

APPELLATE TRIBUNAL UNDER SAFEMA AT DELHI

**1. MP-PMLA-1317/GGM/2025 Stay
FPA-PMLA-574/GGM/2025**

M/s Suncity Projects Pvt. Ltd. ... Appellant

**2. MP-PMLA-1318/GGM/2025 Stay
FPA-PMLA-575/GGM/2025**

M/s Vareshwar Realtors Pvt. Ltd. ... Appellant

**3. MP-PMLA-1319/GGM/2025 Stay
FPA-PMLA-576/GGM/2025**

M/s Ratannidhi Estates Pvt. Ltd. ... Appellant

**4. MP-PMLA-1320/GGM/2025 Stay
FPA-PMLA-577/GGM/2025**

M/s Glorious Projects Pvt. Ltd. ... Appellant

**5. MP-PMLA-1327/GGM/2025 Stay
FPA-PMLA-579/GGM/2025**

M/s DVOK Buildcon LLP ... Appellant

Versus

The Deputy Director
Directorate of Enforcement, Gurugram ... Respondent

Advocates/Authorized Representatives who appeared

For the Appellants : Mr. R.K. Handoo
Mr. Ashwin Kataria,
Mr. Aditya Chaudhary
Mr. Yoginder Handoo, Advocates

For the Respondent (ED) : Mr. Abhimanyu Kaul, Advocate

CORAM

SHRI V. ANANDARAJAN : MEMBER

FINAL ORDER
16.03.2026

These appeals are directed against the order dated 04.03.2025 passed by the Adjudicating Authority (AA) established under the Prevention of Money Laundering Act, 2002 (PMLA), in Original Complaint (OC) No. 2444/2024 whereby the Id. AA has confirmed the Provisional Attachment Order (PAO) No. 10/2024 dated 25.09.2024, attaching the properties of the appellants herein. In the present appeals, the attachment of a total of six immovable properties of the five appellants herein valued at total of Rs. 23,85,78,967/- has been challenged.

Facts in Brief

2. The relevant facts briefly are that an FIR no. RC 2192022E0003 was registered by the Central Bureau of Investigation (CBI) EO-I, New Delhi on 30.03.2022 under Sections 120 B, 411, 421, 468, 471 & 477-A of the Indian Penal Code 1860 (IPC) and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 (PC Act) against M/s Allied Strips Ltd. (ASL), a closely-held private limited company, and entities and individuals related to it. It was alleged that the accused company, through its directors, promoters, employees and others, had siphoned and diverted funds, thus committing criminal misappropriation, breach of trust, cheating and other fraudulent acts. This is alleged to have caused a wrongful loss amounting to approximately 1392.86 Crores (including contractual interest) to a consortium of banks led by the Canara Bank. The loans were secured through hypothecation of stocks and book debts, mortgages and personal guarantees from the directors along with corporate guarantees from several group companies.

3. The account of M/s ASL was classified as Non-Performing Asset (NPA). The forensic audit conducted by the auditor appointed by the lenders for the period 01.04.2013 to 31.03.2016 submitted their report dated 03.11.2016 highlighting several irregularities which included advances being made for future projects, expansion etc. without proper consideration of the implications of diverting short-term funds for long-term purposes; advances to vendors without formal documentation; due process not being followed for writing off bad debts amounting to Rs. 31.55 Crores in March, 2015; remitting Rs. 7.5 Crore to M/s Highco Engineers as payment for machinery that was never supplied, etc.

4. A second forensic audit was also carried out by the auditor appointed by the Resolution Professional (RP) as per the NCLT's order dated 16.03.2018. The said auditor submitted their report on 13.09.2018, with an addendum on 24.12.2018 uncovering several glaring irregularities indicating fraud, misappropriation, stock manipulation and diversion of funds involving both the directors of M/s ASL, namely, Sh. Mohinder Agrawal and Gaurav Agrawal.

5. Since Section 120B and 420 of the IPC and Section 13 of the PC Act are scheduled offences under the PMLA, the Enforcement Directorate (ED) registered an ECIR numbered as ECIR/DLZO-I/30/2022 on 16.08.2022. Subsequently, the case was transferred to the Gurugram Zonal Office and a new ECIR (ECIR/GNZO/05/2024) dated 31.01.2024 was recorded. Based on the investigations conducted, a Provisional Attachment Order (PAO No. 10/2024 dated 25.09.2024) was passed under Section 5(1) of the PMLA, attaching various properties, including properties valued in all at Rs. 44,09,41,467/- which included six properties of the present appellants

valued in all at Rs. 23,85,78,967/-, holding them to be 'value' of proceeds of crime within the meaning to Section 2(1)(u).

