrepresentation of its net worth and subsequently generated "proceeds of crime" through the sale of preferential shares, leading to the issuance of a Provisional Attachment Order (PAO) attaching properties valued at crores. The Learned Single Judge had set aside this PAO, primarily on the grounds that the preferential share issuance was not part of the predicate offense documents and that the ED failed to comply with Section 66(2) of the PMLA. The Division Bench, however, reversed this decision, holding that the writ petition against the PAO was not maintainable given the comprehensive statutory remedies available under the PMLA, that there was a clear nexus between the predicate offense and the attached properties constituting "proceeds of crime,". On issue of Scope of Provisional Attachment under Section 5 PMLA, The Court examined whether the ED could provisionally attach property independent of compliance with Section 66(2) (information sharing with other agencies). Court held that in PMLA provisional attachment is permissible if the ED has "reason to believe" that the property constitutes proceeds of crime and is likely to be concealed or transferred. This ED's powers are preventive and intended to safeguard confiscation proceedings. Such powers must be exercised based on material evidence but are not dependent on completion of investigation by other agencies.

In brief, the court held that –

Exhaustion of statutory remedies is mandatory.

The Hon`ble Court categorically emphasized that “In the present case, even if it is assumed that the Directorate has defaulted in sharing information as mandated under Section 66(2) of the PMLA, it is to be taken into account that the provision nowhere provides for any specific time limit within which the information must be shared. Notably, it is nowhere provided in the statute that before the issuance of PAO, information must be shared under Section 66(2) of the PMLA. Further, the said provision does not contemplate that any omission or delay in sharing such information would attract adverse consequences thereby invalidating the PAO or rendering any subsequent proceedings void.”.

**Outcome-** The cancellation of the PAO and its consequential proceedings by the learned Single judge are set aside by the court while upholding the independent power of the Directorate to issue a PAO under Section 5 of PMLA prior to sharing information u/s 66(2) to concerned agencies.

**23.M/s Krrish Realtech Pvt Ltd & Amit Katyal v. Union of India & ED, W.P.(C) 895/2025 & CM APPL. 4399/2025**

**Brief facts-** The case concerns writ petitions filed by M/s Krrish Realtech Pvt. Ltd. and its directors challenging Provisional Attachment Orders issued by the Enforcement Directorate under Section 5 of the Prevention of Money Laundering Act, 2002. The dispute arose from real estate projects in Gurugram where the petitioners allegedly collected large sums from homebuyers for plots and residential units but failed to deliver possession, leading to registration of multiple FIRs alleging cheating, criminal breach of trust, and conspiracy. Based on these predicate offences, the ED registered an ECIR alleging diversion and layering of funds amounting to proceeds of crime and attached properties, bank accounts, and other assets of the petitioners. The petitioners contended that most FIRs had been quashed, the attachment violated Supreme Court status quo orders, and the ED lacked jurisdiction.

**Issue-** Whether the writ petitions challenging attachment orders were maintainable under Article 226 of the Constitution despite availability of an alternative statutory appellate remedy under Section 26 PMLA.

**Judgment/order-** The Hon`ble Delhi High Court judgment in MS Krrish Realtech Pvt Ltd & Amit Katyal vs Union of India & ED, Judgment pronounced

on 03.11.2025 held that it is a well-settled legal principle that where a statute provides a self-contained appellate mechanism, recourse to the extraordinary jurisdiction of this Court under Article 226 is ordinarily not maintainable. The court expressly held that an alternative and efficacious statutory remedy is available to the petitioners. All the grounds urged in these writ petitions may be raised before the Appellate Tribunal, which shall consider the same in accordance with law. The court noted that two PAOs already confirmed and petitioners have actually filed appeals thus parallel writ proceedings are impermissible. For the third PAO, judgment reserved by Adjudicating Authority thus writ is premature. On issue of Status quo order of Supreme Court or Single member adjudication issue over the attachment of petitioner's plot, the court made it clear that such an arguments can also be appropriately raised before the Appellate Tribunal. The court categorially held that -53. All pleas of the petitioner, inter-alia, as regards jurisdiction / coram non judice would also necessarily be considered by the Appellate Tribunal.

In brief, the court held that –

Exhaustion of statutory remedies is mandatory.

**Outcome-** The court disposed of the writ petition.

#### **24. Gautam Khaitan & Anr. v. Union of India & ED, LPA 72/2015**

**Brief facts-** The case concerns alleged money-laundering arising from the AgustaWestland VVIP helicopter deal, where dilution of the service ceiling requirement allegedly enabled AgustaWestland to secure the contract through payment of illegal kickbacks routed via foreign intermediaries. The Enforcement Directorate alleged that these funds were laundered through corporate entities connected with Gautam Khaitan, including IDS Infotech and Aeromatrix Info Solution Ltd., and channelled through overseas routes. Following a CBI FIR in 2013 for corruption-related offences, the ED recorded an ECIR under the PMLA, conducted searches, and provisionally attached certain properties in November 2014 being proceeds of crime. The appellants challenged the Provisional Attachment Order before the Delhi High Court on grounds of lack of chargesheet, absence of “reason to believe,” and contending that there is violation of principle of natural justice.

**Issue-** Whether the Directorate of Enforcement can validly pass a Provisional Attachment Order under Section 5 of the PMLA against a person even in the

absence of a filed chargesheet under Section 173 CrPC in the scheduled offence, violating principles of natural justice or exceeding writ jurisdiction.

**Judgment/order-** The Hon`ble Delhi High Court upheld the Enforcement Directorate's (ED) provisional attachment of properties belonging to Gautam Khaitan and reiterated writ jurisdiction under Art. 226 of Constitution must be exercised sparingly where alternative efficacious remedies exist and only for clear mala fides, patent arbitrariness, or lack of jurisdiction and held that PAO dated 15.11.2014 is valid even without charge sheet filed under any Scheduled Offence. In this appeal, appellant challenged the provisional attachment order (PAO) issued by ED on 15.11.2014 under Section 5 PMLA, primarily on the ground that as to whether ED could issue a PAO without a chargesheet filed under Section 173 CrPC. The court rejected Khaitan's plea that ED cannot attach property unless formal charges are filed and emphasized that the law allows attachment of property if there are credible reasons to believe that the property is linked to an illegal activity. The court places reliance on its recent decision in LPA 588 of 2022 titled Directorate of Enforcement v. M/s. Hi-tech Mercantile India Pvt. Ltd & Ors. & Ors. This Bench in the aforesaid judgment comprehensively examined the scope and exercise of powers of attachment conferred under Section 5 of the PMLA, 2002. It was observed that while the first proviso to Section 5(1) of the PMLA constitutes a statutory pre-requisite for initiating an attachment, it is not to be construed that the compliance of the said proviso is a sole pre- requisite for issuance of PAO, which if not complied with would render the attachment proceedings invalid or ineffectual and reiterated that Charge sheet is only one gateway for attachment but not the only one, same observation is held in Hi-tech Mercantile (LPA 588/2022) (2025). At last, the court concluded that the foregoing discussion was only for the purpose of adjudication of *lis* raised in the Appeal.

In brief, the court held that –

Writ jurisdiction under Art. 226 must be exercised sparingly where alternative efficacious remedies exist and only for clear mala fides, patent arbitrariness, or lack of jurisdiction.

Provisional attachment order is valid even without charge sheet. The Hon`ble Court categorically emphasized that “the authorized officer has the power to issue a PAO even against a person not charged, if he has, reason to believe, based on material available with him, that the proceeds of crime are likely to be concealed or transferred leading to frustration of the proceedings under the PMLA.

Additionally, it was also observed that the first proviso to Section 5(1) of the PMLA, mandating a filing of report under Section 173 of Code of Criminal Procedure, 1973 [hereinafter referred to as “CrPC”], applies only to person already charged with a scheduled offence, whereas the second proviso, being a non obstante clause, empowers the AO to issue PAO against any person meeting the conditions stipulated thereunder.

**Outcome-**The court dismissed appeal while upholding the validation of issued PAO even in absence of chargesheet filed by the predicate agency, against the accused persons.

**25.Naresh Bansal and Ors vs Adjudicating Authority and Anr., W.P.(C) 11361/2015**

**Brief facts-** The present batch of petitions challenges the proceedings initiated by the Directorate of Enforcement, particularly the validity of the Provisional Attachment Order (PAO) issued under Section 5(1) of the Prevention of Money Laundering Act, 2002 (PMLA), the Original Complaint filed under Section 5(5) of the PMLA, and the Show Cause Notice (SCN) issued under Section 8 of the PMLA. Since all six petitions arise from the same ECIR and involve substantially similar facts and submissions, the Court has treated W.P.(C) 12261/2015 as the lead matter.

**Issue-** Maintainability of the Writ Petitions under Article 226 of the Constitution in the face of the statutory remedy under the Prevention of Money Laundering Act, 2002 (PMLA) and objection as to territorial jurisdiction when there is issuance of SCN in absence of issued PAO under Section 5 of PMLA, 2002.

**Judgment/Order-** The Hon`ble Delhi High Court on territorial jurisdiction held that, though the betting racket and predicate proceedings originated in Gujarat, a substantial part of the cause of action arose within Delhi because the petitioner's acts of procuring and distributing Super Master Login IDs were carried out in Delhi. This sufficed under Article 226(2) to confer territorial jurisdiction. After nearly a decade of pendency, it would not be just or expedient to relegate the parties to another High Court. On the objection of alternative remedy, the Court relied on its own recent judgment in an appeal under PMLA, which applied in *Whirlpool Corporation v. Registrar of Trademarks, AIR 1999 SC 22* on exceptions to the rule of alternate remedy. It reiterated that:

- PMLA is a comprehensive, self-contained statute providing a full adjudicatory hierarchy including Adjudicating Authority, Appellate Tribunal and appeal to the High Court.
- The statutory process under Sections 5 and 8 PMLA incorporates *audi alteram partem* at multiple stages, ensuring no inherent violation of natural justice.
- A PAO is only a provisional, precautionary measure pending adjudication, and not a final determination of rights.

Applying *Whirlpool Corporation v. Registrar of Trademarks*, AIR 1999 SC 22, the Court found:

- No plea or proof of violation of fundamental rights.
- No violation of principles of natural justice, given the multi-tiered safeguards built into PMLA.
- No challenge to the jurisdiction or competence of the Directorate to pass a PAO, nor any challenge to the vires of PMLA. The issues raised involved disputed facts relating to scheduled offences and proceeds of crime, which are inappropriate for writ adjudication. At last, the Court strongly disapproved the "recurring practice" of using Article 226 to challenge PAOs as a forum of first instance, observing that when a special statute provides a detailed mechanism, by passing it amounts to abuse of process and defeats legislative intent.

The Court held that it had territorial jurisdiction under Article 226(2), but that the writ petitions were not maintainable in view of the efficacious alternative statutory remedies under PMLA and the absence of any of the contingencies noted in *Whirlpool Corporation v. Registrar of Trademarks*, AIR 1999 SC 22. It was, therefore, inappropriate in law and principle to interfere under Article 226 of Constitution of India.

It is further observed by the Court that “the absence of attachment under Section 5 of the PMLA cannot invalidate the SCN, since it is not a jurisdictional prerequisite, absence of which will disable the AA to issue such notice in contravention of the provisions of the Act. In this regard, it also becomes important to note that issuance of SCN is merely a first step in furtherance of the quasi-judicial functions conferred upon the AA, which enables the affected party to be heard in accordance with the principle of *audi alteram partem*. The quasi-judicial functions exercised by AA must not be conflated with the attachment

order passed under Section 5(1) of the PMLA, which is a precautionary and emergent measure undertaken by the Directorate to prevent dissipation or concealment of proceeds of crime. While the SCN initiates the adjudicatory process, attachment under Section 5(1) of the PMLA is provisional in nature and is aimed at safeguarding the assets pending determination, reflecting the deliberate legislative distinction between protective measures and the procedural onset of adjudication.

**Outcome:** All writ petitions and pending applications were dismissed.

### **26.A.K. Samsuddin v. Union of India & Ors., W.A. No. 2076 of 2016**

**Brief facts** - The Enforcement Directorate initiated proceedings against the Petitioners under Section 3 of the PMLA on the allegation that they continued to possess, use and project proceeds of crime arising from predicate offences committed prior to the enactment of the PMLA or prior to inclusion of such offences in the Schedule. The Petitioners challenged the proceedings contending that retrospective application of the PMLA violates Article 20(1) of the Constitution of India. They further argued that in the absence of conviction under the predicate offence, the prosecution under the PMLA could not be sustained. The Single Judge Bench upheld the empowered ED's action, holding that money laundering is a continuing offence so therefore there is no question of its retrospective application. The Writ Appeal and connected petitions were filed before the Division bench of Hon'ble High Court of Kerala assailing the legality of continuation of PMLA proceedings on constitutional and jurisdictional grounds.

**Issue-** Whether criminal proceedings for the offence of money laundering under Section 3 of the PMLA can be lawfully initiated and continued when the predicate/scheduled offence occurred prior to the coming into force of the PMLA or prior to its inclusion in the Schedule, and whether such proceedings violate Article 20(1) of the Constitution, having regard to the doctrine that money laundering is a continuing offence so long as the proceeds of crime are possessed, used, or projected as untainted property.

**Judgment/order-** The Hon'ble High Court of Kerala decision in A.K. Samsuddin v. Union of India & Ors., W.A. No. 2076 of 2016 and connected W.P.(C) Nos. 5562, 5647, 8373 & 26120 of 2017 was passed on 26 March 2025 whereby it was held that Section 3 of the PMLA criminalizes the act of money laundering and does not violate Article 20(1) of the Constitution of India. The

main question in this case as to whether the offence of money laundering under Section 3 of the PMLA can be extended to a predicate offence which happened prior to the coming into the force of PMLA or before the inclusion of such offences in the schedule of the PMLA. Upon which, the Division Bench followed Vijay Mandalal Chaudhary and Others v. Union of India & Ors. [(2023) 12 SCC 1], and Supreme Court in its judgment dated 17.03.2025 in SLP (Crl.) 6185/2023 (Pradeep Nirankarnath Sharma v. Directorate of Enforcement & Another) held that money laundering is not a static event but an ongoing activity, as long as illicit gains are possessed, projected as legitimate, or reintroduced into the economy and thus if the accused commits any of the acts as defined in Section 3 of the PMLA after its commencement, the Enforcement Directorate could maintain a criminal action against him irrespective of the fact that the predicate offence allegedly took place before the commencement of the PMLA. The court clarified that such prosecution does not violate Article 20(3) of the Constitution of India by stating that there is no retrospective penalization here because punishment attaches to post-enactment acts (use, concealment, projection, etc.), not to the original acquisition. The court also answered the issue whether PMLA prosecution can proceed before conviction in the predicate offence ?, In this regard, the court adopted a balanced approach by stating that “The trial court may proceed with examining key witnesses necessary to prove laundering activities but may withhold further steps or pronouncement of judgment until the predicate trial concludes.”

In brief, the court held that –

Section 3 of PMLA does not violate Article 20(1) of the Constitution.

The provision of Section 3 PMLA can be extended to a predicate offence which happened prior to the coming into the force of PMLA. It was emphasized that *“the time of commission of the scheduled offences is therefore not relevant in the context of the prosecution under the Act. What is relevant in the context of the prosecution is the time of commission of the act of money laundering. There is, therefore, no substance in the argument that the investigation commenced as per Ext.P2 is hit by Article 20(1) of the Constitution.”*

**Outcome-** The court dismissed the Writ Appeal challenging the initiation of PMLA proceedings on the aforesaid grounds while observing positive remarks about the jurisdiction of the Directorate in such circumstances.

**27. Ved Prakash Yadav v. Directorate of Enforcement, S.B. Criminal Writ Petition No. 1645/2024**

**Brief facts-** Ved Prakash Yadav, a public servant, filed a criminal revision petition challenging the order dated 21.03.2024 passed by the Ld. Special Judge (PMLA & CBI Cases), Jaipur wherein the court took cognizance against him for offences under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002, contending that such cognizance was invalid in the absence of prior prosecution sanction under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023. It was alleged by the Directorate of Enforcement that during a search, cash amounting to ₹2,31,15,000/- along with a gold bar valued at ₹61,00,000 was recovered from the petitioner's residence and found in his possession.

**Issue-** Whether cognizance of offences under Sections 3/4 of the PMLA can be validly taken against a public servant without prior sanction under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023, when the alleged offence does not arise from discharge of official duties.

**Judgment/order-** The Hon`ble High Court of Rajasthan passed an order in Ved Prakash Yadav v. Directorate of Enforcement (2025: RJ-JP: 41601, on 13.10.2025 reinforces a consistent judicial trend that sanction is not a prerequisite when a public servant commits acts unconnected with his official functions, such as hoarding illicit cash or laundering the illicit funds. The case concerned a criminal revision petition filed by Ved Prakash Yadav, a public servant, challenging the cognizance order passed by the Ld. Special Judge (PMLA & CBI Cases), Jaipur, under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (PMLA). In this case, during a search of the petitioner's residence, the Enforcement Directorate (ED) recovered, ₹2, 31,15,000/- in cash, and One gold bar valued at ₹61,00,000/-. The ED alleged that these assets were proceeds of crime linked to predicate offences, leading to filing of a Prosecution Complaint under the requisite provision of PMLA. The Special Judge took cognizance under Sections 3 and 4 of PMLA, against which the petitioner filed this revision, primarily arguing that no prior sanction under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) (successor of Section 197 CrPC) was obtained before taking cognizance. Here, the Court examined the ingredient of said Section 218 of BNSS as to whether the alleged act (possession of unaccounted cash and gold) was "while acting or purporting to act in discharge of official duty" or not and held that keeping huge unaccounted money and gold

cannot be considered as part of official functions or duties of a public servant. Therefore, the requirement of sanction under Section 218 BNSS did not apply. At last, The High Court dismissed the revision petition, upholding the validity of cognizance order and also clarified that the observations were only for deciding validity of cognizance and the petitioner could still raise all defences during trial before the Special Court.

In brief, the court held that –

Sanction is not a prerequisite when a public servant commits acts unconnected with his official functions.

**Outcome-** The court rejected the Criminal revision filed by the Petitioner/ Accused, a public servant challenging a cognizance order passed by the Ld. Special Court.

### **28. Pooja Singhal v. Directorate of Enforcement, W.P.(Cr.) No. 1043/2024**

**Brief facts-** The case originated from 13 FIRs registered by Jharkhand Police, Khunti, alleging defalcation of government funds in various development projects. During the relevant period (16.02.2009 to 19.07.2010), the petitioner was posted as Deputy Commissioner, Khunti, and was alleged to have sanctioned and facilitated misappropriation of public funds in connivance with engineers and others. In consequence of which, the Directorate has recorded an ECIR against the petitioner, Pooja Singhal, a public servant (IAS), who challenged the order of cognizance dated 19.07.2022 passed by the Special Judge (PMLA), Ranchi, in ECIR Case No. 03 of 2018, while contending that taking cognizance of offences under Sections 3 and 4 of the PMLA is bad in law as it was passed without prior sanction under Section 197 CrPC, which, according to the petitioner, was mandatory as she was a public servant. The principal has challenged this aspect in the writ petition before the Hon`ble High Court of Jharkhand.

**Issue-** Whether cognizance taken under Sections 3 & 4 of the PMLA against a public servant is vitiated for want of prior sanction under Section 197 CrPC (corresponding to Section 218 BNSS), when the alleged acts relate to accumulation of ill-gotten wealth and siphoning of government funds.

**Judgment/order-** The Hon`ble High Court of Jharkhand in Pooja Singhal v. Directorate of Enforcement, W.P.(Cr.) No. 1043 of 2024 decided on 22.12.2025 deals with an issue whether cognizance taken under Sections 3 & 4 of the PMLA against a public servant without prior sanction under Section 197 CrPC

(corresponding to Section 218 BNSS, 2023) will vitiate the whole proceedings in law. The court held that “Sanction under section 197 of the Code of Criminal Procedure is only for the acts reasonably connected to an official duty, not personal illegal acts even if done by the public servants. Sanction under section 197 of the Code of Criminal Procedure is not for shielding corrupt officials.” The court in paragraph 9 explicitly held that “.9. Now, the question is, whether the learned Special Judge should have taken cognizance after obtaining sanction for prosecution of the petitioner. It is settled principle of law that the issue of sanction under section 197 of the Code of Criminal Procedure can be taken up before the learned Trial Court at any stage of the proceedings. It would depend on the nature of the evidence that the prosecution may lead in course of the trial”. In fact, sanction can be obtained at any stage before the pronouncement of the judgment.

In brief, the court held that –

Taking of cognizance by the Ld. Special Court without sanction will not vitiate the cognizance order when the act does not reasonably connected to an official duties.

**Outcome-** The court dismissed the writ application filed by the Petitioner/accused, a public servant challenging the aforesaid question of law.

**29.Sukhpal Singh Khaira v. Directorate of Enforcement, CRM-M-17884-2025**

Brief facts- FIR No. 35 dated 05.03.2015 was registered under the NDPS Act, Arms Act and IT Act at PS Sadar Jalalabad, District Fazilka, relating to heroin smuggling, in which Gurdev Singh and others were tried and convicted. Although not originally named as an accused, Sukhpal Singh Khaira was summoned as an additional accused under Section 319 CrPC after conclusion of trial, however, the Hon’ble Supreme Court of India set aside this summoning order on 09.02.2023, holding that Section 319 CrPC could not be invoked after completion of trial. Meanwhile, the Directorate of Enforcement recorded an ECIR No. 02/STF/2021 on 21.01.2021 under Sections 3 and 4 of the PMLA, alleging that proceeds of crime generated from drug smuggling were used by the petitioner, including for election expenses, to the tune of about ₹3.84 crores. The petitioner was arrested in the PMLA case on 11.11.2021, later granted bail and a Prosecution Complaint was filed on 06.01.2022, on which cognizance was taken on 20.01.2022. Subsequently, based on further investigation, a supplementary chargesheet dated 20.01.2024 was filed against the petitioner in the scheduled offence by LEA

Agency, alleging misuse of position to facilitate drug trade and receipt of drug money, proceedings in the scheduled offence are presently under challenge before the Supreme Court, while the PMLA trial continues.

**Issue-** Whether proceedings and trial for offences under Sections 3 and 4 of the PMLA can continue independently and need not be deferred merely because proceedings in the scheduled/predicate offence are stayed or pending before the Supreme Court.

**Judgment/order-** The Hon`ble High Court of Punjab & Haryana in Sukhpal Singh Khaira v. Directorate of Enforcement, CRM-M-17884-2025 passed an order dated 31.10.2025 wherein it was held that PMLA is independent of the scheduled offence and not dependent upon the stage of Schedule Offence proceedings. The Court heavily relied on paragraphs 269–270 of Vijay Madanlal Choudhary and others v. Union of India and others, (2023) 12 SCC 1 and reiterated that PMLA offence concerns process/activity involving proceeds of crime, not the criminal activity itself. Applying the Hon`ble Supreme Court ruling in Pavana Dibbur v. Directorate of Enforcement, 2023 SCC Online SC 1586, court also reiterated that it is not necessary that the PMLA accused be an accused in the scheduled offence. In regard to the issues on the issue of stay, the Court gave a crucial findings that the stay passed by the Hon`ble Supreme Court relates to petitioner`s prosecution in the NDPS case, not to the existence of the predicate offence itself, because Predicate offence already led to convictions (as co-accused Gurdev Singh, who already stands convicted for commission of the scheduled offences) and Petitioner`s individual guilt in the predicate matter is irrelevant to PMLA liability. Thus, stay in proceedings does not impact PMLA trial/proceedings.

In brief, the court held that –

Offence under PMLA is independent of the stay order passed under scheduled offence. It was observed by the court that “the petitioner therein was accused of committing the scheduled offence as well as the offence under the PMLA, and both the cases were pending trial and it was held that the Special Court would not be competent to pronounce on the guilt or otherwise of the person accused of money laundering till there was definite finding regarding commission of the scheduled offence(s) generating proceeds of crime. The situation in this case is different, as the petitioner is accused of using the proceeds of crime generated due to commission of scheduled offences by a person who already stands convicted, as discussed herein before”.

**Outcome-** The court dismissed the Petition filed by the Petitioner/Accused.

**30.Dhanasekaran & Dhanalakshmi v. Directorate of Enforcement, Crl.R.C.(MD) No.614/2025**

**Brief facts-** The petitioners were not arrayed as accused in the predicate offences registered by the CBI in C.C. Nos. 6 to 8 of 2018. Subsequently, the Directorate of Enforcement initiated proceedings under the Prevention of Money Laundering Act, 2002 and filed a Prosecution Complaint arraying the petitioners as accused in C.C. No. 2 of 2022. The petitioners sought discharge under Section 227 Cr.P.C., contending absence of any overt act and their non-involvement in the scheduled offence makes the PMLA proceedings bad in law therefore mandates their discharge. The Trial Court vide order dated 25.03.2025, dismissed their discharge application holding that prima facie materials existed against the Petitioner/accused. Aggrieved thereby, the criminal revision was filed challenging the legality and correctness of the dismissal of his discharge application passed by the Ld. Special (PMLA) Court.

**Issue-** Whether the Directorate of Enforcement can prosecute and proceed against an accused under the Prevention of Money Laundering Act, 2002, while refusing his discharge at the pre-trial stage, even when the accused was not arrayed as an accused in the predicate offence investigated by the CBI, provided that there exists prima facie material indicating involvement in money laundering.

**Judgment/order-** The Hon`ble High Court of Madras, in Dhanasekaran & Dhanalakshmi v. Directorate of Enforcement, Crl.R.C.(MD) No.614/2025 vide order dated 23.09.2025 held that non-inclusion in the CBI charge sheet does not bar the Directorate to initiate an PMLA proceedings by way of filing Prosecution Complaint under Section 44 PMLA, 2002. The court held in paragraph 6 that ... *“this Court is of the view that there is prima facie materials available as against the petitioners to proceed the case further as against the petitioners under the PMLA Act. At the time of considering the petition for his discharge under Section 227 of Cr.P.C., the Court has to see whether prima facie materials available to proceed the case further. At the time of hearing the discharge petition the Court cannot conduct a roving enquiry on the materials and to examine as to whether the available material is sufficient for convicting the accused or not”*. Therefore once the Court found that there are prima facie materials available to proceed with the case further, the Court concerned cannot discharge the accused hence, the accused has to face the trial and prove their innocence. At the end, the Court

observed that the trial court follow the correct legal standards and hence dismissed the Revision Petition.

In brief, the court held that –

Non-inclusion of the accused named in the CBI charge sheet does not bar the Directorate to prosecute the accused under the provisions of PMLA by way of filing Prosecution Complaint u/s 44 of PMLA, 2002.

**Outcome-** The court dismissed the criminal Revision without expressing any view on the merits of case while giving liberty to the Petitioner to seek relief from the competent authority in accordance with the law.

### **31. Bhagwan Bhagat v. Union of India through the Directorate of Enforcement, Cr. Revision No. 495 of 2025**

**Brief facts-** The case arises from an ECIR registered by the Directorate of Enforcement (ED) under the Prevention of Money Laundering Act, 2002 (PMLA) based on an FIR lodged at Barharwa Police Station, Jharkhand, alleging criminal conspiracy, violence, and obstruction related to the Barharwa Toll tender. The investigation revealed a large illegal mining syndicate operating in Sahibganj district allegedly under the control of Pankaj Mishra and his associates, involving illegal extraction and transportation of minerals and laundering of the proceeds generated from such activities. During investigation, multiple FIRs relating to illegal mining, explosives use and transportation of illegally mined minerals were clubbed as predicate offences under the PMLA. Searches conducted by ED led to seizure of large amounts of cash from the premises of the main accused and associates. During search of the petitioner Bhagwan Bhagat's residence, ₹28.5 lakh cash was recovered, which the ED alleged to be proceeds of crime. The petitioner was alleged to be a close associate of the main accused and was accused of assisting in illegal mining, handling unaccounted cash, depositing huge amounts in bank accounts and facilitating laundering of proceeds of crime through financial transactions. A supplementary prosecution complaint was filed by ED arraigning the petitioner as an accused for offences under Sections 3 and 4 of the PMLA, 2002. The Ld. Special PMLA Court rejected the petitioner's discharge application and subsequently framed charges against him, which led to filing of revision petitions before the High Court of Jharkhand.

**Issue-** Whether the orders rejecting discharge and framing charge under Section 3 punishable under Section 4 of the Prevention of Money Laundering Act, 2002

suffer from any legal or jurisdictional error. And, whether on the basis of the evidence which has been collected in course of investigation, prima facie case against the petitioner is made out or not.

**Judgment/order-** The Hon`ble High Court of Jharkhand in Bhagwan Bhagat v. Union of India through the Directorate of Enforcement decided on 10.12.2025 held that at the stage of discharge or framing of charges under PMLA, the Court is required only to examine whether prima facie material or strong suspicion exists against the accused. Detailed appreciation of evidence or evaluation of defence is impermissible at this stage. The Court emphasized that if materials placed by the prosecution disclose the ingredients of money laundering, the trial must proceed. In this case, the court rejected the petitioner's contention that no scheduled offence existed and held that multiple FIRs relating to illegal mining, extortion, violence and explosives constituted scheduled offences. The Court held that where multiple FIRs disclose scheduled offences connected with illegal mining and related criminal conduct, PMLA proceedings remain maintainable even if the initial FIR was based on a different offence. The court held in paragraph 106. Herein it requires to refer herein that the prosecution in the present case is not confined only to Barharwa P.S. Case No. 85/2020. The ECIR dated 08.03.2022 was registered on the basis of multiple FIRs disclosing commission of scheduled offences under the PMLA, including Sections 120-B, 307, 379, 411, 414 IPC, Sections 3, 4, 5 of the Explosive Substances Act, Section 27 of the Arms Act, and Section 8 of the Environment Protection Act.

In brief, the court held that –

At the stage of discharge and framing of charges under PMLA, the Trial Court is required only to examine whether prima facie material or strong suspicion exists against the accused. It was observed that “From perusal of the impugned orders, it is evident that the Ld. Special Judge has duly considered the rival submissions, examined the documents and statements placed on record, and thereafter passed a reasoned order. The discharge application filed by the Petitioner was rejected only after satisfaction that sufficient grounds exist to proceed against him and consequently, order for framing of charge has also been passed”.

Where multiple FIRs disclose scheduled offences connected with illegal mining and related criminal conduct, PMLA proceedings remain maintainable even if the initial FIR was based on a different offence.

**Outcome-** The court dismissed the criminal revision petitions while upholding the framing of charge order passed by the Ld. Special Court under PMLA proceedings.

**32.P.R. Sandhya v. Directorate of Enforcement, CrI.M.C. No. 4107 of 2022**

**Brief facts-** In CrI.M.C. No. 4107 of 2022, the petitioner, P.R. Sandhya (Accused No.3), approached the Hon'ble High Court of Kerala under Section 482 CrPC seeking quashing of the Prosecution Complaint filed by the Directorate of Enforcement (ED) in S.C. No.1 of 2022 pending before the Ld. Special Court/CBI, Thiruvananthapuram. It was contented by the Petitioner that earlier proceedings in RC 18(A)/2008/CBI/KER (LEA Case) had been quashed by the Hon'ble High Court. The alleged amount involved was ₹15 lakh, below the ₹30 lakh threshold then required for certain scheduled offences and she was not an accused in the predicate offence when there was no *mens rea* or knowledge on the part of Petitioner/accused. Therefore, in the absence of a valid scheduled offence, prosecution under PMLA was not maintainable.

**Issue-** Whether prosecution under the PMLA can be quashed when the accused allegedly continues to possess or deal with proceeds of crime, despite challenges to or quashing of a related predicate offence, and when questions of knowledge and involvement require trial determination.

**Judgment/order-** The Hon'ble High Court of Kerala pronounced a judgment and strengthens the authority of Enforcement Directorate by clarifying that even indirect beneficiaries of tainted assets can face PMLA prosecution, the offence continues as long as the accused holds or benefits from the proceeds of crime and questions of *mens rea* or exact involvement must be tested at a trial stage hence it is subject of trial determination. In this case, the ED recorded ECIR No. 17/2009 based on predicate offences investigated in R.C. No. 5(A)/2009/CBI/TVM under the Prevention of Corruption Act, 1988 (PC Act) and Sections 120B, 420 IPC. The petitioner's husband, P.K. Sanal Kumar (Accused No.1), a public servant, allegedly accepted ₹15 lakh as bribe. The amount was deposited in the joint HDFC Bank account of A1 and the petitioner. The petitioner allegedly used this money to purchase two properties in 2006 and 2007, one of which she later sold. The accused sought quashing of the ED complaint, arguing:

The predicate offence (under R.C. 18(A)/2008/CBI/KER) had already been quashed by the Hon'ble High Court earlier (in CrI.M.C. 2017/2022).

Therefore, no "scheduled offence" existed to support the PMLA prosecution.

The alleged bribe of ₹15 lakh was below the ₹30 lakh threshold required for Part B offences under the PMLA (pre-2013 amendment).

The petitioner lacked *mens rea* or knowledge of the tainted nature of the money.

The Court dismissed the petition, upholding the validity of prosecution under the PMLA despite the earlier quashing of related corruption charges. The court made it clear that a person who continues to possess or deal with proceeds of crime derived from a scheduled offence even if the predicate act occurred before its inclusion in the PMLA Schedule commits a continuing offence under Section 3 PMLA. Quashing of a connected corruption case or the accused not being named in the predicate offence does not by itself nullify PMLA proceedings by relied upon the Apex Court judgment in 2022 SCC OnLine SCC 929 Vijay Madanlal Choudhary and Others v. Union of India and Others, 2023 SCC OnLine SC 1586 Pavana Dibbur v. Directorate of Enforcement.

In brief, the court held that –

Quashing of a connected corruption case (Schedule Offence Case) or the accused not being named in the predicate offence does not by itself nullify PMLA proceedings. In regard to absence and presence of *mens rea* and knowledge, it was further observed by the Hon'ble Court that "7. Therefore, the question whether the petitioner possesses the proceeds of crime, with or without knowledge, is a matter of evidence and cannot be determined in a petition seeking quashing of the case. It is also pointed out that, even otherwise, since the CBI has registered a case alleging that the property was admittedly purchased in the name of the petitioner using money out of ₹15 lakh allegedly demanded and accepted by her husband, Sri Sanal Kumar, as bribe and she has been possessing the same as of now also, the same would show that she knew that she has been in possession of property acquired with the said money, which constitutes proceeds of crime. This is sufficient to hold prima facie that she had the knowledge or *mens rea* necessary to constitute an offence under Section 3 of the PML Act, 2002".

**Outcome-** The court dismissed the Criminal Miscellaneous Case while observing the abovementioned remarks about the empowered jurisdiction of the Directorate.

### **33. Directorate of Enforcement v. Union of India & Anr., WP No. 30424 of 2024**

**Brief facts-** The Directorate of Enforcement (ED) filed a Writ Petition under Article 226 of the Constitution of India read with Section 33 of the Aadhaar Act, 2016, seeking directions to the Unique Identification Authority of India (UIDAI) to disclose Aadhaar identity and authentication details of 21 persons. The request arose from an ongoing PMLA investigation (ECIR No. BGZO/40/2023 dated 30.11.2023) concerning large-scale fraudulent diversion of compensation funds paid by the Karnataka Industrial Area Development Board (KIADB) for land acquisition in Dharwad district. ED alleged that after lawful compensation was paid once in 2012, a second compensation of ₹3.17 crore was fraudulently sanctioned in 2022 by a public servant of KIADB in collusion with private individuals, using fake Aadhaar identities to open bank accounts in the names of impersonated landowners.

**Issue-** Whether the Enforcement Directorate, in exercise of its investigative powers under the Prevention of Money Laundering Act, 2002, can seek a writ of mandamus under Article 226 of Constitution of India read with Section 33 of the Aadhaar Act, 2016, directing the Unique Identification Authority of India (UIDAI) to disclose Aadhaar identity and authentication records of persons allegedly impersonated, for the purpose of tracing proceeds of crime and whether such disclosure is permissible in law consistent with privacy safeguards provided to an individual.

**Judgment/order-** The Hon`ble High Court of Karnataka took decision in Directorate of Enforcement v. Union of India & Anr., WP No. 30424 of 2024, on 6 February 2025 wherein deals with issue of whether the Enforcement Directorate is entitled to a writ of mandamus directing UIDAI to disclose and permit examination of Aadhaar data of certain individuals under Section 33 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, for the purposes of a PMLA investigation. The court held that Section 33 of the Aadhaar Act, 2016 deals with disclosure of identities. It said “The above Section clearly envisages a disclosure pursuant to an order of a Court not inferior than this Court and the Apex Court in the case of K.S. Puttaswamy v. Union of India, 2019 1 SCC 1, has observed that the data may be collected/disclosed to the Executive in pursuance of legitimate purposes, including prevention and investigation of crimes.” The court while balancing

between privacy and investigation also held that ED shall not use the data “for any purpose alien to the investigation or prosecution of offenders and scope of disclosure limited to identity and authentication data but core biometric information remains protected.

**Outcome-** The court allowed petition in favour of the Directorate and issued writ of mandamus while balancing both the aspects i.e. privacy of an individual and empowered power of investigation to the ED.

### **34.Lata Yadav v. Shivakriti Agro Pvt. Ltd. & Ors., CM(M) 53/2025**

**Brief facts-** The petitioner, Lata Yadav, is a partner in Respondent No.4 LLP, which submitted a resolution plan in the CIRP of Respondent No.3, a rice milling company having units at Amritsar and Bahalgarh. To implement the plan, Respondent No.1 extended financial assistance of ₹146 crores to Respondent No.4 LLP under a Facility Agreement dated 30.09.2019. Alleging breach of the agreement, Respondent No.1 invoked arbitration and a Sole Arbitrator was appointed by the Delhi High Court. During the arbitration, the Enforcement Directorate arrested certain individuals and provisionally attached the said units under the PMLA. The petitioner sought termination of arbitration on the ground that the agreement was tainted by proceeds of crime and hence non-arbitrable.

**Issue-** Whether arbitral proceedings can be terminated under Section 16 read with Section 32(2)(c) of the Arbitration and Conciliation Act, 1996 on the ground that the underlying contract is allegedly void ab initio due to fraud and provisional attachment of assets by the Enforcement Directorate under the PMLA and whether such PMLA proceedings render the disputes non-arbitrable or oust the jurisdiction of the arbitral tribunal.

**Judgment/order-** Hon`ble High Court of Delhi pronounced judgment in Lata Yadav v. Shivakriti Agro Pvt. Ltd. & Ors., CM(M) 53/2025 on 19 May 2025 whereby it deals with issue whether the arbitral proceedings could continue despite Provisional Attachment Order passed under PMLA. The court held that the Provisional Attachment Order under Section 5(1) PMLA is subject to confirmation and not conclusive thus it does not bar arbitral jurisdiction. The court explicitly held that PMLA proceedings and arbitration operate in different legal spheres therefore one cannot oust the other. On point the arbitral proceedings are hit by the provision of Section 41 of the PMLA, 2002 which ousts the jurisdiction of Civil Court. The court held that Section 41 ousts jurisdiction of civil courts in matters exclusively under PMLA’s Appellate Tribunal.

Arbitration over a private commercial contract is not inconsistent with PMLA hence Section 41 of PMLA does not apply. The court concluded that the arbitral proceedings operate in a distinct domain from those under PMLA. While some attached assets overlap, such overlap does not oust the tribunal's jurisdiction. If any findings conflict with PMLA proceedings, the latter will prevail, as the Arbitrator is limited to civil issues not barred by Section 41 PMLA, 2002.

In brief, the court held that –

Arbitration proceedings and PMLA proceedings can run simultaneously if any conflict arises PMLA proceedings will prevail, as the Arbitrator is limited to civil issues not barred by Section 41 PMLA, 2002.

**Outcome-** The court dismissed the petition filed by the Petitioner while upholding PMLA significance over arbitral proceedings.

### **35. Amarinder Singh v. Income Tax Department & Anr., CRM-M-37200-2021**

**Brief facts-** The petitions arose from three connected cases before the Punjab & Haryana High Court, led by Amarinder Singh v. Income Tax Department, along with two petitions by Raninder Singh. The Income Tax Department (ITD) filed a criminal complaint (30.11.2016) alleging that the petitioners were beneficiaries of undisclosed foreign assets and bank accounts, based on information received from French tax authorities under the DTAA, including HSBC Geneva account details and foreign entities. Cognizance was taken by the Magistrate for offences under Section 277 of the Income Tax Act, 1961 read with Sections 176, 177, 181, 186, 187, 193 & 199 IPC and the petitioners were summoned. During pendency of the complaint, the Enforcement Directorate (ED) moved an application before the Magistrate seeking inspection of documents filed by the ITD, stating that they are investigating the matter under FEMA, 1999. The Judicial Magistrate (18.09.2020) allowed ED's request to inspect the court file. The revision petitions filed by the petitioners which got dismissed by the Additional Sessions Judge on 02.09.2021. The Petitioners approached the Hon'ble High Court under Section 482 CrPC, contending that ED was a "stranger" to the proceedings and that disclosure of information has violated Article 28 of the India–France DTAA (confidentiality clause).

**Issue-** Whether the Directorate of Enforcement (ED), though not a party to a criminal complaint filed by the Income Tax Department, can be permitted to

inspect judicial records of a pending case containing information received under a Double Taxation Avoidance Agreement (DTAA) with France despite objections based on confidentiality under Article 28 of the DTAA and whether this may infringe the right to privacy of the accused.

**Judgment/order-** The Hon`ble High Court of Punjab & Haryana in its judgment dated 03.09.2025 in case titled Amarinder Singh v. Income Tax Department & Anr, CRM-M-37200-2021 allowed the Enforcement Directorate (ED) to access information shared by France with India's Income Tax Department in the case concerning alleged foreign assets of former Punjab Chief Minister Captain Amarinder Singh and his son Raninder Singh for the purpose of investigation under FEMA provision. In this case, the Income Tax Dept. filed a complaints alleging concealment of foreign assets and bank accounts in HSBC (Geneva) and offshore entities (e.g., Jacaranda Trust). Documents/evidence were received from French authorities under the Double Taxation Avoidance Convention (DTAC) between India & France (Art. 28). Enforcement Directorate sought inspection of these documents from the trial court for conducting its own investigation (under FEMA/PMLA context). On 18.09.2020 Magistrate allowed ED's inspection. Being aggrieved by the said allowed order, the Petitioner/accused thereafter filed a Revision before Additional Sessions Judge and the same was dismissed vide order dated 02.09.2021, then Petitioners invoked Section 482 CrPC before the Hon`ble High Court. Petitioners argued that Article 28 of DTAC mandates secrecy of information exchanged, restricting use to tax purposes only therefore allowing ED inspection indirectly circumvents the treaty's confidentiality obligations. The Hon`ble High Court held that Punjab & Haryana High Court Rules (Vol. 4, Ch. 16, Part C, Rule 2) allow inspection of pending judicial records even by third parties for sufficient cause. Here in this case, ED's investigative mandate under FEMA/PMLA constituted valid grounds. The Court further stated that Article 28 of the said DTAC requires secrecy but permits disclosure "in public court proceedings or judicial decisions." The Court relied on the decision given by the Hon`ble Supreme Court in Ram Jethmalani v. Union of India (2011) 8 SCC 1 wherein Supreme court held secrecy clauses in DTACs do not impose an absolute bar, information can be disclosed in judicial proceedings thus DTAC cannot override constitutional or investigative imperatives. Therefore, ED's access was not contrary to DTAC obligations. The High Court also emphasized the right to privacy and, therefore, permitted the Enforcement Directorate (ED) to use the documents solely for investigation purposes, holding that the ED cannot publicly disclose or disseminate such information unless authorised by law.