6. An Original Complaint (OC No. 2444/2024) having been filed as per the requirement of Section 5 (5), the Ld. Adjudicating Authority (AA) initiated adjudication proceedings under Section 8(1) which culminated in confirmation of the attachment made under Section 5 (1).

7. Aggrieved by the said order of the AA dated 04.03.2025, the appellants have filed the present appeals challenging the same on various grounds.

Arguments on Behalf of the Appellants

8. On facts, it is firstly pointed out that in the case of **M/s Suncity Projects Pvt. Ltd.**, (the appellant in FPA-PMLA-574/GGM/2025), immovable properties of a total value of Rs.16,66,00,103/- have been attached. In the case of **M/s Vareshwar Realtors Pvt. Ltd.** (the appellant in FPA-PMLA-575/GGM/2025) immovable properties of a total value of Rs. 77,84,375/- have been attached. It is submitted that the immovable properties in question were purchased in the year 2016 admeasuring 7 Bigha 1 Biswa i.e. 1.846458 acre. In the case of **M/s Ratnanidhi Estates Pvt. Ltd.**, (the appellant in FPA-PMLA-576/GGM/2025), immovable properties of a total value of Rs.61,72,380/- were attached. The properties were purchased by the appellant in the year 2016, admeasuring 8 Bigha 19 Biswa i.e. 1.846458 acre. In the case of **M/s Glorious Projects Pvt. Ltd.** (the appellant in FPA-PMLA-577/GGM/2025) immovable properties valued at Rs. 2,67,50,000/- comprising land, admeasuring 0.66875 acre purchased in the year 2003 has been attached. In the case of M/s **DVOK buildcon LLP** (the appellant in FPA-PMLA-579/GGM/2025), immovable

properties valued at a total of Rs. 3,12,72,109/- comprising 'unidentified and unmarked land' out of the whole land of Appellant, admeasuring 575 Biswa (18 Acres Approx.) valued more than Rs.300 crores at Manesar, Gurgaon purchased on 04.04.2024 has been attached. It is submitted that the sale deed itself gives complete details of source of instruments of purchase, which are all legal and are not disputed. It is further submitted that the appellant was incorporated after the filing of the FIR. While the appellant LLP was incorporated on 21.05.2022, the FIR was registered on 30.03.2022. The attached land was purchased on 04.04.2024.

9. Common arguments have been presented on behalf of all the appellants. At the outset, it is contended that the PMLA proceedings against the appellants were an abuse of the process of law. It is claimed that it was demonstrated during the hearing that the appellants did not have any transaction with the accused company nor any person named in the FIR, hence there was no proceeds of crime, rendering the attachment a nullity. The attachment in the hands of the appellants has been resorted to as "value of such property" against immovable properties of the appellants.

10. It is next contended that to justify the attachment under PMLA, an unconnected FIR registered on 30.03.2022 against accused company, M/s. Allied Strips Limited (ASL) and others by CBI is used in which Appellant admittedly does neither figure nor has any nexus. No PMLA proceedings nor attachment has been resorted to against said accused company, because it was admitted to Resolution under the Insolvency & Bankruptcy Code (IBC) vide NCLT order dated 06.05.2022.

11. It is submitted that three companies, namely, (i) M/s Mercury Digital Service Pvt. Ltd, (ii) M/s Maa Durga Steel Works Pvt. Ltd., and (iii) M/s Prudential Metallics Pvt. Ltd., were held to be “related” to the accused company, not on account of any transactions, but by virtue of common directorship/shareholdings. The transactions by way of Inter Corporate Deposit (ICD) of said three companies with appellants were used to justify the nexus for the making attachment. It is contended that the ICD transactions had already been repaid as is clear from the PAO and has also explained in the instant appeal. The whole amount was paid back, but it was falsely claimed that there is an outstanding amount of Rs.23.85 crore payable by appellant company to two of the alleged "related companies", i.e., M/s Mercury Digital Service Pvt. Ltd. (M/s MDSPL) M/s Prudential Metallics Pvt. Ltd. (M/s PMPL). Accordingly, attachment equivalent to Rs.23.85 crores spread over to properties of appellant company and other independent entities shown as related entities of appellant company were made even though there was no scheduled crime in respect of any of the transactions with accused company.

12. It is further contended that the concept of “related companies” has been borrowed by the attaching officer from two forensic audit reports considered while admitting the main accused company, M/s ASL, under NCLT resolution. Even though all liabilities and credits of accused company, M/s ASL got extinguished on NCLT resolution, in order to justify the attachments, ED has gone behind the NCLT order and analysed the forensic audit reports, which were never ever supplied to the appellants despite demand, to scrutinize transactions to resort to alleged "outstanding" for attachment). Thus, the necessary relied upon documents have not been supplied, which renders the order nullity in law.