In brief, the court held that –

Enforcement Directorate (ED) can get access of the information shared by foreign country to different agency.

**Outcome-** The court dismissed the petition filed by the Petitioner while upholding the locus standi of the Directorate to access the information placed on judicial record in the Court.

**36.Asst. Commissioner of Income Tax v. State & Ors., CRL.M.C. 2198/2018**

**Brief facts-** A search and seizure operation under Section 132 of the Income Tax Act, 1961 was conducted on 18.01.2011 at the premises of M/s Stockguru India and its partners, during which cash amounting to ₹34.69 crores and other incriminating materials were seized by the Income Tax Department. During criminal proceedings, the seized cash lying in various bank accounts was, by court directions, converted into Fixed Deposit Receipts (FDRs), subject to existing attachments and liens of statutory authorities. The Income Tax Department completed assessments for AYs 2010–11 and 2011–12, raising a tax demand of approximately ₹345.97 crores against the firm and its partners, and filed an application under Section 226(4) of the IT Act seeking release of the FDRs for recovery of tax dues. In the meantime, the Directorate of Enforcement (ED) initiated proceedings under the Prevention of Money Laundering Act, 2002, provisionally attaching properties including the seized funds, alleging that the amounts constituted “proceeds of crime” generated through fraudulent investment schemes. The Ld. Special Judge (PC Act/PMLA) dismissed the Income Tax Department’s application for release of FDRs, holding that PMLA, being a later special statute with overriding effect, would prevail and that the seized amounts could not be treated as taxable income until its determination of whether they were proceeds of crime. Being aggrieved by the said order, the Assistant Commissioner of Income Tax approached the Hon’ble High Court under Section 482 Cr.P.C., challenging the rejection of its recovery application and asserting priority of tax dues over PMLA proceedings.

**Issue-** Whether the Income Tax Department can appropriate or recover seized funds (kept as FDRs) towards outstanding tax liability under the Income Tax Act, 1961, when such funds are alleged to be proceeds of crime and are subject to attachment, confiscation, and trial under the Prevention of Money Laundering

Act, 2002 and whether the PMLA overrides the Income Tax Act in case of such conflict.

**Judgment/order-** The Hon`ble High Court of Delhi in Asst. Commissioner of Income Tax v. State & Ors CRL.M.C. 2198/2018 vide order dated 18th September 2025 held that the provisions of the Prevention of Money Laundering Act, 2002 (PMLA) prevail over the Income Tax Act, 1961 (IT Act). The Court emphasizes that PMLA being a later and special statute and dealing with confiscation of proceeds of crime, must have primacy (in the context of criminal proceedings) over the IT Act, 1961 whenever there is conflict. Accordingly, the Hon`ble High Court agrees with the Ld. Special Judge viewpoint that one cannot allow the Income Tax Department to intermeddle in the seized amounts till the criminal/PMLA process concludes. The Court holds that in the present case the amounts are prima facie fraudulently obtained via a scheme and thus are not (at least at this stage) lawful “income” of the respondents. Therefore to treat those as taxable income (for the purpose of Income Tax recovery) before the PMLA / criminal trial concludes would amount to “premature appropriation.” The Court distinguishes precedents (e.g. Commissioner of Income Tax Patiala v. Piara Singh, Commissioner of Income Tax Jaipur v. Prakash Chand Lunia, and Civil Appeal Nos.7689-90 of 2022) and holds that when amounts are proceeds of crime or under investigation, one cannot treat them as ordinary taxable income. On the above reasoning, the Hon`ble High Court dismisses ACIT’s plea to direct release of FDRs for applying or exhausting them to be paid as tax dues. The Court states that allowing such appropriation before the conclusion of trial would prejudice the PMLA / criminal proceedings pending under PMLA, 2002. It is categorically observed in the judgement that “Even if, arguendo, the „dominant purpose” test noted in Dyani Antony Paul, (supra) were to be applied in determining which special enactment should prevail when both contain non-obstante clauses, PMLA would still take precedence in the present circumstances. The dominant purpose of PMLA is to forfeit proceeds of crime and restore such property to legitimate claimants, which directly addresses the core issue in this case - whether the seized funds constitute proceeds of crime obtained through fraudulent schemes or legitimate income subject to taxation. The IT Act purpose of revenue collection becomes secondary when the very foundation of taxable income is disputed and under criminal investigation”.

In brief, the court held that –

Provisions of the Prevention of Money Laundering Act, 2002 (PMLA) prevail over the Income Tax Act, 1961 (IT Act) and treating those PoC amounts as taxable income for recovery of tax dues would be premature release as well as would prejudice the ongoing PMLA proceedings.

**Outcome-** The court dismissed the petition while upholding the prevailing nature of subsequent/special statute i.e. PMLA.

### **37.Sanjay Aggarwal v. Union of India & Ors., W.P.(C) 2819/2016**

**Brief facts-** The batch of writ petitions was filed by Sanjay Aggarwal and other connected petitioners challenging proceedings initiated by the Directorate of Enforcement (ED) under the Prevention of Money Laundering Act, 2002 (PMLA), arising out a common ECIR. On 10.02.2015, the ED issued a Provisional Attachment Order under 5(1) PMLA, attaching movable and immovable properties of the petitioners as proceed of crime, followed by filing of the Original Complaint under section 5(5) PMLA and issuance of SCN under section 8 PMLA, 2002. Being aggrieved, the petitioners approached the Hon`ble High Court seeking quashing of the PAO, OC and SCN, contending lack of jurisdiction, absence of a charge sheet under section 173 CrPC, lack of reason to believe and bar of investigation due to reference to SFIO under the companies Act, 2013.

**Issues-** 1. Whether transfer of investigation to the SFIO under Section 212(2) of the Companies Act, 2013 creates a statutory bar on parallel investigation/proceedings by the ED under the PMLA arising from the same factual matrix.

2. Whether a Provisional Attachment Order (PAO) under Section 5(1) PMLA can be issued without filing of a charge-sheet/report under Section 173 CrPC in respect of the scheduled offence.

**Judgment/order-** The Hon`ble High Court of Delhi in Sanjay Aggarwal v. Union of India & Ors. W.P.(C) 2819/2016 & CM APPL. 11885/2016, vide Judgement dated 27.11.2025 has made it clear that probe by Serious Fraud Investigation Office into the affairs of a company does not bar parallel proceedings under Prevention of Money Laundering Act, 2002. The court observed that the phrase language, “in respect of any offence under this Act”, used in Section 212(2) the Companies Act of 2013, reveals that the said provision applies only to offences

covered under that Act. Moreover, a purposive and harmonious construction of the statutory regime confirms that the Act of 2013 is merely applicable to the offences relating to companies and does not extend to offences under other laws, including the PMLA. While Section 212 is a self-contained code governing SFIO investigations into company affairs, its scheme does not preclude other agencies, in their own domain, from probing offences under separate laws. Secondly, Whether PAO is invalid for want of a chargesheet under Section 173 CrPC? The Hon'ble High Court relied on earlier judgment (LPA 588/2022 – Directorate of enforcement v. M/s Hi-tech Mechantile India Pvt. Ltd. & Ors. & Ors.17.10.2025) and held that this Bench in the aforesaid judgment, at Paragraph Nos.58 and 59, has comprehensively examined the scope and exercise of power of attachment conferred on the authority under Section 5 of the PMLA, 2002. In substance, it was observed that while the first proviso to Section 5(1) of the PMLA constitutes a statutory prerequisite for initiating an attachment, it is not to be construed that the compliance of the said proviso is a sole pre-requisite for issuance of a PAO, which if not complied with would render the attachment proceedings invalid or ineffective. In this judgment, the Court further clarified that under Section 5 of the PMLA, the Designated/ Authorised Officer is not required to provide a separate pre-attachment hearing or notice of belief before passing a Provisional Attachment Order(Para 22 of the Judgment) under PMLA, 2002.

In brief, the court held that –

Serious Fraud Investigation Office into the affairs of a company does not bar parallel proceedings under Prevention of Money Laundering Act, 2002. In support of it, the court emphasized that “Importantly, if the practical application of the entire dispute is taken into account, it would become crystal clear that the Act of 2013 only deals with violations of corporate governance, norms, fraudulent conduct by the officers of the company and irregularities in the administration of the said company. However, the PMLA, penalises the process or activity connected with the proceeds of crime derived from scheduled offences, and under which, such tainted property would be classified as proceeds of crime. The offences defined under both the aforementioned statutes are distinct and involve separate elements of proof while serving distinct legislative purposes”.

First proviso to Section 5(1) of the PMLA constitutes a statutory prerequisite for initiating an attachment, it is not to be construed that the compliance of the said proviso is a sole pre-requisite for issuance of a PAO under Section 5 of PMLA, 2002.

**Outcome-** The court dismissed the Petitions, along with the pending applications, with a direction that the Petitioner may seek redressal before the Appellate Tribunal under the provided provision of PMLA.

**38.Dharam Singh Chokar v. Directorate of Enforcement and others.,  
CRWP-5261-2025**

**Brief facts-** The petitioner, Dharam Singh Chhoker, is a promoter/controller of M/s Sai Aaina Farms Pvt. Ltd. (now Mahira Infratech Pvt. Ltd.), part of the Mahira Group, engaged in real estate development, particularly an affordable housing project at Sector-68, Gurugram. The company was granted licence No. 106/2017 to construct about 1500 residential flats. It collected approximately ₹363 crores from home buyers but allegedly failed to complete the project within the stipulated timelines, leading to multiple complaints by buyers. An FIR (No. 11 dated 14.01.2021) was registered on directions under Section 156(3) CrPC. Although interim protection was granted by the Hon'ble High Court in connected proceedings, the Directorate of Enforcement (ED) recorded an ECIR No. GNZO/20/2021 dated 16.11.2021, treating the scheduled offences as predicate offences under the Prevention of Money Laundering Act, 2002 (PMLA). Thereafter, the petitioner was apprehended from a hotel in New Delhi on 04.05.2025 and formally arrested under Section 19 PMLA at the ED Zonal Office, Gurugram, in the early hours of 05.05.2025. The petitioner challenged the arrest, remand orders and alleged procedural violations, including non-compliance with Section 19 PMLA with an allegation of manhandling.

**Issue-** Whether the arrest of the petitioner by the Directorate of Enforcement under Section 19 of the PMLA was lawful, particularly in view of the requirement of “reasons to believe” being recorded on the basis of admissible material and compliance with the mandatory procedural safeguards.

**Judgment/order-** The Hon'ble Punjab and Haryana High Court in Dharam Singh Chokar v. Directorate of Enforcement and others., CRWP-5261-2025, on 11.09.2025 has dismissed the petition filed by Dharam Singh Chokker, who had challenged his arrest by the Enforcement Directorate (ED) under the provisions of the Prevention of Money Laundering Act (PMLA), 2002. The court rejected the argument of the petitioner that Directorate of Enforcement (ED) was not showing the NBWs to the petitioner while arresting him, Court admitted the fact that that he was shown a soft copy of the warrants on mobile phone by the

arresting officer. The noted that “The requirements under Section 75 Cr.P.C. is that 'the police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.' Concededly, the petitioner was shown a soft copy of the warrants, which means substance thereof was notified to him by the officer," The court cited Arvind Kejriwal v. Directorate of Enforcement (2025 2 SCC 248) and Vijay Madanlal Choudhary (2022 SCC OnLine SC 929) and reiterated that Judicial review under Section 19 PMLA, 2002 is not a merit review or mini-trial, it only ensures existence of “reasons to believe” based on material, not their sufficiency or admissibility. The court held that the adequacy of evidence is not for court to assess at this stage, here the court has to only examine whether decision of arrest is rational, fair and as per law.

In brief, the court held that –

Judicial review under Section 19 PMLA is not a merit review or mini-trial.

**Outcome-** The court dismissed the petition filed by the Petitioner while upholding the legality of arrest of the Petitioner by the Directorate.

### **39.R. D. Chaitra v. Directorate of Enforcement, WP No. 26754/ 2025**

**Brief facts-** R.D. Chaitra filed a Writ Petition challenging the arrest of her husband, K.C. Veerendra, by the Directorate of Enforcement under Section 19 of the Prevention of Money Laundering Act, 2002, pursuant to ECIR No. BGZO/19/2025. The ED alleged that the accused operated illegal betting platforms and casinos in India as well as in abroad and generated large amount of proceeds of crime. The petitioner challenged the arrest as illegal, arbitrary, and violative of Articles 19 and 21 of the Constitution, seeking release of the accused.

**Issue-** Whether the arrest of the accused under Section 19 of the Prevention of Money Laundering Act, 2002, pursuant to ECIR/BGZO/19/2025, was without jurisdiction, illegal, arbitrary, and violative of Articles 19 and 21 of the Constitution of India.

**Judgment/order-** The Hon`ble High Court of Karnataka at Bengaluru Bench vide its judgment/ order dated 15.10.2025 in R. D. Chaitra v. Directorate of Enforcement held that the contention of the Petitioner that the grounds of arrest and the reasons to believe for invoking Section 19 of the PMLA, 2002 do not specify valid grounds is erroneous. The court dismissed the petition filed by wife of accused no. 1. for declaring his arrest in an alleged illegal betting case under

PMLA as illegal, arbitrary and violative of his fundamental rights and to release him. The Court while acknowledging the petitioner's argument regarding the closure or acquittal in six out of seven predicate FIRs and noted that FIR No. 218/2022 was still pending and even though a 'B' report had been filed, it had not yet been accepted by the trial court thereby affirmed the validity of the arrest of K.C. Veerendra by the Directorate of Enforcement under Section 19 of the PMLA. The Court's decision underscores the broad scope of "proceeds of crime" and the importance of "reason to believe" based on a comprehensive investigation into a larger criminal conspiracy, even if individual predicate FIRs may have seen closures or acquittals. The Court found that the Directorate of Enforcement had presented sufficient material to establish a prima facie case of money laundering against K.C. Veerendra, justifying his custodial interrogation to unravel the full extent of the alleged sophisticated criminal enterprise. However in the end, court granted him liberty to apply for quashing of the proceedings against him, if the 'B' report in FIR No. 218/2022 is eventually accepted by the trial court.

In brief, the court upheld that –

Directorate of Enforcement had presented sufficient material to establish a prima facie case of money laundering, thereby upheld the legality of arrest of the Petitioner's husband.

**Outcome-** The court disposed of the application with the given liberty to approach the Court to quash the ECIR/PMLA proceedings provided that the B Report shall be accepted by the competent Court.

**40.Rahul Surana v. Assistant Director, Directorate of Enforcement, CrI.RC No. 1541 of 2025**

**Brief facts-** The Enforcement Directorate (ED) alleged that Surana Industries Limited and related entities orchestrated a large-scale conspiracy to defraud public sector banks of about ₹1,301 crores through fraud, misappropriation, and manipulation of accounts. ED filed a Main Prosecution Complaint under Sections 3 & 4 of the PMLA, 2002 on 09.09.2022 against 8 accused, for which cognizance was taken on 25.11.2022 (Spl. C.C. No. 9 of 2022). A First Supplementary Complaint was filed on 11.06.2024 against 19 additional accused, taken on file on 06.08.2024 and Second Supplementary Complaint dated 06.11.2024 arraigned Rahul Surana as Accused No. 42, consequently, process was issued on 17.02.2025 by the Ld. Special Court.

**Issue-** Whether pre-cognizance hearing under proviso to Section 223(1), BNSS is mandatory for a Supplementary Prosecution Complaint under PMLA, 2002.

**Judgment/order-** The Hon`ble High Court of Madras in Rahul Surana v. Assistant Director, Directorate of Enforcement, CrI.RC No. 1541 of 2025 decided on 19.11.2025 held that supplementary complaint filed under PMLA doesn't require fresh cognizance and reiterated that it is a well settled principle of criminal law that cognizance is taken of an offence and not of the offender and further held that under Explanation (ii) to Section 44 PMLA, 2002, a supplementary complaint is deemed part of the main complaint, not a new complaint requiring a fresh cognizance process. On issue of BNSS 223(1) proviso (pre-cognizance hearing), court held that since the Court had already taken cognizance of the offence in 2022, the BNSS 223(1) proviso (pre-cognizance hearing) does not apply to supplementary complaints.

In brief, the court held that –

Supplementary complaint under PMLA doesn't require fresh cognizance.

The BNSS 223(1) proviso (pre-cognizance hearing) does not apply to supplementary Complaints. It was stated that the benefit of pre-cognizance hearing as prescribed under proviso to sub-section (1) of Section 223 of BNSS was not given to the petitioner, cannot be applied to the present case, as it does not involve taking cognizance of the Main Prosecution Complaint for the first time. The issue before us is a challenge to the impugned order dealing with supplementary complaint. And as already discussed above the Magistrate can take cognizance of an offence only for the first time. Pre-cognizance hearing cannot be equated with a mini- trial. It is only for the Court to satisfy itself on jurisdiction and related procedural aspects. Any further delving into the factual defences or evidences at this stage should not be entertained.

**Outcome-** The court dismissed the Criminal Revision Case while upholding the settled principle of law that cognizance is taken of offence, not the offender.

**41.Rakesh Kumar Gulati v. Directorate of Enforcement, CRL.REV.P. 249/2025**

**Brief facts-** On 31.12.2020, FIR No. RCHG2020A0021 was registered by the CBI, ACB, Chandigarh against M/s Sunstar Overseas Limited and its then

directors on a complaint by the Chief Manager, Punjab National Bank, Sonapat. The allegations pertained to offences under Section 120B read with Sections 406/409/420 IPC and Section 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act, 1988. Since the FIR disclosed scheduled offences under the PMLA, the Directorate of Enforcement (ED) initiated investigation by recording an ECIR/GNZO/09/2021 dated 09.04.2021 for offences under Sections 3 and 4 of the PMLA. The petitioner was arrested by the ED on 01.07.2024. Subsequently, the ED filed a Prosecution Complaint on 29.08.2024 against 25 accused persons/entities for the offence of money laundering under Section 4 PMLA, wherein the petitioner was arrayed as Accused No. 11. The learned Trial Court took cognizance of the prosecution complaint, observing that despite further investigation being pending, there was sufficient material placed against him. Aggrieved by the order of taking cognizance by the Ld. Special Court, the criminal revision petition has been filed by the petitioner/accused.

**Issue-** Whether the order dated 25.09.2024 taking cognizance under Section 3 read with Section 70 of the PMLA, 2002 (punishable under Section 4) is vitiated for non-grant of a pre- cognizance hearing to the petitioner as allegedly mandated by the proviso to Section 223(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

**Judgment/order-** The Hon`ble High Court of Delhi in Rakesh Kumar Gulati v. Directorate of Enforcement, CRL.REV.P. 249/2025, CRL.M.A. 19848/2025 & CRL.M.A. 19850/2025, vide Judgment/order dated 24.12.2025 held that once accused has been heard in depth on prima facie culpability, insisting on pre-cognizance hearing becomes an empty formality. In paragraph 27, the court held that a cognizance order under PMLA cannot be set aside merely on the allegation of absence of pre-cognizance hearing under Section 223 BNSS, 2023, particularly when the accused was present, represented by counsel, subsequently heard on merits (including bail) and fails to demonstrate any actual prejudice.

“27. ... At the cost of repetition, this Court deems it apposite to make a mention of the fact that the impugned order records the presence of petitioner (judicial custody from CJ-07 Tihar Jail through video conferencing mode) and his counsel on the date when the impugned order was passed. It is not the case of the petitioner that on the said date as well, he was denied an opportunity to raise his contentions. Thereafter as well, the petitioner has been duly represented by his counsel before the learned Trial Court yet no ground of denial of his right to be heard was pressed at any stage. The present petition too has been filed with a

delay of 198 days without any sufficient cause. The petitioner was also heard on merits at the time when he preferred the bail application before the learned Trial Court on the aspect of prima facie satisfaction of guilt....”

In this case, the court also noted that the petitioner did not challenge merits of cognizance, sufficiency of material or jurisdiction. The challenge was solely procedural that is non-grant of pre-cognizance hearing as mandated by provision of Section 223 of BNSS, 2023.

In brief, the court held that –

A cognizance order under PMLA cannot be set aside merely on the allegation of absence of pre-cognizance hearing under Section 223 BNSS, particularly when the accused was present, represented by counsel, subsequently heard on merits in a detailed manner (including bail) and fails to demonstrate any actual prejudice to him as failed to assert or corroborate the same.

**Outcome-** The court dismissed the petition and observed that the Court does not find any reason to entertain the petition.

**42. Deputy Director Directorate of Enforcement V. Rajendrakumar Jain, State Bank of India Stressed Assets Management Branch, Punjab National Bank, IDBI Bank Limited, Bank of Baroda, Union Bank of India, Uco Bank, Indian Overseas Bank, The Federal Bank Ltd., Punjab And Sind Bank, Jammu And Kashmir Bank Ltd., JM Financial Asset Reconstruction Co. Pvt. Ltd., MSA No. 12 of 2020**

**Brief facts-** The appeal has been filed by the Directorate of Enforcement under Section 42 of the Prevention of Money Laundering Act, 2002, challenging the judgment dated 06.08.2019 passed by the Appellate Tribunal, New Delhi.

The case originates from an FIR registered by the CBI on 29.07.2015 against Vijay Mallya, Kingfisher Airlines Ltd. (KAL), and certain officials of IDBI Bank, alleging conspiracy and undue favour in sanctioning and disbursing loans amounting to approximately Rs. 750 crores to KAL despite its weak financial position and failure to meet the bank’s lending norms. It was alleged that bank officials and company representatives colluded to secure the loans without proper due diligence, resulting in wrongful loss to the bank.

During the investigation, the Enforcement Directorate provisionally attached certain properties under Provisional Attachment Order No. 11/2016 dated 11.06.2016 under the provisions of the Prevention of Money Laundering Act, 2002. The Ld. Adjudicating Authority subsequently confirmed the attachment order on 01.12.2016. Aggrieved by the confirmation order, respondent Rajendra Kumar Jain filed an appeal before the Appellate Tribunal under Section 26 of the PMLA, 2002.

The Ld. Appellate Tribunal allowed the appeal and set aside the order of the Ld. Adjudicating Authority, thereby quashing the Provisional Attachment Order. However, the Ld. Tribunal clarified that its findings were limited to the attachment of the flat allegedly purchased by the respondent and would not affect other pending proceedings, including extradition proceedings. The Ld. Tribunal also directed that no third-party interest be created in the property until final adjudication.

While challenging the Ld. Tribunal's order dated 06.08.2019, the Enforcement Directorate has filed the present appeal.

**Issue-** Whether an unregistered Agreement to Sell confers ownership or sufficient proprietary interest in immovable property to defeat Provisional Attachment Order issued under the Prevention of Money Laundering Act (PMLA) as "proceeds of crime" or property equivalent in value.

**Judgment/Order-** The Hon`ble High Court of Karnataka in Deputy Director Directorate of Enforcement V. Rajendra kumar Jain decided on 07.05.2025 held that Unregistered Agreement to Sell does not confer ownership and cannot defeat provisional attachment Order issued under PMLA where title remained with the corporate owner, the court examined the chronology of payments, the timing of the winding-up petition and the execution date of the unregistered Agreement to sell. The Agreement to sell being unregistered did not pass title, hence the seller (corporate owner) retained proprietary rights at the time of its issuance of Provisional Attachment Order under PMLA, 2002.

In brief, the court held that –

The respondent could not be said to be owner of the flat on the basis of the unregistered Agreement to Sell, title remained with the corporate owner and the transaction's bona fides were suspect. It was observed that the transfer of immovable property by way of sale can only be by way of a deed of conveyance

(duly stamped and registered) as required by law. Without registration of the sale deed, no right, title, interest in the immovable property can be transferred. A contract of sale (Agreement to Sell) which is not a registered deed of conveyance would fall short of the requirements of Sections 54 and 55 of the Transfer of Property Act, 1882.

**Outcome-** Registering the sale deed later, and the actions of the official liquidator, did not fix the problem that the owner didn't have proper ownership at the time the property was attached. It also didn't show enough good faith to cancel the temporary attachment. So, the attachment stayed valid, and the appellant won the appeal.

### **43. Nagani Akram Mohammad Shafi v. Union of India, Bail Application No.728/ 2025**

**Brief facts-** The applicant, Nagani Akram Mohammad Shafi, was arrested by the Directorate of Enforcement (ED) in connection with ECIR/MBZO-II/20/2024, arising out of Special Case (PMLA) No. 191 of 2025. The applicant sought regular bail under Section 45 PMLA and Section 483 BNSS, contending that offences under the BNS are not expressly included in the PMLA Schedule, and therefore PMLA proceedings were not maintainable. The Special Court (PMLA) rejected bail on 6 February 2025, leading to the present bail application filed before the Hon'ble High Court of Bombay.

**Issue-** Whether, after the repeal of the Indian Penal Code, 1860 and its replacement by the Bharatiya Nyaya Sanhita, 2023 (BNS), offences registered under the BNS can be treated as "scheduled offences" under the Prevention of Money Laundering Act, 2002 (PMLA), even though the PMLA Schedule expressly refers to IPC provisions and has not been formally amended to substitute them with BNS provisions.

**Judgment-** The Hon'ble High Court of Bombay in Nagani Akram Mohammad Shafi v. Union of India, BAIL APPLICATION NO.728 OF 2025 on July 8, 2025 ruled that offences under the Bharatiya Nyaya Sanhita (BNS), 2023 can be treated as "scheduled offences" under the Prevention of Money Laundering Act, 2002 (PMLA), even though the new code is not expressly mentioned in the PMLA's schedule after it replaced the Indian Penal Code (IPC). Court stated as "Offences under the Bharatiya Nyaya Sanhita, 2023 which correspond to offences listed in the PMLA schedule, as erstwhile IPC provisions, are to be regarded as scheduled offences for the purposes of PMLA, 2002. The absence of a textual amendment

of the schedule does not disable the prosecution so long as the new law covers the same field of criminality,” – the Court made it clear in Para 70 ”

In brief, the court held that –

Bharatiya Nyaya Sanhita (BNS), 2023 can be treated as “scheduled offences” under the Prevention of Money Laundering Act, 2002 (PMLA), even though the new code is not expressly mentioned in the PMLA’s schedule.

**Outcome-** The court rejected the present application.

**44. Renu Singh and anr V. Sh. Vivek Prasad, Joint Director, Directorate of Enforcement, A.C. (S.B.) No. 5 of 2014**

**Brief facts-** The Income Tax Department conducted searches on 15.10.2009 and 21.10.2009 at the residences of Manoj Kumar and related premises. Large sums were found in the form of Fixed Deposit Receipts and bank balances, aggregating to several crores, held in the names of Manoj Kumar, his family members (including Renu Singh), and associates. The Enforcement Directorate recorded an ECIR No. 02/Pat/2011/AD (22.06.2011) and issued a Provisional Attachment Order No. 01/2012 dated 18.05.2012 under Section 5(1) PMLA, attaching the same bank deposits and accounts despite their earlier seizure by the Income Tax Department. The Ld. Adjudicating Authority vide order dated 11.10.2012, confirmed the provisional attachment order. The appellants (including Renu Singh) filed appeals before the PMLA Appellate Tribunal, but with a delay of 168 days, accompanied by applications for condonation of delay citing Manoj Kumar’s serious cardiac ailments. The Ld. Appellate Tribunal rejected the delay condonation applications and consequently dismissed the appeals, also touching upon merits. Aggrieved by same, the appellants approached the Hon’ble High Court of Jharkhand under Section 42 PMLA, challenging (i) rejection of delay condonation and (ii) confirmation of attachment.

**Issues- 1.** Whether the Appellate Tribunal under the PMLA was justified in rejecting the appeal solely on the ground of limitation by refusing to condone the delay under Section 26(3) of the PMLA, 2002?

2. Whether the medical grounds pleaded by the appellants constituted “sufficient cause” within the meaning of Section 26(3) PMLA read with settled principles governing condonation of delay?

**Judgment/order-** The Hon`ble High Court of Jharkhand on 20 August, 2025 in the matter of Renu Singh and V. Sh. Vivek Prasad, Joint Director, Directorate of Enforcement upheld the view that limitation under special statutes like the PMLA is strict. The Hon`ble High Court observed that other appellants (Renu Singh, Sujit Kumar, Subodh Kumar) could have filed appeals independently but failed to do so thereby held that the explanation given by the appellants lacked bona fide and due diligence thus, delay was not sufficiently explained. The court laid down ratio on limitation period by stated that Medical grounds unsupported by cogent, contemporaneous evidence do not constitute “sufficient cause” for condonation of delay under Section 26(3) PMLA. The court in paragraph 46. - 46. The basic reason which this Court has found after going through the delay condonation application that although the petitioner is said to suffer from cardiac disease and but no medical prescription has been appended rather only the certificate issued by the concerned hospital is there. Though Pathological reports have been furnished. We have perused the pathological report and in one of the reports, the parameter appears to be normal. At last, court held that strict approach to limitation applies to PMLA appellate proceedings and once delay is not condoned, merits cannot be examined.

In brief, the court held that –

Limitation period under special statutes like the PMLA is strictly adhered hence that should be supported undisputedly.

**Outcome-** The court dismissed the all the appeals due to lack of furnishing substantive reports.

**45.Chaitanya Baghel v. Directorate of Enforcement, CRMP No. 2506/2025**

**Brief facts-** The petitioner, Chaitanya Baghel, was arrested on 18.07.2025 by the Directorate of Enforcement (ED) in connection with ECIR/RPZO/04/2024, arising out of the alleged Chhattisgarh Liquor Scam, under the provisions of the Prevention of Money Laundering Act, 2002 (PMLA). It was alleged by the petitioner that despite the long-standing investigation, the petitioner was never issued summons under Section 50 PMLA, nor was he called upon to join investigation at any stage prior to his arrest. The petitioner was arrested after a delay of more than four months, without disclosure of any fresh incriminating material emerging post-search. The arrest was primarily based on statements allegedly recorded in June–July 2025 from a co- accused absconder. Following

his arrest, the petitioner was produced before the Ld. Special Court (PMLA), Raipur, and was remanded to judicial custody by orders dated 18.07.2025 and 23.07.2025 respectively. Aggrieved by the said order, the petitioner approached the Hon'ble High Court of Chhattisgarh under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of the arrest, "reasons to believe", grounds of arrest, remand orders, and all consequential proceedings emanating therefrom, alleging arbitrariness, absence of necessity to arrest, non-compliance with statutory safeguards and violation of Article 21 of the Constitution.

**Issues-** 1. Whether the arrest of the petitioner by the Directorate of Enforcement under Section 19 of the PMLA, after a prolonged delay and without demonstrating any real "need and necessity to arrest", despite all material already being in possession of the ED and without issuance of summons, is arbitrary, illegal and violative of Articles 21 and 22 of the Constitution, warranting judicial interference.

2. Whether continued investigation and arrest after filing of a prosecution complaint, without prior permission of the Ld. Special Court, is permissible under the PMLA framework.

**Judgment/order-** The Hon'ble High Court of Chhattisgarh AT BILASPUR in CRMP No. 2506 of 2025, Chaitanya Baghel v. Directorate of Enforcement on 24.09.2025 has refused to quash the arrest and consequential criminal proceedings initiated against Chaitanya Baghel (petitioner) for his alleged involvement in the Chhattisgarh Liquor Scam. While the petitioner pointed out a slew of procedural lapses and irregularities in his arrest, such as non-issuance of summons, baseless claims of non-cooperation, template grounds of arrest, and unwarranted coercive action, Justice Arvind Kumar Verma, refusing to interfere with the arrest and the proceedings, held-

"... allegations of illegality in further investigation are not substantiated by any cogent material. The scheme of the PMLA permits the Investigating Agency to collect further evidence after filing of a complaint subject to the prior permission of the Special Court. As regards the non-cooperation and mechanical arrest, this Court finds that the issue involves disputed factual questions that cannot be conclusively determined in exercise of writ jurisdiction. The Grounds of Arrest, though brief, refer to the necessity of preventing destruction of evidence, influencing of witnesses and tracing of proceeds of crime. Whether such reasons

are adequate or not, is a matter of assessment by the trial court.” On the issue of non-issuance of notice under Section 50 of the PMLA, the court, held-

“...79. Section 19 and Section 50 of the PMLA are distinct provisions and operate in distinct and well defined domains. The power under Section 50 of the PMLA (is not a pre-condition for arrest under Section 19 of the PMLA. These are two separate and distinct conditions under the PMLA itself. Non-issuance of notice under Section 50 of the PMLA cannot be restrained to the Investigating Officer for arrest of accused under Section 19 of the PMLA. Therefore, non-issuance of notice under Section 50 of the PMLA to the petitioner is a procedural lapse which does not amount to illegality.”

However, with respect to the issue of further investigation without judicial sanction and the substantial delay in arrest, the Court explained that power of ED to conduct further investigation under PMLA is not immune to judicial oversight and statutory safeguards. The Court referred to Pankaj Bansal v. Union of India (2023), where it was held that further investigation cannot be conducted in a manner that infringes statutory rights of accused including the requirement of prior permission where mandated.

The Court stated,

“... it is pertinent to mention here that the present matter is a complaint case. No doubt Section 44(1)(d) permitting filing of supplementary complaints when fresh materials are available to the ED in relation with money laundering but the procedure prescribed for filing of complaint under Section 44 of the PMLA read with Chapter XV of the Cr.P.C. with Section 200 to 204 of the Cr.P.C. and is distinct from that of a police report under Section 173 of the Cr.P.C.”

In brief, the court held that –

- Principle of Procedural Lapses do not Constitute Illegality.
- The ED has authority to conduct further investigation even after filing of the Prosecution Complaint under the PMLA, 2002.

**Outcome-** The court dismissed the petition.

**46. Directorate of Prosecution (ED) v. M/s Vikas WSP Ltd. & Ors.,  
W.P.(CRL) 86/2022**

**Brief facts-** The matter arises from a Letters Patent Appeal (LPA 362/2020) filed by the Directorate of Enforcement (ED) and a connected Writ Petition (W.P.(CRL) 86/2022) before the Delhi High Court. The ED had passed a Provisional Attachment Order (PAO) dated 13.11.2019 under Section 5(1) of the PMLA, attaching properties of M/s Vikas WSP Ltd. & Ors. A complaint under Section 5(5) PMLA was filed before the Adjudicating Authority; however, no confirmation order under Section 8(3) was passed within 180 days of the PAO. The learned Single Judge (order dated 18.11.2020) set aside the ED's summons/notice, holding that the PAO had lapsed on expiry of 180 days as mandated by Section 5(3) PMLA. Aggrieved, the ED preferred LPA 362/2020, contending that the Supreme Court's suo motu COVID-19 orders extending limitation applied to PMLA proceedings, thereby saving the attachment.

**Issue-** Whether the Hon'ble Supreme Court's directions during COVID limitation in case In re: Cognizance for Extension of Limitation extensions apply to the 180 days statutory life of a provisional attachment under Section 5 PMLA, 2002.

**Judgment/order-** The Hon'ble Delhi High Court in Directorate of Prosecution (ED) v. M/s Vikas WSP Ltd. & Ors. (LPA 362/2020 & W.P.(CRL) 86/2022, decided on 24.09.2025 held that COVID time extension orders applied to issued PAOs under PMLA thus attachments remained valid beyond 180 days during the exclusion period. The Court made it clear that since PMLA adjudication before the Ld. Adjudicating Authority is quasi-judicial proceedings therefore Section 5(3) PMLA timelines also stood excluded during 15.03.2020–28.02.2022. Thus, provisional attachments did not lapse automatically during the COVID exclusion period. In this case, LPA 362/2020: Directorate of Prosecution, ED challenged a 2020 Single Judge ruling that quashed an Ld. Adjudicating Authority's notice, holding that a Provisional Attachment Order (PAO) under Section 5(1) PMLA lapses after 180 days if not confirmed under Section 8(3) and in W.P.(CRL) 86/2022: Gem International & others challenged a fresh PAO (No. 06/2021) dated 01.12.2021. The Division Bench of High Court allowed ED's appeal (LPA 362/2020) and set aside the Single Judge's 2020 ruling and the writ petition (W.P.(CRL) 86/2022) challenging PAO No. 06/2021 was dismissed. The Delhi High Court overrules contrary High Court decisions (Hiren Panchal v. Union of India 2022 SCC Online Cal 4618 decided by the Calcutta High Court and Shri

Prahlada. v. Deputy Director of Enforcement Directorate & Ors W.P. No. 12413/2024 decided by the Karnataka High Court that denied applicability of COVID extensions to the PMLA.

In brief, the court held that –

COVID time extension orders applied to the issued PAOs under PMLA thus attachments remained valid beyond 180 days during the exclusion period and observed that it was intended to extend limitation periods prescribed under all general and special laws in relation to judicial and quasi-judicial proceedings, whether such limitation was condonable or not. Consequently, in the absence of any express exclusion, these directions would squarely apply to proceedings under the PMLA, including the limitation period prescribed for adjudication under Section 8 by the learned Adjudicating Authority, which indisputably exercises quasi-judicial functions.

**Outcome-**The court disposed of the Writ Petition in the aforesaid terms.

**47. Directorate of Enforcement v. M/s Devas Multimedia Pvt Ltd, MSA No. 24 of 2020**

**Brief facts-** The proceedings arose out of a Provisional Attachment Order dated 27.02.2017, passed by the ED in ECIR No. 12/BGZO/2015, attaching assets of Devas Multimedia Pvt. Ltd. in the form of bank accounts and mutual fund investments amounting to approximately ₹21.38 crores. The Ld. Adjudicating Authority vide order dated 11.10.2017, confirmed the provisional attachment under Section 8(3) PMLA. Aggrieved by the same, Devas Multimedia Pvt. Ltd. preferred an appeal before the PMLA Appellate Tribunal, which set aside the confirmation order on the ground that the Ld. Adjudicating Authority had failed to assign cogent reasons and had not applied its independent mind and remanded the matter for fresh adjudication. ED challenged the order passed by the Ld. Tribunal before the Hon'ble High Court contending that the Appellate Tribunal has no statutory power of remand back under the PMLA and could only confirm, modify, or set aside the order passed by Ld. AA.

**Issue -** Whether the Appellate Tribunal under the Prevention of Money Laundering Act, 2002 has the statutory power to remand a matter back to the Ld. Adjudicating Authority, when Section 26(4) PMLA expressly empowers it only to confirm, modify, or set aside the order under appeal.

**Judgment/order-** The Hon'ble High Court of Karnataka at Bengaluru in Miscellaneous Second Appeal No. 24 of 2020, dated 25th September, 2025 in Joint Director, Directorate of Enforcement v. M/s Devas Multimedia Pvt Ltd, presents a critical examination of the powers vested in statutory tribunals, specifically the Appellate Tribunal under the Prevention of Money Laundering Act, 2002. The central question revolved around whether the Appellate Tribunal possesses the power to remand a matter back to the Adjudicating Authority in the absence of an explicit statutory provision. This case arose from the Appellant, the Joint Director, Directorate of Enforcement, challenged the Impugned Order dated 11.09.2019 passed by the Hon'ble Appellate Tribunal (The Prevention of Money Laundering Act), New Delhi, which had remanded the matter concerning Provisional Order of Attachment Case No.5/2017 in ECIR No.12/BGZ0/2015, dated 27.02.2017, and the subsequent Order of the Adjudicating Authority in O.C.No.703/2017 dated 11.10.2017, back to the Adjudicating Authority. The Hon'ble High Court, after considering the arguments of both parties and reviewing relevant statutory provisions and judicial precedents, held that statutory tribunals, being creations of statute, possess only those powers explicitly conferred upon them and do not inherently possess the power of remand unless specifically provided for in the governing legislation. Consequently, the Hon'ble High Court has set aside the impugned order of the Ld. Tribunal and remanded the matter back to the Ld. Tribunal for a decision on merits. The Hon'ble High Court's reasoning is in consonance with a long line of judicial pronouncements by the Hon'ble Supreme Court and various High Courts, which have consistently held that statutory tribunals do not possess inherent powers akin to civil courts.

In brief, the court held that –

Appellate Tribunal does not possess the power to remand a matter back to the Ld. Adjudicating Authority and observed that there can be no manner of doubt that Tribunal is creation of the Statute and it exercises limited power as conferred on it, by the Statute. There is no inherent power in a Tribunal, inasmuch as the Tribunal is not a regular Court. If the Statute does not confer a power of remand, and there is no inherent power vested in the Tribunal, it cannot remand the matter back to the Adjudicating Authority unless it is specifically provided in the Statute itself.

**Outcome-** The court allowed the appeal.

**48.State of Kerala & Ors. v. Enforcement Directorate & Anr., W.A. No. 1532/2021**

**Brief facts-** The State of Kerala issued a notification dated 07.05.2021 constituting a Commission of Inquiry to probe allegations that ED officers coerced accused persons in the gold smuggling case to implicate political leaders. The allegations arose from an audio clip and a letter linked to accused persons, while investigations under PMLA, 2002 and UAPA, 1967 were already pending. The Enforcement Directorate (ED) challenged the notification before the Kerala High Court, contending that the State lacked jurisdiction as the subject fell under Union List matters.

**Issue-** Whether the Directorate of Enforcement, acting through its Deputy Director as a statutory authority, has the locus standi to maintain a Writ Petition under Article 226 of the Constitution challenging a State Government notification constituting a Commission of Inquiry under the Commissions of Inquiry Act, 1952, and whether the State Government is competent to constitute such a Commission when the subject-matter of inquiry pertains to investigations under central legislations such as the Prevention of Money Laundering Act, 2002 and the Unlawful Activities (Prevention) Act, 1967, falling within the Union List.

**Judgment/order-** The Hon`ble Kerala High Court in State of Kerala & Ors. v. Enforcement Directorate & Anr. W.A. No. 1532 of 2021, Judgment dated 26 September 2025 held that Enforcement Directorate ED, represented by its Deputy Director, is a statutory authority with independent powers under PMLA and FEMA. Therefore, it can maintain a writ petition under Article 226 of Constitution of India. The case arises out of a constitutional and administrative conflict between the State of Kerala and the Enforcement Directorate (ED). The State issued a notification (Ext.P1) on 7 May 2021, under Section 3 of the Commissions of Inquiry Act, 1952, constituting a Commission of Inquiry to investigate allegations that ED officials coerced accused persons (Swapna Suresh and Sandeep Nair) in the infamous gold smuggling case to implicate State political leaders. The ED challenged this notification before a Single Judge of the Kerala High Court (W.P.(C) No. 13112/2021), contending that:

The subject matter of the inquiry related to investigations under PMLA, 2002 and UAPA, 1967, both Central legislations traceable to List I (Union List) of the Constitution.

The State Government lacked competence to constitute a Commission on such matters.

The notification interfered with ongoing criminal proceedings and investigations under Central laws.

The Single Judge held that the ED had locus standi to maintain the writ petition and stayed the operation of the notification. The State of Kerala appealed under Section 5 of the Kerala High Court Act, 1958. The Hon`ble High Court observed that the Commission sought to probe allegations integrally connected to ongoing PMLA and UAPA investigations. Allowing such an inquiry could run parallel to or interfere with judicial proceedings, which is contrary to settled law as mentioned in *Ram Krishna Dalmia v. Justice Tendolkar* [AIR 1958 SC 538], and *State of Karnataka v. Union of India* [(1977) 4 SCC 608] by the Hon`ble Supreme Court “a Commission cannot determine civil or criminal liability nor supplant regular judicial or investigative processes. Courts have consistently held that while the Act has a broad investigative scope, its exercise cannot trench upon matters exclusively within the Union List, nor can it run parallel to or obstruct pending criminal proceedings under the Code of Criminal Procedure or special Statutes. The Statute is, in essence, a tool for governance to ascertain facts in the larger public interest, not an instrument to adjudicate rights or interfere with ongoing prosecutions.” The Bench reaffirmed the constitutional scheme under Section 2(a) of the Commissions of Inquiry Act, 1952:

If the subject matter falls within the Union List, only the Central Government is competent.