13. It is submitted that ED registered the first ECIR at Delhi under No. ECIR/DLZO/I-30/2022 dated 16.08.2022, which appears to have been closed after NCLT order, but ED, Gurgaon office registered fresh ECIR no. ECIR/GNZO/05/2024 dated 31.01.2024 on same stale FIR against M/s ASL dated 30.03.2022 and illegally, over-reaching NCLT Resolution dated 06.05.2022, initiated PMLA investigations allegedly on the basis of two forensic audit reports, dated 03.11.2016 and 30.09.2018 respectively, probing transactions not against the accused ASL, but transactions of other un-connected companies under the nomenclature of 'related companies' of accused ASL due to alleged common directorship/shareholding (not transactions) and further between such alleged related companies with M/s. Suncity Projects Private Limited (SPPL), one of the appellants herein and computed artificial outstanding of M/s SPPL towards 'related companies' of ASL to resort to attachment of properties of M/s SPPL and other related companies' of SPPL. It is contended that the ED thus, used innovated concept of 'related company' as ingredient for attachment under PMLA which are unknown to provisions of PMLA.

14. It is next contended that the 'contrived and false outstanding amount' of Rs. 23.85 crore have been branded as "proceed of crime" and properties of SPPL, DVOK and other companies are attached as value thereof "to protect interests of Directorate/Revenue". The attachment has been resorted to protect the interests of Directorate/Revenue which is not the object and purpose of PMLA and, therefore, the attachments are rendered void ab initio on this count.

15. It is next contended that the whole basis of the case is the forensic audit reports, which have not been supplied, despite several requests before the Ld. Adjudicating Authority as well as before this Appellate Tribunal, and the same has been denied on the ground of being a secret document, as stated in the counter filed by ED which renders the order void ab initio. Non-supply of relied upon documents renders the attachment null and void.

16. It is next contended that attachments are without jurisdiction, inasmuch as, the pre- condition for invoking the jurisdiction under PMLA is, "existence of crime" and "property related to such crime" which is absent" and attachments have even without any scheduled crime, made under caption "value thereof", resorted to against properties of third-party entities, who have no transactions with accused company.

17. It is further argued that the above facts reveal that there are no "reasons to believe", much less, reason to believe sufficient to justify the attachment under PMLA. There is neither crime nor any property which can be said to be "proceed of crime" in possession of the appellant, nor any element of money-laundering. The attachment is mala fide and deserves to be set aside.

18. In light of the above, it is prayed that Appellate Tribunal may be pleased to set aside the PAO No. 10/24 and O.C. No. 2444/24 and adjudication order of the learned AA.

Arguments on Behalf of the Respondent

19. The respondent has opposed the contentions raised on behalf of the appellants and submitted that the impugned order is well-reasoned based

on the material gathered, passed after hearing all the parties, and after due consideration of their submissions.

20. A perusal of the written reply to the appeal filed by the respondent directorate reveals that the Directorate has made detailed submissions regarding the wrongdoings of M/s ASL and its related entities, and the modus operandi adopted by them for siphoning and diversion of borrowed funds from a consortium of banks, for unauthorised purposes, and for the laundering of the same. It is stated that during the course of investigation, it was revealed that the main accused company, M/s ASL, diverted loans/limits availed from consortium of Banks by way of giving of advances to various unrelated firms and by writing off debts of high amounts to various debtors instead of recovering the outstanding balances and paying off the consortium of Banks. These advances, given to the unrelated firms/entities were never recovered by the M/s ASL and no efforts were made in this direction.

21. These above factual submissions, however, need not be dwelled upon in too much of detail since the appellants herein are not among the accused entities and are not disputing the allegations against the M/s ASL and its related entities either in the scheduled offence case or in the prosecution case filed by ED under the PMLA.

22. Insofar as the appellant companies herein are concerned, a specific submission has been made that substantial amount of funds has been transferred from the bank accounts (maintained outside of consortium) of M/s ASL, to M/s Suncity Projects Private Ltd., which is a non-related business entity, and its associated/related companies (the other appellants

herein) in the guise of share application money. It is submitted that the PAO clearly depicts the reasonable nexus between the appellants and accused persons/company.