If within the State or Concurrent List, the State Government may act.

The bench reiterated that appeals against interim orders are generally not maintainable, the Court noted that the Single Judge’s stay was provisional and aimed at preventing complications. However, the issue was left open for final adjudication by the Single Judge, as the appeal concerned only the interim order. In this context, the Division Bench dismissed the appeal by affirming that the writ petition was maintainable, the interim stay on the State’s notification was justified and observations made would not influence the final adjudication of the writ petition.

In brief, the court held that –

Enforcement Directorate ED, represented by its Deputy Director, is a statutory authority with independent powers under PMLA and FEMA. Therefore, it can maintain a writ petition under Article 226 of COI wherein it was rightly emphasized that the objection as to the locus standi raised by the appellants is without any substance inasmuch as the Directorate of Enforcement is a statutory body constituted under Section 36 of the FEMA 1999, and its officers are designated as statutory authorities under Sections 48 and 49 of the PMLA 2002. The learned Single Judge was right in coming to the conclusion that the writ petition filed through the Deputy Director is, thus, maintainable. The argument of non-juristic personality is a matter of form and not substance, and therefore, it cannot defeat the statutory right of recourse under Article 226 of the Constitution of India.

**Outcome-**The court dismissed the Writ Appeal, being bereft of merit and substance, and the interim order dated 11.08.2021 passed by the learned Single Judge in W.P.(C) No.13112/2021 is affirmed. However, court made clear that any of the discussions/observations made by this Court herein-above would not come in the way of the learned Single Judge in deciding the writ petition on its own merits.

**49. Directorate of Enforcement v. Amlendu Pandey (D) Through LR, Misc. Appeal (PMLA) 8/2022**

**Brief facts-** The Directorate of Enforcement (ED) initiated investigation under the Prevention of Money Laundering Act, 2002 (PMLA) arising out of large-scale money laundering activities linked to Hassan Ali Khan and his associates, following Income Tax raids conducted in January 2007 which revealed undisclosed foreign bank accounts in Switzerland and Singapore. During the continuing investigation, ED conducted a search on 09.02.2016 under Section 17 PMLA at the premises of Amlendu Pandey (since deceased), who was alleged to have assisted the main accused. During the search, cash of ₹26.30 lakhs, a laptop, mobile phones, and electronic devices were seized. As the seized material required further scrutiny, ED filed an application under Section 17(4) PMLA seeking retention of the seized assets, which was confirmed by the Adjudicating Authority on 28.06.2016 after issuance of show-cause notice. Amlendu Pandey challenged the confirmation order before the Appellate Tribunal under Section 26 PMLA, The Appellate Tribunal, by order dated 21.05.2019, allowed the appeal primarily on the ground that no prosecution complaint had been filed against Amlendu Pandey and directed de-freezing of the seized assets. Aggrieved

by the Tribunal's decision, ED filed an appeal under Section 42 PMLA before the Hon'ble High Court of Delhi, contending that search and retention under Section 17 PMLA do not require that the person searched must already be an accused in a Prosecution Complaint.

**Issue-** Whether the Appellate Tribunal, PMLA was justified in setting aside the confirmation of retention/seizure under Section 17(4) read with Section 8(3) PMLA merely on the ground that no prosecution complaint was pending against the searched person (Amlendu Pandey), despite a complaint already being filed against co-accused in the same ECIR.

**Judgment/order-** The Hon'ble High Court of Delhi in Deputy Director, Directorate of Enforcement v. Amlendu Pandey (D) Through LR, Misc. Appeal (PMLA) 8/2022, decided on 21.11.2025, clarified that Section 17 of the Prevention of Money Laundering Act (PMLA) does not restrict the Enforcement Directorate (ED) to conduct searches only at the premises of persons who have been named in the prosecution complaint. The court held that Section 17 requires only that a complaint or report under Section 157 CrPC be filed in respect of the scheduled offence, not necessarily against the person whose premises are searched. The court noted that for section 17, a person can be who possess proceeds of crime, have records related to money laundering, and who facilitate acts of money laundering without being an accused in the scheduled offence. Thus, search can be conducted on "any person", not only on persons named in the complaint. The court also held that death of person does not end PMLA property proceedings, court noted that "*42. Undoubtedly, since ED knew that the respondent had expired, such fact should have been clearly described in the supplementary complaint filed on 17.07.2018. However, fact remains that such subsequent filing of supplementary complaint has no relevance in the present context and would not, therefore, cause any adverse impact upon the search proceedings. At last, the Court remanded the matter back remanded with request to the Appellate Tribunal to consider the appeal afresh and to decide the same in accordance with law, after giving due opportunity of hearing to both the sides.*"

In brief, the court held that –

Section 17 of the Prevention of Money Laundering Act (PMLA) does not restrict the Enforcement Directorate (ED) to conduct searches only at the premises of persons who have been named in the prosecution complaint and the requisite observation made in Para 38 of the said order.

**Outcome-** The court disposed of the appeal in the aforesaid terms.

**50. Poonam Gahlhot v. Directorate of Enforcement, W.P. (CRL.) 3894/2018**

**Brief facts-** The Petitioner, Smt. Poonam Gahlhot, a Canadian citizen and housewife, was issued summons by the Directorate of Enforcement (ED) under Section 37 of the Foreign Exchange Management Act, 1999 (FEMA) read with Section 131 of the Income Tax Act, 1961, requiring her personal appearance at the ED office for recording of statement and production of documents. The Petitioner challenged the summons before the Delhi High Court, contending that, being a woman, she could not be compelled to appear at the ED office and that her statement ought to be recorded at her residence, relying on Section 160 Cr.P.C. and earlier judicial precedents.

**Issue-** Whether the Directorate of Enforcement can insist on the personal appearance of a woman at its office pursuant to summons issued under Section 37 of the FEMA, or whether such summons are required to comply with the procedural safeguard under Section 160 Cr.P.C., which mandates that a woman shall be examined only at the place of her residence.

**Judgment/order-** The Hon`ble High Court of Delhi in Smt. Poonam Gahlhot v. Directorate of Enforcement, W.P. (CRL.) 3894/2018 Judgment pronounced on 1st December, 2025 held that “powers regarding discovery and production of evidence” under Section 37 FEMA are analogous to those under Section 131 Income Tax Act (ITA), which is governed by Civil Code and therefore, S.160 Cr.P.C. would not be applicable which mandating the recording of the statement of a woman at her residence. Court concluded that the summons were issued to Gahlhot for the production of evidence and recording of statement to trace the source of funds utilized for acquiring foreign assets under Sec. 37 of FEMA read with Sec. 131 of IT Act, on which Civil Code is applicable.

In brief, the court held that –

FEMA Summons Governed By CPC, Not CrPC.

**Outcome-** The court dismissed the Writ petition in the aforesaid terms.

**51. Shyamal Chakravarty v. The Deputy Director, Directorate of Enforcement, A. C. (S. B) No. 09 of 2024**

**Brief facts-** The appeal filed by Shyamal Chakravarty under Section 42 of the Prevention of Money Laundering Act, 2002 challenged the order passed by the Ld. Appellate Tribunal confirming the attachment of a Kolkata flat jointly held by him and Nand Lal HUF. The proceedings arose from the NRHM scam in Jharkhand, wherein the Central Bureau of Investigation alleged large-scale corruption and siphoning of public funds by public servants led by Dr. Pradeep Kumar, with illegal gratification allegedly routed through the appellant. Acting on the predicate offence, the Directorate of Enforcement provisionally attached the property treating it as proceeds of crime, which was confirmed by the Ld. Adjudicating Authority and the Appellate Tribunal.

**Issue -** Whether the provisional attachment and its confirmation under the Prevention of Money Laundering Act, 2002, in respect of the Kolkata flat jointly held by the appellant, could be sustained when the appellant claimed to have explained the lawful source of funds for his 50% share and denied that the property constituted “proceeds of crime.

**Judgment/order-** The Hon`ble High Court of Jharkhand in Shyamal Chakravarty v. The Deputy Director, Directorate of Enforcement, A. C. (S. B) No. 09 of 2024, vide order dated December 18, 2025 observed that it appears from the perusal of the record along with impugned order that the attached properties of this case are proceeds of crime and deliberate attempt to launder the tainted money. The accused persons including the present appellant have given colourable statements regarding source of income and payment of consideration amount. They have also admitted to patch up the matter by false and fabricated plea of loan agreements. Even the formation of Nand Lal HUF by Dr. Pradeep Kumar and his brother Rajendra Kumar under dormant role and ignorance of Rajendra Kumar and direct nexus of Dr. Pradeep Kumar with the present appellant in appointing him as power of attorney holder to purchase properties and statements of accused persons under Section 164 Cr. P.C. including the present appellant sufficient to raise a valid inference showing the attached properties as proceeds of crime. This reinforces the PMLA position that accounting entries do not override the requirement of proving lawful origin. At last court held that the provisional attachment of the immovable property was rightly confirmed as proceeds of crime and concurrent findings of fact by

authorities empowered under PMLA, if based on evidence and reasoning, are not to be disturbed under Section 42 PMLA, 2002.

**Outcome-** The Hon'ble High Court upheld the Provisional Attachment Order and dismissed the appeal.

**52. Directorate of Enforcement through Assistant Director Delhi v. Rajesh Kumar Agarwal, Misc. Appeal (PMLA) 03/2023**

**Brief Facts:** The appeal was filed by the Directorate of Enforcement (ED) under Section 42 of the *Prevention of Money Laundering Act, 2002* (PMLA) challenging the order of the Appellate Tribunal, which had set aside the Adjudicating Authority's decision allowing retention of seized property belonging to Rajesh Kumar Agarwal, a Chartered Accountant. The case originated from an investigation by the Serious Fraud Investigation Office (SFIO) into alleged large-scale financial fraud by the Jain brothers involving routing of unaccounted money through shell companies. The respondent was alleged to have facilitated these transactions. The ED registered an ECIR in 2017 and conducted a search under Section 17, seizing documents, electronic devices, and cash. It subsequently filed an application under Section 17(4) for retention of seized property, which was allowed by the Adjudicating Authority. However, the Appellate Tribunal set aside this order due to lack of reasoning and procedural lapses. Aggrieved, the ED approached the High Court.

**Issue:** Whether the Enforcement Directorate can retain seized property under the PMLA without complying with the mandatory procedure and requirements laid down under Section 20 of the Act.

**Judgment/ Order:** The High Court held that the statutory scheme under Sections 17, 20, and 8 of the PMLA forms an integrated and sequential mechanism that must be strictly followed. It ruled that while Section 17 permits search and seizure, the power to retain seized property is specifically governed by Section 20, which requires a separate "reason to believe" and a formal retention order. Section 17(4) merely mandates filing of an application and does not itself confer authority to retain property. The Court clarified that Section 20 governs retention up to 180 days, while Section 8(3) only confirms retention beyond that period and cannot substitute the requirement under Section 20.

The Court rejected the ED's argument that compliance with Section 20 was not necessary and held that bypassing it would defeat statutory safeguards. It

emphasized that these provisions must be strictly construed, especially as they affect property rights under Article 300A of the Constitution. The Court further held that non-compliance with mandatory procedure cannot be cured by subsequent adjudication. On facts, it found that the Adjudicating Authority's order was mechanical, lacked reasoning, and failed to conduct the required inquiry under Section 8. It also declined to remand the matter, noting that procedural lapses and passage of time rendered such a course inappropriate.

**Outcome:** The High Court dismissed the ED's appeal and upheld the Appellate Tribunal's decision, holding that retention of property without compliance with Section 20 PMLA is illegal and void ab initio. It reaffirmed that coercive powers under the PMLA must be exercised strictly in accordance with statutory safeguards, ensuring fairness, due process, and protection of property rights.

**53. Ram Kotumal Issrani vs Directorate of Enforcement and Anr., Criminal WP (Stamp) No. 15417 OF 2023**

**Brief Facts:** The present writ petition under Article 226 challenged the legality of the petitioner's arrest by the Enforcement Directorate (ED) under Section 19 of the *Prevention of Money Laundering Act, 2002* (PMLA) and the subsequent remand order dated 08.08.2023 passed by the Special Court, Mumbai. The petitioner contended that although his formal arrest was shown at 5:30 a.m. on 08.08.2023, his liberty had effectively been curtailed much earlier when he appeared before the ED office in Delhi on 07.08.2023 pursuant to summons under Section 50 PMLA. He alleged that his phone was taken, movements restricted, and he was subjected to continuous interrogation through the night despite medical discomfort, thereby violating his rights under Articles 21 and 22(2) of the Constitution. On this basis, he argued that the 24-hour period for production before a Magistrate should be computed from 07.08.2023, rendering his production before the Special Court at 5:00 p.m. on 08.08.2023 illegal.

The ED opposed the plea, submitting that the petitioner's appearance was voluntary under Section 50, which is non-custodial in nature, and that legal custody arises only upon formal arrest under Section 19. It was argued that the petitioner was arrested at 5:30 a.m. on 08.08.2023 and produced within 24 hours, thus complying with constitutional requirements.

**Issue:** Whether the petitioner's arrest and remand under Section 19 of the PMLA were illegal on the ground that his custody should be treated as having begun on 07.08.2023 when he first appeared before the ED under Section 50 summons,

thereby making the subsequent arrest, production, and remand beyond 24 hours unconstitutional under Articles 21 and 22(2) of the Constitution.

**Judgment / Order:** The Court dismissed the petition and upheld the legality of the arrest and remand. It held that proceedings under Section 50 PMLA are investigative and non-custodial, and mere appearance pursuant to summons does not amount to detention or arrest. Therefore, the petitioner's claim that custody began when he entered the ED office was rejected. The Court clarified that the 24-hour requirement under Article 22(2) must be computed from the time of formal arrest under Section 19 PMLA. Since the petitioner was arrested at 5:30 a.m. and produced before the Special Court at 5:00 p.m. the same day, there was full compliance with constitutional safeguards.

On the issue of production before the "nearest Magistrate," the Court held that this requirement is context-specific and applies only where production before the jurisdictional court is not feasible. As the petitioner was produced before the competent Special Court within time, no illegality arose.

However, the Court strongly criticized the ED's practice of conducting prolonged interrogation during late-night hours. It emphasized that even in non-custodial proceedings, individuals are entitled to dignity and protection under Article 21, including the "right to sleep," as recognized in *Ramlila Maidan Incident v. Union of India*. The Court directed that statements under Section 50 PMLA should ordinarily be recorded during reasonable hours.

**Outcome:** The writ petition was dismissed, and the arrest and remand were held to be lawful. At the same time, the Court issued directions to ensure that investigative practices under the PMLA respect fundamental rights, particularly by avoiding overnight interrogations and safeguarding the dignity and well-being of individuals.

## **JUDGMENTS OF THE LD. APPELLATE TRIBUNAL**

### **54. Neeraj Jain, Swaran Lata Jain, Rakesh Jain, M/S. Swaran Overseas Pvt. Ltd. V. The Deputy Director Directorate Of Enforcement, New Delhi, FPA-PMLA-1557/DLI/2016**

**Brief facts-** The relevant facts as recorded in the impugned order briefly are that on the complaint of Deputy Director, Directorate of Revenue Intelligence (DRI), Lucknow Zonal Office, a case vide FIR No. 76 dated 18.01.2015 was registered at P.S. Kavi Nagar, District Ghaziabad. (U.P.) under sections 420, 467, 468, 471 & 469 of the erstwhile Indian Penal Code (IPC) against one Shri Manish Jain and others wherein it was alleged that during a search conducted by the DRI under the Customs Act, 1962, it was found that Shri Manish Jain, R- 12/40, Raj Nagar, Ghaziabad, was involved in making illegal foreign remittances to Hong Kong through banking channels by submitting fake import documents to bank authorities. As per the report, Sh. Manish Jain and others operated through various fictitious firms/companies and remitted more than Rs. 380 crores to Hong Kong from India during the period 2007-2011, showing the same as payment for import of computer parts and accessories. On further investigation by the DRI, it was revealed that Manish Jain and others had been remitting foreign exchange to Hong Kong through bogus firms/companies, namely, M/s Suntek Computers and M/s Shyam Trading Company (controlled by Sh. Manish Jain) adopting the same modus operandi and had remitted an amount of over Rs. 100 crores from 2012 till 2014. The DRI searched the residential and business premises of Sh. Manish Jain and associates on 07.08.2014 and seized incriminating material in the form of a large number of blank postal wrappers of Hong Kong Post, large number of bogus PAN cards (about 150) and Voter ID Cards (about 100) in the names of different fictitious identities. To accomplish this criminal activity of remitting foreign exchange from India, Sh. Manish Kumar Jain had opened a firm, namely, M/s Pacific Technology in Hong Kong, besides other entities.

Since offences under sections 420, 467, 471 of the IPC are the Scheduled Offences under the Prevention of Money Laundering Act, 2002 (PMLA, 2002), an ECIR bearing ECIR No. 21/DLZO/2015 dated 01.12.2015 was recorded. Investigation conducted by the Respondent Directorate under the PMLA, 2002 also revealed that they had also acquired movable and immovable properties from such proceeds, resulting in the identification and attachment of properties worth Rs. 2,19,36,954/- vide PAO dated 11.05.2016.

**Issue-** Following issues were delved by Hon'ble Appellate Tribunal:

**Issue 1:** Whether the attachment is valid when the property in question was acquired before the allegations against the appellant arose.

**Issue 2:** Whether the scheduled offences were not included under the PMLA at the relevant time when they were alleged to have been committed.

**Issue 3:** Whether the failure to furnish the “reasons to believe” to the appellant under Sections 5 and 8 of PMLA 2002 renders the Provisional Attachment Order liable to be quashed. Whether attachment of properties of non-accused individuals valid?

### **Judgment/Order-**

**With respect to issue No. 1:** The Appellate Tribunal rejected the appellants’ contention that the attached properties could not be treated as “proceeds of crime” merely because they were acquired prior to the alleged period of criminal activity. Relying extensively on its earlier decision in *Sadananda Nayak v. Deputy Director* and authoritative judicial precedents, the Tribunal emphasized that the definition of “proceeds of crime” under Section 2(1)(u) of the PMLA comprises multiple limbs, including not only property directly or indirectly derived from criminal activity but also the “value of any such property.” It held that where the actual tainted property is unavailable, siphoned off, or untraceable, authorities are empowered to attach properties of equivalent value, even if such properties were acquired before the commission of the offence. The Tribunal clarified that restricting attachment only to properties acquired post-offence would defeat the object of the Act and enable offenders to evade enforcement by dissipating illicit gains. Accordingly, since the subject properties were attached as equivalent value of proceeds of crime, the appellants’ argument was dismissed and the attachment upheld.

**With respect to issue No. 2:** The Appellate Tribunal rejected the appellant’s contention that the alleged offences were not “scheduled offences” under the PMLA at the time of their commission. It held that the relevant consideration is not the timing of the predicate (scheduled) offence, but the timing of the acts constituting money laundering itself. Relying on judicial precedents, including *State of Bihar v. Deokaran Nenshi*, the Tribunal emphasized that money laundering is a continuing offence, meaning it persists as long as the proceeds of crime are concealed, possessed, used, or projected as untainted property. Therefore, even if the predicate offence occurred before being included in the PMLA schedule, the offence of money laundering can still arise from subsequent

conduct. The Tribunal further clarified that the PMLA penalizes the act of money laundering and not the predicate offence itself, and thus does not operate retrospectively in a prohibited manner. On this basis, the appellant's argument was dismissed.

**With respect to Issue No. 3:** The Appellate Tribunal considered the appellant's argument that the "reasons to believe" under Sections 5(1) and 8(1) of the PMLA were not communicated, relying on the Delhi High Court's decision in *J. Sekar v. Union of India*. However, noting conflicting judicial views—particularly the Madras High Court's ruling in *G. Gopalakrishnan v. Deputy Director*, which held that prior communication of reasons is not mandated under Section 5 and that provisional attachment itself carries the character of a show cause notice—the Tribunal observed that the legal position is not conclusively settled. It further emphasized that Section 8(1) does not expressly require recording or communicating such reasons by the Adjudicating Authority. In light of this, along with the substantial evidence on record and the pending prosecution complaint seeking confiscation, the Tribunal rejected the appellant's contention and upheld the validity of the actions taken under Sections 5 and 8, finding no merit in the plea to quash the impugned order. The appellants argued against the attachment of properties belonging to individuals not accused in the PMLA case. The Tribunal referred to the Supreme Court's interpretation that the PMLA's reach extends to any person involved in the process or activity connected with the proceeds of crime, not just those named in the scheduled offence. The objective of the PMLA is to trace and secure proceeds of crime, regardless of whose name they are held in.

**Outcome:** Based upon extensive examination of contentions raised by both the parties, Hon'ble Appellate Tribunal dismissed the appeal and upheld the order of Ld. Adjudicating Authority confirming the Provisional Attachment Order. Appeal dismissed.

**55. Pratap B. Sarnaik V. The Deputy Director, Directorate of Enforcement, Mumbai, FPA-PMLA-4944/MUM/2022**

**Brief facts-** It is a case where an FIR was registered based on the complaint of Shri Pankaj Ramnaresh Saraf, Director of M/s Vostok Far East Securities Pvt. Ltd., Mumbai. It was alleged that the company had received payment against trader's contracts offered by M/s National Spot Exchange Limited ( in short "NSEL") for various commodities. The company was cheated by NSEL by giving false impression of being a proper spot exchange with correct risk management

systems in order to induce him to trade on the spot exchange. It was, further, alleged that even certified warehouses of NSEL lacked capacity and some of them had no stock. Thus, genuine investors were defrauded for investment by way of serious misappropriation. The NSEL allowed trading on commodities by sellers, without ensuring goods of appropriate quantity and quality stored in the exchange controller warehouses, which resulted in thousands of investors to trade in non-existent goods. The accused persons hatched a criminal conspiracy to defraud the investors, induced them to trade on the platform of NSEL created forged documents like bogus warehouse receipts, falsified the accounts and thereby committed criminal breach of trust of Rs.202 lakhs with the complainant and Rs.5600 crores from others 13000 investors.

In the investigation carried out by the Directorate of Enforcement, Mumbai in respect of defaulters, namely M/s Aastha Minmet India Pvt. Ltd. and M/s Juggernaut Projects Limited revealed that the funds were received in the settlement in the account of M/s Aastha Minmet India Pvt. Ltd. and M/s Juggernaut Projects Limited from NSEL purportedly on account of sale of TMT rods through T+2 contracts.

**Issue 1-** Whether provisional attachment of properties under Section 5 of the Prevention of Money Laundering Act, 2002 ("the Act of 2002") can be sustained against a person not named as an accused in the FIR, ECIR, or Prosecution Complaint.

**Issue 2:** Whether continuation of provisional attachment beyond 180 days without filing a Prosecution Complaint against the person in whose hands the property is attached is permissible under Sections 5 and 8 of the Act of 2002.

Judgment/Order-

**With respect to Issue 1:** The Appellate Tribunal held that under Sections 5(1) and 8 of the PMLA, provisional attachment of property is permissible based on material indicating that "any person," not necessarily the accused, is in possession of proceeds of crime that may be concealed or dealt with to frustrate confiscation. It clarified that the statute does not restrict attachment only to properties held by the accused, and relying on *Vijay Madanlal Choudhary v. Union of India*, reaffirmed that even third parties holding such proceeds can be subjected to attachment. The Tribunal also rejected the appellant's argument that the attachment should lapse due to non-filing of a prosecution complaint, explaining that continuation of attachment is linked to the pendency of proceedings under

the Act and not necessarily to a complaint against the specific holder of the property. Emphasizing the object of the Act, it observed that limiting attachment only to accused persons would enable easy diversion of illicit proceeds to third parties and defeat enforcement. Accordingly, the Tribunal upheld the validity of the provisional attachment.

**With respect to issue 2:** The Appellate Tribunal held that under Section 8(3)(a) of the PMLA, continuation of provisional attachment is valid so long as either the investigation is completed within 365 days or proceedings relating to the offence are pending before a court, and such proceedings are linked to the offence itself rather than to a specific individual whose property is attached. It rejected the appellant's argument that investigation must be completed against the appellant within 365 days, clarifying that investigation and prosecution are directed against the accused, while attachment can extend to property held by third parties if it qualifies as proceeds of crime. The Tribunal further explained that confiscation under Sections 8(5) and 8(8) arises only upon conclusion of trial and a finding of money laundering by the Special Court, and not at the provisional stage. It emphasized that provisional attachment does not continue indefinitely but remains subject to the final outcome of the trial. Accordingly, all objections raised by the appellant were dismissed.

**Outcome:** Based upon the above findings, the Hon'ble Appellate Court dismissed the Appeal upholding the legality of the Provisional Attachment Order.

**56. The Branch Manager, The South Indian Bank Ltd. V. The Deputy Director, Directorate of Enforcement, Chandigarh, FPA-PMLA-764/CHD/2014**

**Brief facts-** The Directorate of Enforcement (ED), Dehradun, registered an ECIR on 26.06.2013 under the PMLA, 2002 based on FIR No. 389/2012 concerning a fraud at South Indian Bank, Dehradun involving accused Sanjay Minocha, Vijay Kushwaha and others. Investigation revealed that bank officials, including the then Branch Manager and Additional Manager, conspired to siphon off public funds through fraudulent banking practices such as issuance of fake pay orders, unauthorized credits, forged FDRs, and fictitious loans. These illegal transactions resulted in wrongful gains to the accused and losses to the bank, with the total proceeds of crime (POC) estimated at approximately Rs. 30.68 crore, out of which Rs. 14.30 crore was traced to Sanjay Minocha and his associated entities.

Further investigation established that, after partial repayment of Rs. 2.70 crore to the bank, the remaining POC of Rs. 11.60 crore continued to be held and laundered by the accused through layering and integration into various accounts and assets, including repayment of loans and personal expenditures to project the funds as legitimate. Accordingly, ED provisionally attached properties linked to the POC vide PAO dated 23.06.2014, which was subsequently confirmed by the Adjudicating Authority on 07.11.2014.

**Issue-1.** Whether the properties attached under the Prevention of Money Laundering Act, 2002 (PMLA) should be released to the Appellant Bank, which claims to be a bona fide third party with a legitimate interest in the properties.

2. Whether the Appellant Bank, as a victim of fraud, has a superior claim over the attached properties due to the mortgage created in its favor prior to the attachment under PMLA.

3. Whether PMLA has overriding effect over other laws, such as the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 (RDDB Act) and the SARFAESI Act, in the context of proceeds of crime and attached properties?

**Judgment/Order-** The Tribunal examined the issue of the overriding effect of the PMLA in light of the judgment in Deputy Director of Enforcement v. Axis Bank & Others, and concurred with the settled legal position that the PMLA operates with a distinct and superior purpose, namely, the prevention of money laundering and the attachment and confiscation of proceeds of crime. It observed that this objective is fundamentally different from that of other financial recovery statutes, and therefore, the provisions of the PMLA must prevail in case of any inconsistency. The Tribunal further noted that, in view of the ongoing trial, all competing claims, including those of secured creditors, are required to be examined within the framework of the PMLA. It emphasized that the statute must be construed in a manner that preserves its efficacy and does not allow its attachment and confiscation mechanism to be diluted by claims arising under other laws. Accordingly, the Tribunal rejected the contention that other financial recovery laws would override the PMLA, upheld its overriding effect, and dismissed the appeal, while leaving it open to the appellant bank to pursue its remedies in accordance with the applicable legal provisions.

**Outcome:** Based upon the analysis and material on record put forth before the Hon'ble Tribunal, the Appeal was dismissed.

**57. Shri Arun Suri V. The Deputy Director Directorate of Enforcement, Delhi, FPA-PMLA-2158/DLI/2018**

**Brief facts-** The present appeal has been filed by Shri Arun Suri challenging the order dated 27.11.2017 passed by the Adjudicating Authority under the Prevention of Money Laundering Act, 2002 (PMLA), whereby the Provisional Attachment Order dated 28.07.2017 in respect of properties owned by the Appellant and entities controlled by him was confirmed. The Enforcement Directorate alleged that the Appellant had created multiple shell firms in the names of employees and financially vulnerable individuals and utilized their bank accounts to remit foreign exchange abroad under the guise of importing software. It was further alleged that he submitted fabricated invoices, forged certificates, and false documents to banks to facilitate outward remittances to entities in Hong Kong and Dubai, purportedly under his control, without any actual import of software, thereby generating proceeds of crime amounting to approximately ₹39 crore. The Appellant denied these allegations, contending that they were primarily based on statements of certain individuals and did not establish his involvement in money laundering, and further argued that the attached properties were either ancestral or acquired through legitimate means well prior to the alleged offence and thus could not be treated as proceeds of crime; he also submitted that certain properties were mortgaged to banks and were already subject to proceedings under the SARFAESI Act. In response, the Enforcement Directorate relied on statements recorded under Section 50 of the PMLA, along with bank records and other documentary evidence, to assert that the Appellant was the principal orchestrator of fraudulent foreign remittances through shell entities, thereby justifying the attachment of the properties in question.

**Issue-** Whether ongoing SARFAESI proceedings, mortgage, and NPA status of the attached properties barred or affected attachment under the Act?

**Judgment/Order-** The Hon'ble Tribunal vide its order dated 27.11.2025 herein held that , SARFAESI proceedings, mortgage status, or NPA character of the accounts do not constitute a ground to set aside or interfere with attachment under the Act.

**Outcome-** The Hon'ble Tribunal highlighting precedence of PMLA over other statutory provisions, upheld the attachment and dismissed the appeal.

**58.M/s. Satman Stategies Pvt. Ltd The Deputy Director Directorate of Enforcement, Delhi, FPA-PMLA-5251/DLI/2022**

**Brief facts-** It is a case where ACB, CBI registered an FIR on 11.11.2021 against M/s Ackruti Gold Builders, unknown public servants and others for commission of offence punishable under Section 5(1)(d) read with 5(2) of J&K Prevention of Corruption Act, 2006 and Section 120-B of J&K Penal Code/Ranbir Penal Code. Subsequently, the ECIR was recorded on 27.01.2022 followed by investigation

The allegation in the FIR was for a property purchased by J&K Bank at Bandra Kurla Complex at a very high price simply to confer undue benefit to the vendor for kickback. The property was not required as there was sufficient space/accommodation available with J&K Bank in Mumbai for banking operations. The allegation of quid pro quo was made on facilitating the sale through an advertisement issued by the J&K Bank on 06.11.2008 to invite offers from interested parties for outright sale of integrated office premises at Bandra Kurla requiring 20000 sq. ft space. The offers were received and opened by the Committee constituted for the purpose and out of the offers received, eight properties at different locations were identified. A letter was then received from M/s Ashapura Builders showing its willingness to offer 3rd floor of the building measuring 30000 sq. ft. built up area @ Rs. 22,500 per sq. ft. A Committee was constituted with the approval of the Chairman to take a view with regard to the offer but the Committee did not take any decision on the offer given by M/s Ashapura Builders, rather the Zonal Head, Mumbai published another advertisement on 14.01.2010 to invite the seller for an area between 25000 to 30000 sq. ft. and residential flats in Andheri. The offers were received in pursuance to it and were opened. The comparative statement was made where M/s Ashapura Builders again quoted lowest rate but no heed to it was paid by the bank officers.

The properties were, however, shortlisted which include the premises offered by M/s Ackruti Gold BKC with its offer to sell the building @ Rs. 26000/- per sq. ft which worked out the sale price of Rs. 109 Crores for the entire building. The bank entered into negotiations and ultimately the rate @ Rs. 26000/- per sq. ft was finalized.

**Issue-** whether non furnishing of the “reasons to believe” to the accused a ground for vitiating of the Provisional Attachment order?

**Judgment/Order-** The Hon'ble Tribunal vide its judgement dated 24.09.2029 considered the contention of the appellant that the Provisional Attachment Order dated 19.05.2022 is vitiated for want of proper "reasons to believe" as required under Section 5(1) of the Prevention of Money Laundering Act, 2002. It was argued that no independent reasons to believe were supplied and that the contents of the attachment order merely reproduced the statutory language. Upon examination of the record, the Tribunal finds that, at the stage of issuance of show cause notice under Section 8(1), detailed reasons to believe were in fact made available to the appellant by the Adjudicating Authority, even though such supply is not expressly mandated under the statute, and the appellant was also given the liberty to obtain the same. In these circumstances, the Tribunal holds that the requirement of communication of reasons stood substantially satisfied. It is further observed that the Tribunal cannot interpret the statutory provisions in a manner contrary to their plain language or issue directions that would amount to rewriting the law, as reiterated by the Supreme Court in *Union of India v. Deoki Nandan Aggarwal and Pradeep Nirankarnath Sharma v. State of Gujarat*. On merits, the Tribunal finds that the attachment is supported by material on record indicating the existence of proceeds of crime, including statements and financial evidence, coupled with the appellant's failure to satisfactorily explain the source of funds for acquisition of properties of substantial value. The Tribunal also reiterates that, where the actual proceeds of crime are not traceable or have been siphoned off, properties of equivalent value can validly be attached in terms of the definition of "proceeds of crime," as settled by judicial precedents including *Vijay Madanlal Choudhary v. Union of India*, and that contrary views, such as in *Seema Garg*, stand distinguished. Lastly, the Tribunal rejects the argument regarding absence of immediate threat of alienation, holding that under Section 5(1), attachment is justified upon reasonable apprehension of concealment or transfer, which is inherent in such cases. Accordingly, the Tribunal finds no infirmity in the provisional attachment and rejects the contentions raised by the appellant.

**Outcome-** Based upon the reasoning and analysis, the Appeal was dismissed and the Provisional Attachment Order was upheld.

**59.Partha Chakraborti V. The Deputy Director, Directorate of Enforcement, Kolkata, FPA-PMLA-816/KOL/2024**

**Brief facts-** The allegation in the complaint lodged by Shri Souvik Chowdhury to the Judicial Magistrate led to registration of the case dated 19.04.2014 for the

offence under Sections 420, 406 and 120B of the IPC following the Supreme Court order in WP (Civil) No. 401/2013. The CBI, EO-IV, Kolkata accordingly registered the FIR on 13.06.2017. The FIR was registered mainly against M/s Chakra Infrastructure Ltd. and its Directors, including Shri Partha Chakraborti. It is a fact that several cases were registered thereupon by the State Police involving similar allegations of inducing the public to invest in different schemes floated by the Company and subsequently misappropriating the funds of the investors.

After recording of the ECIR, the investigation was conducted by the respondent where the statements under Section 50(2) and Section 50(3) of the Prevention of Money Laundering Act, 2002 were recorded. The investigation revealed that Shri Partha Chakraborti, Director of the Company was main figure behind Chakra Group. He devised a plan with a criminal intent to lure the general public for investing in various schemes offered by his entities. The scheme included recurring deposits, fixed deposits, hotel bookings and plot bookings, among others. The Chakra Group led by M/s Chakra Infrastructure Ltd. collected funds of Rs.87,10,98,390/- from the public and outstanding amount without the interest component was found to be Rs.59,15,06,590/-.

**Issue-** Whether, at the stage of issuance of notice under Section 8(1) of the PMLA, 2002, it is mandatory to record and serve “reasons to believe,” independent of and in addition to those recorded at the stage of provisional attachment under Section 5(1).

**Judgment/Order-** The Tribunal had examined the distinction between Sections 5(1) and 8(1) of the Prevention of Money Laundering Act, 2002, and stated that while Section 5(1) expressly mandates the recording of “reasons to believe” in writing at the stage of issuance of a Provisional Attachment Order, no such statutory requirement exists under Section 8(1) at the stage of issuance of show cause notice. It is observed that the scheme of the Act contemplates a two-tier process, wherein the Adjudicating Authority is required to arrive at an independent satisfaction under Section 8(1); however, the provision does not require that such satisfaction be formally recorded in writing or that a copy of the reasons be served upon the noticee. The issuance of a show cause notice, reflecting due application of mind, coupled with the availability of an option to obtain certified copies upon payment of prescribed fees, is held to be sufficient compliance with the statutory framework. The Tribunal further noted that judicial precedents relied upon by the appellant, including J.K. Tyre, are distinguishable, particularly in view of the stay of its operation by the Supreme Court, and that

the decision in Vanpic Ports is applicable only to the extent it emphasizes independent satisfaction, not the mandatory recording or communication of reasons. It is well settled that courts and tribunals cannot read into the statute procedural safeguards that are not expressly provided, nor can they rewrite or expand the scope of legislative provisions under the guise of interpretation, as affirmed by the Supreme Court in *Union of India v. Deoki Nandan Aggarwal and Pradeep Nirankarnath Sharma v. State of Gujarat*. Accordingly, the Tribunal holds that the absence of a requirement to record or furnish “reasons to believe” at the stage of Section 8(1) cannot be construed as a procedural infirmity.

**Outcome-** On the basis of the Analysis done, the Appeal was dismissed.

**60.Sanjeev Tyagi, Krishanayan, Sangeeta Tyagi and Neel Krish V. The Deputy Director Directorate of Enforcement, Delhi, MP-PMLA-3575-3578/DLI/2024**

**Brief facts-** The present order deals with applications filed by the appellants seeking substitution of attached properties with equivalent security in the form of Bank Guarantees or Fixed Deposit Receipts (FDRs). The properties were earlier attached by the Enforcement Directorate through a Provisional Attachment Order dated 29.09.2015, which was subsequently confirmed by the Adjudicating Authority on 08.03.2016. The confirmation order is already under challenge in appeals pending before the Appellate Tribunal.

The applicants, including Sanjeev Tyagi and Sangeeta Tyagi, sought substitution of a jointly owned residential flat in Gurgaon with bank guarantees or FDRs amounting to approximately Rs. 1.53 crores. They contended that the attached property represents equivalent value and not direct proceeds of crime, and therefore, substitution should be permitted to prevent irreparable hardship. The applicants relied on various judicial precedents in support of their claim.

**Issue-** Whether the Appellate Tribunal vested under the Prevention of Money-Laundering Act (PMLA) has power to allow substitution of immovable property attached/confirmed under section 8 by acceptance of equivalent security in the form of bank guarantee or Fixed Deposit Receipts (FDRs) pending disposal of the appeal?

**Judgment/Order-** The Tribunal in *Sanjeev Tyagi, Krishanayan, Sangeeta Tyagi and Neel Krish V. The Deputy Director Directorate of Enforcement* vide its order dated 12.11.2025 held that there are no explicit statutory provision empowering

it to order substitution of attached immovable property. Section 35 permits procedural regulation but does not enlarge substantive powers to grant release/substitution when statute vests such power with Special Court or Adjudicating Authority. The Tribunal emphasized that writ jurisdiction of High Courts/Supreme Court enables equitable remedies that a statutory tribunal, as a creature of statute, may not exercise absent express grant.

**Outcome-** Applications for substitution were dismissed on the ground that this Tribunal lacks statutory authority to permit substitution of attached immovable property pending disposal of appeals

**61.Mrs. Irga Mushtaq and Mushtaq Peer V. The Deputy Director Directorate of Enforcement, Srinagar, FPA-PMLA/661/SNR/2014**

Brief facts- The present appeals were filed by Mr. Mushtaq Peer and Ms. Irga Mushtaq, challenging the order dated 12.08.2014 passed by the Adjudicating Authority under Section 8 of the Prevention of Money Laundering Act, 2002 (PMLA), confirming attachment of certain movable and immovable properties. Mr. Mushtaq Peer, the primary accused in the scheduled offence, and his daughter Ms. Irga Mushtaq, in whose name certain properties and bank deposits stood, were alleged to have acquired assets linked to proceeds of crime. The attached properties included residential properties in Jammu and New Delhi and bank balances standing in their names. The proceedings originated from FIR No. 24/2013 registered by the Crime Branch, Jammu & Kashmir, alleging irregularities and corrupt practices in the selection process conducted by the J&K Board of Professional Entrance Examination (BOPEE), where Mr. Mushtaq Peer served as Chairman. The appellant contended that he had been falsely implicated due to political vendetta and that the attached properties were acquired from legitimate sources, including salary, pension, and retirement benefits earned during his long academic and administrative career. He further submitted that his conviction in the scheduled offence had been challenged before the High Court and the sentence had already been suspended, and therefore the attachment proceedings were liable to be set aside.

**Issues-** 1. Whether the pendency of criminal appeal and suspension of sentence in the scheduled offence case rendered the money-laundering attachment proceedings under the PMLA liable to be deferred or untenable?

2. Whether the provisional attachment and its confirmation were invalid for want of pendency of PMLA prosecution proceedings and/or for lapse of the 180-day period under Section 5(1) read with Section 8(3) of the PMLA, as amended?

**Judgment/Order-** The Tribunal vide its order dated 25.11.2025 noted that the appellant stood convicted in the scheduled offence by the Trial Court. The High Court's order suspending sentence was found to be based on the precarious health condition of the appellant, and not on an evaluation of the merits of the conviction. It was observed that there was no order of discharge, acquittal, or quashing of the FIR by any competent court. Hence, the scheduled offence subsisted and continued to form a valid predicate for PMLA proceedings.

On issue 2, the appellant argued that, post-amendment to Section 8(3), attachment could continue only if proceedings relating to an offence "under this Act" (i.e., a PMLA prosecution complaint) were pending, and that in the absence of any such proceedings within 180 days, the provisional attachment lapsed. The Respondent relied on Section 5(3) and the legal position prior to the 2018 amendment, and on the Tribunal's decision in Indra Pal Pandey, to contend that up to 18.04.2018 there was no statutory time limit for filing a prosecution complaint under Section 8(3). The Tribunal recorded that the Provisional Attachment Order (PAO) dated 25.03.2014 was confirmed by the Adjudicating Authority on 12.08.2014, well within the 180-day period provided in Section 5(1). It accepted the Respondent's contention, following Indra Pal Pandey, that before 19.04.2018, Section 8(3) did not stipulate any time limit for completion of investigation or for filing of prosecution complaint, nor did it impose a requirement of pendency of PMLA proceedings as a pre-condition for continuation of attachment. The Tribunal held that the subsequent amendments introducing time limits (90 days, later 365 days) became effective only from 19.04.2018 and 20.03.2019 respectively and could not govern attachments and confirmations made in 2014.

In brief, the tribunal held that –

The pendency of criminal appeal and suspension of sentence did not render the money- laundering proceedings untenable or warrant deferment; no relief could be granted to the appellant on the plea of innocence in the scheduled offence case.

The Tribunal held that the subsequent amendments introducing time limits (90 days, later 365 days) became effective only from 19.04.2018 and 20.03.2019 respectively and could not govern attachments and confirmations made in 2014.

**Outcome-** Appreciating the facts placed on record, the Hon'ble Appellate Tribunal dismissed the appeal and the provisional attachment confirmed by the Adjudicating Authority was upheld.

**62.Sh. C. Subramannapa V. The Deputy Director, Directorate of Enforcement, Bangalore, FPA/PMLA-472/BNG/2013**

**Brief facts-** The brief facts of the case are that based on a complaint received by, the Lokayukta Police, Bangalore registered an FIR and an investigation was carried out. Based on the findings from the investigations conducted, the Karnataka Lokayukta Police filed a charge- sheet bearing No. 04/2011, dt. 07-07-2011 u/s. 173 of the Cr. PC before the Court of the XXIII Additional City Civil & Sessions Judge & Special Judge for Lokayukta Cases, Bangalore. A perusal of the Charge Sheet revealed that during November, 2004, Sh. Katta Subramanya Naidu, his son Sh. K.S. Jagadish @ Jagadish Naidu, and Sh. S.V. Srinivas hatched a criminal conspiracy and floated a company by name M/s ITASCA Software Development Pvt Ltd. with Sh. S.V Srinivas, as the Managing Director. Even though Sh. Katta Jagadish was not a Director of M/s ITASCA, he purchased two Demand Drafts, i.e., a DD bearing No. 333163 dt. 02/12/2006 from the Karnataka Bank Ltd., Indira Nagar Branch, Bangalore for Rs. 3,00,000/- in favour of the Karnataka Industrial Area Development Board (KIADB), and another DD bearing No: 737185 dt. 23.08.2006 for Rs.3,00,000/- in favour of Karnataka Udyog Mitra (KUM) and submitted the same along with a sketchy proposal to the KIADB for approval and, thereby, proceeded further in a criminal conspiracy. They sought acquisition of 325 acres of land in Bandikodigenahalli, a village bordering Bangalore and adjacent to the international airport for setting up a Software Park with the intention to secure wrongful gain.

**Issues-** Whether the provisional attachment of properties under the Prevention of Money Laundering Act (PMLA) can be sustained where some appellants have been discharged/quashed in the predicate scheduled offence and/or discharged in PMLA proceedings, while proceedings against other principal accused in the predicate offence remain pending?

**Judgment/Order-** The Tribunal considered the factual matrix showing that several appellants were discharged in PMLA proceedings or had aspects of the predicate scheduled offence quashed, but at least one principal accused (K.S. Jagadish) remains accused and proceedings against him in the predicate offence have neither been quashed nor resulted in discharge or acquittal. The Tribunal applied the binding principle from the Supreme Court in Vijay Madanlal

Choudhary that where a person named in the criminal activity underlying a scheduled offence is finally absolved by discharge, acquittal or quashment, action for money-laundering relating to property linked to that scheduled offence cannot continue; however, the Tribunal also noted the settled position that attachment under PMLA can extend beyond those specifically accused in the scheduled offence and may continue so long as proceedings in the predicate scheduled offence are pending against any accused. The Tribunal observed that several discharges were subject to pending challenges and that the predicate offence had not been quashed insofar as certain key accused; therefore the legal foundation for continuing PMLA proceedings and the attachment remained intact as against the properties in question.

**Outcome-** Appreciating the facts placed on record, the Hon'ble Appellate Tribunal dismissed the appeal and the provisional attachment confirmed by the Adjudicating Authority survives

**63. Shri Dinesh Kumar Singhi V. The Deputy Director, Directorate of Enforcement, New Delhi, FPA-PMLA-6632/DLI/2023**

**Brief facts-** It is a case where a crime case No. 1/2014 dated 11.07.2024 was registered by the Special Investigation Team, Karnataka Lokayukta, Bangalore against M/s Mineral Enterprises Ltd., unknown government employees and other unknown persons for the offence under Section 379, 420 read with Section 120(B) of Indian Penal Code, 1860, Section 21, 23 read with 4(1), 4(1)(A) of Mines & Minerals Development Regulation Act, 1957 and Section 13(1)(d) of the Prevention of Corruption Act, 1988. The case was registered on the direction of Hon'ble Supreme Court of India referring the matter of those exporters who had exported 50000 metric tonne of iron ore to the State of Karnataka without permit. After investigation, the charge-sheet was filed on 29.03.2016 before the Additional City Civil & Sessions Judge & Special Judge, Bangalore City against 38 accused persons with the allegation that iron ore had been illegally mined from number of mining leases and sold to number of entities for illicit gain thereby causing loss to the exchequer. The Enforcement Directorate thereupon recorded the ECIR on 23.02.2017. Thereafter, Provisional Attachment Order was made whereunder the property of the Managing Director was attached and the same was confirmed by the Adjudicating Authority vide its order dated 17.03.2023.

**Issues-** 1) Whether the property of the appellant Managing Director of the company could have been attached in lieu of the property of the company?

2) Whether properties acquired prior to the scheduled offence can be attached as proceeds of crime?

**Judgment/Order-** With respect to the 1st issue, the Hon'ble Appellate Tribunal held that the Appellant has challenged the provisional attachment of the personal property of the appellant mainly on the ground that the allegation for illegal excavation and sale of iron ore was against the company and not against the appellant. The Ld. Tribunal held that the appellant was the Managing Director of the company which indulged in commission of crime. The Company is run by its Directors, which include the Managing Director. The appellant was admittedly the Managing Director and majority shareholder of the company, thus, beneficiary of gain of the Company which in this case quantified to a sum of Rs.46,000,774/-. Since the appellant was found to be active in the commission of crime and has been implicated as an accused, the property belonging to him has been provisionally attached towards the value equivalent to the proceeds for the reason that proceeds arising out of the scheduled offence was laundered and vanished, thus, it was not available, hence invoking second limb of the definition of "proceeds of crime", the property of equivalent value was attached.

Further, with respect to the 2nd issue, the Hon'ble Appellate Tribunal held that The appellant herein acquired the property in the year 1997 but in absence of availability of proceeds worth of Rs.46,00,774/-, the property of equivalent value has been attached in light of the following judgements:-

- Vijay Madanlal Choudhary v. Union of India 2022 SCC OnLine SC 929
- Shri Sadananda Nayak v. The Deputy Director, Directorate of Enforcement, Bhubaneswar in Appeal No. FPA-PMLA-5612/BBS/2023 dated 14.10.2023.

*M/s Prakash Industries Ltd. and Anr. v. Directorate of Enforcement (2022 SCC OnLine Del 2087).*

**Outcome-** On the basis of the above findings, the Hon'ble Appellate Tribunal refused to interfere with the order of the Ld. Adjudicating Authority confirming the attachment.

**64.Rebba Satyanarayana V. The Deputy Director Directorate of Enforcement, Hyderabad, FPA-PMLA-4979/HYD/2022**

**Brief facts-** As per the facts of the case, the General Manager and Senior Regional Head, IDBI Bank, Visakhapatnam lodged the complaint regarding large scale fraud in the Bhimavaram Branch, Rajahmundry, Vishakhapatnam and Hyderabad Branch of IDBI Bank in the matter of processing and sanctioning of loans under Kisan Credit Card (KCC) for construction of ponds/tanks to farmers for fish farming/pisciculture. Accordingly, CBI, Anti-Corruption Branch, Visakhapatnam registered FIR No. RC-04 (A)/2018 dated 27.03.2018 against Shri R. Damodaran Shri Rebba Satyanarayana, Shri I.P.R. Mohan Raju, Shri Mantena Anjaneya Raju , Shri Katam Lakshmi Narayana , Shri Rudraraju Srinivasa Raju, Shri Penmetsa Venkata Rama Raju , Shri M. Johnson, Shri Satya Seshagiri Rao Pothuraju and others (Valuers, Chartered Accountants/Chartered Accountant firms) for offences under Section 120-B, r/w 420, 468, 471 of the Indian Penal Code, 1860 and also r/w Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and substantive offences thereunder. As per FIR, lodged by the Complainant of Bank, fraud to the tune of Rs. 159.24 crores (Rs. 189.95 Crores as on the date of NPA) was committed by the accused persons. Accordingly, Directorate of Enforcement Visakhapatnam recorded ECIR No. 03/VKSZO/2018 on 28.05.2018 for conducting investigation for the offence of Money Laundering under PMLA, 2002 and to trace out the trail of proceeds of crime.

**Issue-** Whether properties mortgaged with banks and in physical possession of the mortgagee banks can be attached by the Enforcement Directorate (ED) in the absence of apprehension of transfer or alienation?

**Judgment/Order-** As per Section 2(1)(za) of PMLA, 2002 defines “Transfer” as it includes sale, purchase, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien. Thus, even if the said properties are mortgaged with the bank or financial institution, even then, the appellants/mortgagors can transfer the said property by any other mode, without discharging the loan liability by any of the aforesaid means, without execution of any sale deed i.e. by way of taking more loan, if the value of the property is more than the amount of loan; can be gifted to any person along with rights and liabilities; the possession can be handed over to any third party by way of lease of any period (without knowledge to the ED and the mortgagee bank) etc. - the fact cannot be ignored that proceeds of crime are already

misappropriated/launched by the appellants and were not available/traced during investigation of this case by ED. The attached properties were attached by ED as value thereof, in absence of direct/indirect proceeds of crime. Thus, any attachment under PMLA cannot be equated with type of attachment under SARFAESI, Act, on account of mortgage of the property. The purpose of attachment proceedings is to protect the property, till the conclusion of trial. In the present case, the prosecution complaint has been filed by the ED against the appellant, as pointed out by Ld. Counsel for the respondent. Once the prosecution complaint for commission offence u/s-3 punishable u/s 4 of PMLA is filed, wherein the attached properties are mentioned for purpose of confiscation, in case of conviction, then it becomes the case property, and hence, now it is the prerogative of the concerned court to decide the rival claims of the parties, if any.

**Outcome-**On the basis of the facts and circumstances of the case and the judicial precedents examined, the Hon'ble Tribunal was pleased to dismiss the appeal and uphold the attachment.

**65.Rishi Kamlesh Agarwal V. The Deputy Director Directorate of Enforcement, Ahmedabad, FPA-PMLA-5330/AHD/2023**

**Brief facts-** It is a case where an FIR was registered by the Central Bureau of Investigation (CBI), Delhi on 07.02.2022 against ABG Shipyard Ltd., Shri Rishi Kamlesh Agarwal, Chairman and MD of the said company, apart from other Directors for commission of offence under Section 409, 420 IPC read with 120-B IPC and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. 4. The FIR was registered by Shri Balajit Singh Samanta, DGM, SBI, SAM Branch, World Trade Centre, Mumbai on a written complaint dated 25.08.2020 against the accused and many others, including unknown public servants alleging commission of offence of criminal conspiracy, cheating, criminal breach of trust and many other allegations. The Consortium of the Bank was cheated involving a huge sum of Rs.22482 Crores taken as a loan and laundered by the accused. In reference to the FIR, the respondents recorded ECIR and accordingly caused investigation. During the investigation, search was conducted by the respondent/Directorate on 26.04.2022 and 27.04.2022 when they seized documents and digital devices pertaining to the appellants and accordingly an Original Application was sent to the Adjudicating Authority under Section 17(4) of the Act of 2002 for retention of the seized records. Thereafter, the said records were allowed to be retained by way of order of Ld. Adjudicating Authority.

**Issue-** Whether the record which has been made part of the Prosecution Complaint be released by the Appellate Tribunal?

**Judgment/Order-** The Hon'ble Appellate Tribunal held that Initially seizure of record remains during the course of investigation but if the record is found relevant and becomes part of the Prosecution Complaint, it is to be retained till conclusion of the trial unless Special Court, PMLA trying the criminal case passes an order in that regard. Accordingly, the seizure of the record initially remains for 30 days subject to an application under Section 17(4) of the Act of 2002. If the application is submitted, then for a period of 180 days during further proceedings before the Adjudicating Authority and if it results in acceptance of retention of record by the Adjudicating Authority, then till investigation to be completed within a period of 365 days or pendency of the proceedings in the court for an offence under the Act of 2002.

The records so seized goes in original to the trial court and, therefore, the Special Court, PMLA becomes the custodian of the records. A direction for release of the seized record for any reason at that stage may affect the trial and to overreach the jurisdiction of the Special Court because if any record is not relevant to the case and still it has been submitted along with the prosecution complaint, a proper order can be passed by the Special Court at the appropriate stage.

**Outcome-** Based upon the aforesaid finding, the Hon'ble Appellate Tribunal disposed off the appeal stating that if the records seized have been made part of the prosecution Complaint, then the same ought not to be released.

**66. Shri Hawaibam Ratnakumar Singh V. The Deputy Director, Directorate of Enforcement, Imphal, FPA-PMLA-6719/IPL/2023**

**Brief facts-** It is a case where 7 FIRs were registered with Imphal Police Station on 18.06.2022 for the offences under Sections 120-B, 403, 406 and 420 of the Indian Penal Code, 1860. It was against the 23 officials of Lamjingba Group of Companies. It was alleged that Lamjingba Finance Company was operating a Ponzi Scheme that promised to the investors for exorbitant return in a short period of time. Lamjingba Finance Company projected itself be an investor in long term private investment which guaranteed the stability and safety of the invested amount. It promised a monthly simple interest rate of 3.5% for 2-year plans, 2% monthly interest rate for 6 months' plan and 2.5% for one year plan. The rate of interest was higher for 3-4 years' plan. The firm was operating in an unauthorized and unregulated deposits scheme and collected an amount of Rs. 600 crores from

more than 15000 investors / depositors in the State of Manipur. The main person conducting the affairs of the firm was one Shri Sanasam Jacky Singh, Chief Managing Director-cum-Chairman of Lamjingba Group of Companies.

The investors invested in the Ponzi scheme where the company collected around Rs. 600 crores. However, when the investors could not get the amount, as promised by the Company, the FIRs were registered one after another. The respondent recorded the ECIR after registration of the FIR and caused investigation. The statements under Section 50(2) and 50(3) of the Act of 2002 were recorded. The modus operandi for generation of proceeds of crime and deployment thereof was revealed in the PMLA investigation. It was found that the Lamjingba Group of Companies transferred, placed and layered the amount in various accounts of the Shell Companies and in the personal accounts of Shri Sanasam Jacky Singh and his associates. The funds were subsequently invested and utilized for acquisition of several properties. Thereafter, provisional Attachment Order was issued attaching properties to the value of Rs. 8 crore and the same was also confirmed by Ld. Adjudicating Authority.

**Issue-** Whether the extent and value of property attached is disproportionate to the alleged proceeds of crime and, if so, whether attachment should be limited by the statutory definition of "value" under the Act.

**Judgment/Order-**The Hon'ble Appellate Tribunal held that the "Value" under the Act is defined as fair market value of property on date of acquisition or, if acquisition date cannot be determined, date of possession. Attachment must be for value of proceeds; proportionality requires consideration of the statutory definition.

The Tribunal observed conflicting assertions on property value (appellant's claim of Rs. 100 crores; appellant's valuer ~Rs. 25 crores; respondent's valuation ~Rs. 24 crores). The Tribunal held that value must be determined in accordance with the statutory definition - grounded in acquisition/possession date- and that the appellant failed to produce purchase/construction cost documents or contemporaneous valuation evidence to support the Rs. 100 crores claim. On available material, the Tribunal concluded that attachment was confined to the extent of proceeds (Rs. 8 crores) and the respondent had not attached property beyond the value of alleged proceeds on the record before the Court.

Property valuation for attachment must follow the Act's definition of "value" and requires documentary proof of acquisition/possession valuation; in absence of such proof, inflated valuations by the appellant will not defeat attachment.

The Tribunal rejected the appellant's contention of disproportionate attachment based on an unsubstantiated high valuation; attachment was held to be limited to the value of alleged proceeds as established on record.

**Outcome-** Appeal failed and dismissed. Appreciating the statutory interpretation of "value" as embedded under PMLA, 2002 and interpreted by different judicial for a, Hon'ble Appellate Tribunal was pleased to uphold the attachment and dismissed the appeal.

**67.M/s Pawan Finvest Pvt. Ltd., Uu Cash Technologies Pvt. Ltd., M/s BCL Enterprises Ltd. and M/s Care India Finvest Ltd. Versus The Deputy Director, Directorate of Enforcement, Hyderabad (MP-PMLA-11733/HYD/2023)**

**Brief facts-** 43 FIRs were registered by Cybercrime police stations in Rachakonda, Cyberabad, and Hyderabad for offences under Sections 417, 419, 420 IPC and Sections 66-C, 66-D of the IT Act, 2000. The case involved a fraudulent digital lending scheme where Fintech companies entered into MOUs with Indian NBFCs, depositing funds under a "First Loan Default Guarantee (FLDG)" arrangement. Using mobile lending apps, they disbursed instant micro-loans deducting 15–40% upfront as "processing fees," resulting in effective interest rates of 1,500–2,000% per annum. Borrowers' personal data including contacts, photos, and Aadhaar were misused by call centres to threaten and harass them into repayment. Proceeds of crime amounted to approximately ₹819 crores, of which ₹105 crores were provisionally attached by the Directorate of Enforcement (ED) under PMLA, 2002.

**Issue-** Whether the NBFCs, not being named as accused in the FIRs, could have their properties attached under the PMLA?

**Judgment/ order-** The Hon'ble Appellate Tribunal under SAFEMA in M/s Pawan Finvest Pvt. Ltd., Uu Cash Technologies Pvt. Ltd., M/s BCL Enterprises Ltd. and M/s Care India Finvest Ltd. Versus The Deputy Director, Directorate of Enforcement, Hyderabad, vide its order dated January 5, 2026 upheld the provisional attachment order dated 27.01.2023 and held that Section 5(1) of

PMLA permits attachment of property of “any person” in possession of proceeds of crime, not merely an accused named in the FIR. Reliance was placed on *Vijay Madanlal Choudhary v. Union of India (2022 SCC Online SC 929)*, wherein the Supreme Court held that the sweep of Section 5(1) is not limited to accused persons in the scheduled offence. In this matter, the Tribunal also noted that 64 suicides had been reported due to the harassment by these entities. The effective interest rate of over 1,500% per annum could not be considered fair practice under any standard. It is also noted that the agreement between the NBFCs and fintech companies is under a co-lending model wherein, the fintech companies were flush with funds, provide funding to the NBFCs under the pretext of ‘Performance Guarantee’ and the amount is disbursed for loan to the borrowers. The NBFCs gets guaranteed revenue in accordance with the service agreement entered into with the fintech companies on revenue sharing basis in the form of service fees ranging from 0.5% to 1% on total disbursement through the mobile apps or minimum commitment on monthly basis of the amount specified in the agreement, whichever is higher. Thus, NBFCs without investing a single rupee, gets return in lieu of lending licensing and giving it to service provider companies. The NBFCs further took undue advantage of the permission given by RBI vide circular dated 09.11.2017 to outsource its activities without adhering to the guidelines of RBI. NBFCs on the pretext of engaging the Fintech companies as service providers, had instead out-sourced the core business activity of lending, in violation of the master directions of RBI.

In brief, the tribunal held that –

The provisional attachment was valid and could be made against persons not named as accused where material establishes possession or involvement with proceeds of crime.

**Outcome-** All four appeals were dismissed. The provisional attachment order confirming properties worth approximately ₹105 crores was upheld.

**68. Depolal Hojai & Anr. Vanlaldik Hojai Versus The Deputy Director Directorate of Enforcement, Guwahati (LA-5227/GWH/2024 Misc. FPA-PMLA-1036/GWY/2015)**

**Brief facts-** Shri Depolal Hojai, the then Chief Executive Member (CEM) of NC Hills Autonomous Council (NCHAC), Haflong, was charge-sheeted by the CBI for offences under Sections 120B and 409 of the IPC and Section 13(2) read with 13(1)(c) of the Prevention of Corruption Act, 1988. The charge sheet alleged that

he, in criminal conspiracy with Late Shri Anil Kumar Baruah (Deputy Commissioner/Principal Secretary), misappropriated government funds totalling approximately Rs. 2.15 crores which were meant for purchase of medicines and doctors' incentives by routing payments through fictitious firms and cash withdrawals. In particular, Rs. 20 lakhs was alleged to have been withdrawn by Shri Hojai directly. Based on these allegations, the Enforcement Directorate (ED) registered an ECIR under the PMLA and provisionally attached various properties, including Flat No. A1-102, Games Village, Guwahati, held jointly by Shri Depolal Hojai and his wife Smt. Vanlaldik Hojai, purchased for Rs. 21,62,500/- in 2008. The Adjudicating Authority (AA) confirmed the attachment vide order dated 06.07.2015, which was challenged before the Appellate Tribunal.

**Issues-** (i) whether valid notice/Show Cause Notice was served upon the appellants before the ex parte order was passed by the AA.

(ii) Whether the scheduled offences (under IPC and PC Act) were part of the PMLA Schedule at the time of their alleged commission, and if not, whether PMLA could be applied retrospectively.

**Judgment/order-** The Hon`ble Appellate Tribunal under SAFEMA in Depolal Hojai & Anr. Vanlaldik Hojai Versus The Deputy Director Directorate of Enforcement, Guwahati, , decided on January 5, 2026 dismissed both the appeal by holding that the show cause notices and OC were validly served by speed post, as confirmed by tracking reports and the AA's own satisfaction recorded in the order. The fact that an advocate claiming to represent the appellants had contacted the AA before the impugned order was passed established their awareness of the proceedings. Non-representation before the AA was the appellants' own choice, and they could not subsequently take advantage of their own failure. The objections were dismissed as hyper-technical and causing no prejudice. On issue (ii), the tribunal held that Money laundering is a continuing offence. What matters is not when the scheduled offence was committed, but when the acts constituting money laundering (possession, concealment, use of proceeds of crime) took place. If such acts continued after the predicate offence was added to the PMLA Schedule, liability arises. The tribunal held in paragraph 26 as follow “26. *Having considered the contention, I do not find any merit in the same. It is by now well-settled that the issue of retrospectivity or otherwise, in so far as the offence of money-laundering is concerned, has to be examined with reference to the time of commission of the*

*act which constitutes money laundering under the PMLA*”, which includes concealment/ possession/ acquisition/ use/ projecting or claiming of proceeds of crime to be untainted property. If any of these actions takes place after the offence from which the proceeds were derived was added to the Schedule, the offence of money laundering would stand committed. The Hon’ble Supreme Court, in the landmark case of Vijay Madanlal Choudhary which has been relied upon by the ld. counsel for the Respondent, has held that the criminal activity may have been committed before the same had been notified as scheduled offence under PMLA, but if a person has indulged in or continues to indulge directly or indirectly in dealing with proceeds of crime, derived or obtained from such criminal activity even after it has been notified as a scheduled offence, such person may be liable to be prosecuted for offence of money laundering under PMLA

In brief, the Tribunal held that –

- Where procedural rules permit service of Show Cause Notice and Original Complaint by speed post and supporting delivery records exist, service is valid.
- Money-laundering is a continuing offence; liability depends on whether acts constituting laundering (possession, acquisition, dealing with proceeds) occurred after the underlying offence was included in the Schedule.

**Outcome-** The impugned order confirming provisional attachment is sustained and the appeals are dismissed; the attachment remains in force pending criminal trial.

**69. Akhil Chauhan and Smt. Neilofer Bodh versus the Deputy Director Directorate of Enforcement, Mumbai (FPA-PMLA-1489/MUM/2024 and FPA-PMLA-1491/MUM/2024)**

**Brief facts-** Based on intelligence, the Anti-Extortion Cell (AEC) of the Mumbai Police raided premises in Andheri, East Mumbai on 15.03.2023, resulting in the seizure of 15.743 kg of Ketamine (valued at approximately ₹7.87 crores) belonging to one Vijay Jagannath Rane. An FIR was registered at Jogeshwari Police Station under the NDPS Act and the Drugs and Cosmetics Act, 1940, uncovering a drug syndicate. The ED registered an ECIR on 13.10.2023 under PMLA and conducted search operations under Section 17(1) of PMLA at premises linked to appellant Akhil Chauhan in New Delhi on 17.01.2024. Two iPhones, a laptop, and bank accounts/fixed deposits of M/s Global Link Solutions

totalling approximately ₹2.20 crores were seized/frozen. Investigations revealed that funds were being routed from US-based companies to M/s Global Insight Telecommunication of one Haider Abbas (a key accused in the drug syndicate) through Akhil Chauhan's company. Chat analysis also implicated Akhil Chauhan and his wife Neilofer Bodh in delivering opioid consignments in the USA. The Adjudicating Authority (AA) allowed continued retention/freezing of seized properties vide order dated 24.06.2024, which was challenged by the appellants.

**Issue no. 1-** Setting aside of the order of Ld. AA dated 24.06.2024 and releasing the seized devices and cash?

**Issue no.2-** Whether the filing of a prosecution complaint proposing confiscation ousts the jurisdiction of the Appellate Tribunal to entertain an appeal against an Adjudicating Authority's order under Section 8 of the PMLA?

**Judgment/order-** The Hon`ble Appellate Tribunal under SAFEMA in Akhil Chauhan and Smt. Neilofer Bodh Versus The Deputy Director Directorate of Enforcement, Mumbai, vide its order dated January 5, 2026 upheld the AA's order permitting continued retention and freezing of the seized properties and held that the appeal record shows a prosecution complaint was filed and confiscation was proposed; however, the question of jurisdiction depends on the statutory scheme and the specific provisions applicable at the relevant time. The Supreme Court's judgment in *Union of India v. J.P. Singh (SLP Criminal No. 5706/2023)* was held to be distinguishable, both on facts and law on the applicable provision as that case concerned Section 8 as it existed between 14.05.2015 and 18.04.2018, whereas the impugned order was passed on 24.06.2024 thus the prior authority relied upon concerned a different statutory period and factual matrix and does not establish a general rule that filing a prosecution complaint renders an appeal before the Appellate Tribunal infructuous. The Appellate Tribunal retains the power to examine legitimacy of the AA's order and to decide the appeal on merits regardless of subsequent prosecution proceedings.

In brief, the tribunal held that –

The filing of a prosecution complaint proposing confiscation does not oust the Appellate Tribunal's jurisdiction; the Tribunal may entertain and decide the appeal against the AA's order.

**Outcome-** Both appeals were dismissed. The continued retention of digital devices and freezing of bank accounts/fixed deposits amounting to approximately ₹2.20 crores was upheld.

**70. Shri Mangi Lal Vishnoi versus the Deputy Director, Directorate of Enforcement, Jaipur (FPA-PMLA-1489/MUM/2024 and FPA-PMLA-1491/MUM/2024)**

**Brief facts-** The appellant's son, Suresh Kumar, was allegedly involved in leaking question papers for the Senior Teacher IInd Grade (General Knowledge) examination conducted by the Rajasthan Public Service Commission between December-21–24, 2022. On 23.12.2022, Rajasthan Police intercepted a bus near Bekariya Police Station, Udaipur at 4:15 AM, arresting 45 individuals including 40 candidates and 3 paper leakers. Further investigation led to the arrest of 10 more individuals from a hotel room, including Mangla Ram, Gopal, and Pukharaj Vishnoi. Each candidate was charged Rs. 8–10 lakhs for the leaked paper. The ED registered an ECIR on 08.02.2023 and investigated the money trail. Suresh Kumar absconded and evaded summons under Section 50 of PMLA. The appellant (his father, Mangi Lal Vishnoi) had purchased an immovable property worth over Rs. 43 lakhs on 18.01.2021 nearly two years before the FIR. He claimed the property was purchased through loans from four parties (Panwar Developers, Balaji Trading Co., M/s Dhaka Constructions, and Smt. Anma Devi), but none of these parties appeared before the ED, no loan documents were produced, and no repayment was shown. The Adjudicating Authority confirmed the Provisional Attachment Order dated 18.08.2023, which was challenged in this appeal.

**Issues-** (i) Whether immovable property purchased prior to the predicate offence can be treated as proceeds of crime or be subject to attachment

(ii) Whether provisional attachment of property in the name of the appellant can be sustained for alleged criminal acts of his son.

**Judgment/ order-** The Hon`ble Appellate Tribunal under SAFEMA in Shri Mangi Lal Vishnoi Versus The Deputy Director, Directorate of Enforcement, Jaipur, vide its order dated January 6, 2026 upheld the Provisional Attachment Order, with a limited modification that the property was not a direct proceed of crime but was attached as property of equivalent value and held that the definition of "proceeds of crime" under Section 2(1)(u) of PMLA has three distinct limbs separated by the word "or ". The second limb "the value of any such property"

independently enables attachment of property of equivalent value even if the actual proceeds of crime have been siphoned off or are untraceable. This interpretation was affirmed relying on *Vijay Madanlal Choudhary v. Union of India* (Para 68), Delhi High Court in *Axis Bank and Prakash Industries, in Sadananda Nayak*, and the Punjab & Haryana High Court in *Dilbag Singh @ Dilbag Sandhu Vs. Union of India & Ors.*(CWP 22688-2024) dated 13.11.2024.

On issue (ii), the tribunal held that evidence on record linked the appellant's son to the predicate offence and showed the son as recipient of proceeds; statements indicated the son's involvement in initiating purchase though consideration was paid by the appellant. In the absence of credible proof of independent lawful source for the appellant's property and given non-traceability of proceeds, provisional attachment of property in appellant's name as equivalent value was permissible.

In brief, the tribunal held that –

- Property purchased prior to the predicate offence is not a direct proceed of crime but can be attached as property of equivalent value where proceeds of crime are not traceable.
- Provisional attachment of the appellant's property in consequence of the son's alleged criminality is sustainable as property of equivalent value where the appellant failed to establish a lawful source.

**Outcome-** The appeal was dismissed. The provisional attachment of the immovable property worth over Rs. 43 lakhs in the appellant's name was upheld, with the clarification that it constituted property of equivalent value to the proceeds of crime under the second limb of Section 2(1)(u) of PMLA, not a direct proceed of crime.

**71. Ramadhar Ram, S/o Late Sh. Mangani Ram, Mrs. Anita Devi, W/o Mr. Ramadhar Ram, Sh. Bikash Kumar, S/o Mr. Ramadhar Ram and Mrs. Pinki Kumari @ Ankita Kumari W/o Mr. Bikash Kumar Versus The Deputy Director, Directorate of Enforcement, Patna (FPA-PMLA-3218/PTN/2019, FPA-PMLA-160/PTN/2024, FPA-PMLA161/PTN/2024 and FPA-PMLA-162/PTN/2024)**

**Brief facts-** Ramadhar Ram, a government servant who served as Executive Engineer in the Public Health Engineering Department (PHED), Siwan, Bihar, was found to have acquired disproportionate assets of Rs. 82,10,661/- (165.07%

of his total income) during his service tenure. An FIR No. 22/13 dated 18.06.2013 was registered by the Economic Offence Unit-3 (EOU), Bihar against him, his wife Anita Devi, and son Bikash Kumar under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 and Sections 109/120(B) IPC. During his entire service Ramadhar Ram received total salary of Rs. 36.26 lakhs and total income from all sources of Rs. 49.73 lakhs yet acquired properties worth Rs. 1,00,95,588/-. Properties were purchased in cash with no corresponding bank withdrawals, no ITRs were filed during the relevant period, and the alleged sources of income (agriculture, dairy, and business) could not be substantiated. Total unaccounted cash deposits in family bank accounts amounted to Rs. 74,52,400/-. Proceeds of crime were layered through purchase of plots, construction of houses, vehicles, and insurance policies in the names of family members including daughter-in-law Pinki Kumari. The ED registered an ECIR and passed Provisional Attachment Order (PAO) No. 02/2019 dated 31.03.2019, attaching properties worth approximately Rs. 88.61 lakhs. The Adjudicating Authority confirmed the PAO vide order dated 30.08.2019, against which the present appeals were filed by all four family members.

**Issue-** Whether the ED is required to conduct independent investigation into the predicate (scheduled) offence of possession of disproportionate assets?

**Judgment/ order-** The Hon'ble Appellate Tribunal under SAFEMA vide its order dated January 8, 2026 upheld the Provisional Attachment Order confirmed by the Adjudicating Authority and held that ED's investigatory mandate under PMLA is limited to

- establishing prima facie incriminating material regarding the scheduled/predicate offence,
- determining quantum of proceeds of crime,
- checking laundering or likely laundering and mode of layering,
- tracing alternative properties where proceeds are dissipated, and
- testing genuineness of claimants.

ED may note lacunae in police/CBI investigation but is not empowered to reinvestigate or supplant the police/CBI conclusion on predicate offence or quantum of fraud.

In brief, the tribunal held that –

ED is not required to conduct an independent investigation into the predicate offence.

**Outcome-** All four appeals were dismissed. The provisional attachment of immovable properties (10 plots, 1 house, ancestral agricultural land), 4 vehicles, 12 bank accounts, and 4 insurance policies totalling approximately Rs. 88.61 lakhs was upheld in its entirety.

**72.M/s Cosmos Infra Engineering (India) Pvt. Ltd. and M/s BCL Realcon Pvt. Ltd. versus the Deputy Director, Directorate of Enforcement, Mumbai (FPA-PMLA-593/MUM/2024 & FPA-PMLA-594/MUM/2024)**

**Brief facts-** An FIR was registered by the CBI on 27.05.2020 against M/s Jagat Agro Commodities Pvt. Ltd. (JACPL) and its promoters Shri Sant Lal Aggarwal and Shri Satish Pawa for defrauding SBI and PNB of a total loan of Rs. 397.67 Crores by submitting fabricated balance sheets and diverting funds. The diverted funds were routed through a chain: JACPL → M/s Jagat Overseas → M/s Vidya Shankar Investment Pvt. Ltd. (VSIPL, a corporate guarantor) → BCL Realcon and Cosmos Infra (the appellants), who received a total of Rs. 30.90 Crores ostensibly for real estate investment. The appellants refunded Rs. 20.39 Crores but retained Rs. 10,50,75,000/-, which was treated as "proceeds of crime." The Enforcement Directorate (ED) provisionally attached immovable properties of the appellants equivalent in value to this retained amount vide PAO dated 27.07.2023, which was confirmed by the Adjudicating Authority on 09.01.2024.

**Issues-** (i) Whether the Adjudicating Authority violated principles of natural justice by not providing a hearing before confirming the provisional attachment.

(ii) Whether the undisputed retention by the appellants of Rs. 10,50,75,000/- out of funds received amounts to proceeds of crime attracting provisional attachment.

**Judgment/Order-** The Hon`ble Appellate Tribunal vide its order dated January 12, 2026 held that the non-attendance of the appellants did not amount to denial of hearing, tribunal noted that the statutory timeline for finalizing the Adjudicating Authority's order and availability of virtual hearing were considered; correspondence requesting physical hearing was weighed against the availability of virtual hearing and the requirement that the authority conclude within statutory period. The record shows opportunities for participation were

provided and not availed; change of venue within the authority's nationwide jurisdiction was examined in the context of procedural adequacy.

On issue (ii), The Tribunal rejected the bona fide plea, noting that once the appellants became aware of the tainted origin of the funds (as evidenced by their returning Rs. 20.39 Crores), retaining the balance of Rs. 10.50 Crores was unjustifiable. Statements of Shri Sant Lal Aggarwal and Shri Satish Pawa recorded under Section 50 confirmed that the amount was not returned, and no evidence of its utilization for shares was produced.

In brief, the tribunal held that –

The Adjudicating Authority has all-India jurisdiction and can hold sittings at any venue. The insistence on physical hearing was unjustified. The appellant was having opportunity of hearing on Virtual Mode which has been enforced by the Apex Court for all the Courts and the Tribunals but the appellant insisted for physical hearing which cannot be accepted to be justified and therefore we do not find a case of violation of principles of natural justice.

**Outcome-** Both appeals were dismissed. The confirmed Provisional Attachment Order (PAO) was upheld. The Tribunal found no grounds to interfere with the Adjudicating Authority's order.

### **73. Yogesh Narayan Rao Deshmukh versus the Deputy Director Directorate of Enforcement, Mumbai (FPA-PMLA-4557/MUM/2022)**

**Brief facts-** An FIR was registered by the Economic Offences Wing (EOW), Mumbai Police against M/s National Spot Exchange Ltd. (NSEL) and its directors for offences under Sections 120-B, 467 and 471 IPC. The allegation was that NSEL created a false impression of being a proper spot exchange with adequate risk management, thereby inducing investors to trade in commodities. The certified warehouses of NSEL lacked adequate stock, and genuine investors were defrauded of approximately Rs. 5,600 Crores.

During investigation, the money trail revealed that M/s Aastha Minmet India Pvt. Ltd. and M/s Juggernaut Projects controlled by Shri Mohit Agarwal received Rs. 1,680.65 Crores from NSEL through bogus TMT rod sale transactions (without holding any physical stock). These funds were diverted to real estate, vehicles, bank loan repayments, and plant expansion. A sum of Rs. 21.74 Crores was paid to M/s Vihang Aastha Housing Projects LLP for acquisition of land at Titwala, Thane.

The appellant, Yogesh Narayan Rao Deshmukh, was a land aggregator based at Titwala. He claimed to have purchased land from various farmers, consolidated it into three parcels, and handed over possession to the Vihang Group. In this process, he received Rs. 10.50 Crores from M/s Vihang Aastha Housing Projects LLP. However, investigation revealed serious irregularities:

- Land owners (Jagannath Jadhav, Rohit Shrikant Deshmukh, Vilas Baliram Dalvi) denied having sold their lands to the appellant.
- Jagannath Jadhav had cancelled his sale agreement in 2008 itself, yet the appellant entered into a sale-cum-development agreement with Vihang LLP using those very land parcels without the owners' consent.
- A sale agreement was forged using the name of a deceased grandmother (who had died in 1997).
- The appellant paid only Rs. 1.34 Crores to the farmers out of Rs. 10.50 Crores received, utilizing the balance to purchase 11 properties in his own name and in the name of his wife, Smt. Sheetal Deshmukh.

The ED issued a Provisional Attachment Order (PAO) dated 03.06.2021 attaching these 11 properties valued at Rs. 3,74,71,900/-, which was confirmed by the Adjudicating Authority on 08.02.2022. Aggrieved, the appellant filed the present appeal.

**Issues-** (i) Whether the Adjudicating Authority's confirmation of the provisional attachment beyond 180 days is invalid by reason of Section 5(3) of the Prevention of Money Laundering Act, 2002.

(ii) Whether the attachment of 11 properties was in excess of the alleged proceeds of crime in the hands of the appellant, given that Rs. 1.34 Crores was admittedly paid to the farmers?

**Judgment/order-** The Hon`ble Appellate Tribunal vide its order dated January 12, 2026 held that the period from 15.03.2020 to 28.02.2022 has been judicially excluded for purposes of limitation and this was covered by the Covid-19 exclusion period directed by the Supreme Court in Suo Motu Writ Petition No. 03/2020 (order dated 10.01.2022), which excluded the period from 15.03.2020 to 28.02.2022 for computing all statutory limitation periods, including outer limits and termination of proceedings under any general or special law. The Tribunal relied on its own detailed earlier ruling in M/s SKS Ispat & Power Ltd. vs. Directorate of Enforcement (Appeal No. 4462/2022, dated 06.03.2025), which

extensively discussed the Telangana High Court's ruling in Hygro Chemicals Pharmtek Pvt. Limited vs. Union of India and the Madras High Court's decision, both holding that the Covid exclusion period applies to computation of 180 days under Section 5(3) of PMLA. The Tribunal also noted that the Delhi High Court Division Bench in Directorate of Enforcement vs. Vikas WSP Ltd. (MANU/DE/7528/2025) had similarly held that the Covid exclusion period applies to termination of proceedings. In present matter once the Covid period was excluded, the confirmation order fell well within 180 days, and Section 5(3) was not violated.

On issue (ii), the Tribunal held that the value of the attached properties was Rs. 3,74,71,900/- (determined as per Section 2(zb) of PMLA at fair market value on the date of acquisition and not current market value). Even after deducting the Rs. 1.34 Crores admittedly paid to farmers from the proceeds of crime of Rs. 10.50 Crores, the net proceeds in the hands of the appellant remained Rs. 9.16 Crores which is far exceeding the attachment value of Rs. 3.74 Crores. The attachment was, therefore, not in excess of the proceeds of crime. The appellant's argument that current market value should be applied was rejected, as the statutory definition under Section 2(1)(zb) mandates valuation at the date of acquisition.

In brief, the tribunal held that –

The confirmation order dated 08.02.2022 was within the permissible period after excluding the Covid-19 exclusion period; the PAO had not lapsed.

The appellant's argument that current market value should be applied was rejected, as the statutory definition under Section 2(1)(zb) mandates valuation at the date of acquisition.

**Outcome-** The appeal is dismissed; the provisional attachment and its confirmation are upheld and the Adjudicating Authority's order remains operative.

#### **74.State Bank of India versus the Deputy Director Directorate of Enforcement, Delhi (FPA – PMLA – 3754 / AHD / 2020)**

**Brief facts-** State Bank of India (SBI) sanctioned a term loan of Rs. 6.50 crores to M/s Raghbir Hospital Pvt. Ltd. (RHPL), promoted by Dr. Kewal Krishan Sood, for setting up a 150-bedded hospital at Dasna, Ghaziabad. The loan was obtained by submitting forged proforma invoices and receipts issued by a

purported supplier, M/s Gaurav Medical Equipments (GME). Rs. 5.63 crores was disbursed in 2007, a substantial portion of which was for the purported purchase of CT Scan and MRI machines. The machines were never installed, and the loan amount was siphoned off through accounts of M/s GME and M/s Anubhav Construction Co. Ltd. The account was classified as NPA on 30.04.2009 with an outstanding of Rs. 6.44 crores. SBI filed a complaint with CBI, leading to registration of an FIR and subsequently a chargesheet against Dr. Kewal Krishan Sood and others for offences under Sections 120-B, 420, 467, 468 and 471 of IPC. The ED thereafter registered an ECIR and attached various properties, including mortgaged properties over which SBI held a prior security interest. SBI challenged the attachment orders before the Appellate Tribunal, which originally allowed the appeals in 2017. The ED challenged this before the Delhi High Court, which set aside the Tribunal's order and remanded the matter for fresh consideration. Hence the present proceedings.

**Issues-** (i) Whether a bank, as a bona fide third party with a prior interest in immovable property attached under the PMLA, can enforce its security interest notwithstanding the attachment.

(ii) Whether the Appellate Tribunal is the appropriate forum for adjudication of a bona fide third party's claim to restoration or enforcement of rights in attached property, or whether the Special Court under the PMLA is the proper forum.

**Judgment/order-** The Hon`ble Appellate Tribunal vide its order dated January 14, 2026 dismissed the both appeals but not on merits adverse to the bank, but on the ground that the Appellate Tribunal lacked jurisdiction to adjudicate the claim at this stage, given that the appropriate forum is the Special Court before which the criminal prosecution under PMLA is pending. The Tribunal expressly kept open SBI's right to approach the Special Court to enforce its rights as a bonafide third-party secured creditor. It was also clarified that nothing in the order constitutes a final expression of view on the right, title or interest of SBI in the attached properties.

On issue (i), the tribunal held that the legal framework includes the provisions of the PMLA regarding provisional attachment and confirmation by the Adjudicating Authority, and the principle that third party interests acquired prior to the scheduled offence cannot be defeated unless created to defeat the law. The prior decision of the Delhi High Court in the same matter is binding and establishes that where a third party's interest predates the criminal activity and is bona fide, the attachment remains valid but is restricted so that the secured

creditor may enforce its charge; the PMLA entitlement applies only to the remainder of the property's value exceeding the third party's claim.

On issue (ii), the tribunal held that the statutory scheme and the binding pronouncement of the Delhi High Court recognize both the Appellate Tribunal's jurisdiction to confirm, modify or set aside orders of the Adjudicating Authority and the Special Court's jurisdiction to adjudicate third party claims during trial. The High Court clarified that where confirmation of attachment has attained finality, confiscation order passed, or trial under Section 4 PMLA has commenced, claims asserting bona fide prior interest must be inquired into and adjudicated only by the Special Court. The present appeals concern attachments where parallel criminal proceedings and adjudications are in place, and the High Court's decision binds the Tribunal on forum competence.

In brief, the tribunal held that –

Where a bona fide third party acquired a prior interest in property before the scheduled offence, that interest is protected such that PMLA attachment is operative only to the extent the property's value exceeds the third party's secured claim, and where attachment confirmation is final or trial under Section 4 has commenced, adjudication of the third party's claim lies with the Special Court under the PMLA rather than the Appellate Tribunal.

**Outcome-** Both appeals were dismissed by the Appellate Tribunal.