23. The provisions of section 24 are relied upon wherein it has been provided that in any proceedings relating to the proceeds of crime under the Act, the authority or court may presume that proceeds of crime are involved in money laundering in the case of a person charged with the offence of money laundering. The judgement of the Hon'ble Apex Court in *Vijay Madanlal Choudhary v. Union of India 2022 SCC OnLine SC 929* on the issue of burden of proof is also relied upon.

24. A catena of case laws has been cited for various legal propositions, including 'value of such property', 'reason to believe', 'coram-non-judice' etc.

25. Based on the above submissions, it is prayed by the respondent that the present appeals deserve to be dismissed in limine being without any merit.

Analysis & Findings

26. I have given careful consideration to the material on record and the rival submissions of the parties. As already stated, six immovable properties of the five appellants herein valued at total of Rs. 23,85,78,967/- have been attached which are under challenge in these appeals.

27. Upon perusal of the Provisional Attachment Order dated 25.09.2024, it is seen that the relevant paragraphs wherein quantification of the

proceeds of crime to be attached in the hands of the appellant companies was made read as follows:

“5.3. AND WHEREAS, the details of transactions between related companies of M/s ASL and M/s Suncity Projects Pvt. Ltd. (SPPL):

5.3.1. During the course of investigation, it was revealed that the following companies are the related companies of M/s ASL by virtue of having common Director / Shareholders etc:

- a) M/s Mercury Digital Services Pvt. Ltd. (MDSPL): Its shareholders include M/s Accentor Infotech Pvt. Ltd. which have Mrs. Ashima Aggarwal w/o Mr. Gaurav Aggarwal as shareholder. Mr. Gaurav Aggarwal is one of the Directors of the company. This company was classified as related entity by the Forensic Audit Report dated 13.06.2018.*
- b) M/s Prudential Metallics Pvt. Ltd. (PMPL): Its shareholders include M/s Accentor Infotech Pvt. Limited and M/s Desperate Trading Pvt. Ltd., which have Mrs. Ashima Aggarwal w/o Mr. Gaurav Aggarwal as shareholder. Mr. Gaurav Aggarwal is one of the Directors of the company. This company was classified as related entity by the Forensic Audit Report dated 13.06.2018.*
- c) M/s Maa Durga Steel Works Pvt. Ltd. (MDSWPL): It has a common Director with M/s Accentor Infotech Pvt. Ltd. Mr. Gaurav Aggarwal is one of the Directors of the company.*

This company was classified as related entity by the Forensic Audit Report dated 13.06.2018.

5.3.2. During the course of investigation, it was revealed that M/s MDSPL made an investment of Rs. 11,25,00,000/- (11.25 crores) as interest bearing Inter Corporate Deposit (ICD) in M/s SPPL from July 2014 to October 2014. This investment was made in twenty-four tranches and the interest on ICD was provided @ 10% p.a. upto 31.03.2015 and @ 9% p.a. in FY 2015-16.;

5.3.3. It was revealed during the investigation that M/s SPPL sold part of its investment in CCDs of M/s Aprajita Business Ventures Pvt. Ltd. to M/s MDSPL for a consideration of Rs. 12,78,00,000/- on 02.03.2017. Later, on 24.02.2021, the CCDs held by M/s MDSPL were converted into equity shares. The remaining Rs. 35,815/- was refunded to M/s MDSPL by M/s SPPL. Accordingly, the total outstanding of M/s MDSPL was Rs. 12,78,00,000/;

5.3.4. During the course of investigation, it was revealed that M/s MDSWPL made an investment of Rs. 9.225 crores as interest bearing Inter Corporate Deposit (ICD) in M/s SPPL from April 2014 to September 2014. This investment was made in Nineteen tranches and the interest on ICD was provided @ 10% p.a. From September 2015 to February 2016, M/s SPPL had refunded back Rs. 4,10,00,000/- and interest of 9% p.a. was provided.;

5.3.5. It was revealed during the investigation that M/s SPPL sold part of its investment in CCDs of M/s Aprajita Business Ventures Pvt. Ltd.

to M/s MDSWPL for a consideration of Rs. 6,51,00,000/- on 02.03.2017 and the balance Rs. 30,851/- was refunded back to M/s MDSWPL. Later, on 24.02.2021, the CCDs held by M/s MDSWPL were converted into equity shares. Accordingly, the total outstanding of M/s MDSWPL was Rs. 6,51,00,000/-;

5.3.6. During the course of investigation, it was revealed that M/s PMPL made an investment of Rs. 4 crores as interest bearing Inter Corporate Deposit (ICD) in M/s SPPL from July 2014 to September 2014. This investment was made in ten tranches and the interest on ICD was provided @ 10% p.a. upto 31.03.2015 and @9% p.a. in FY 2015-16.;

5.3.7. It was revealed during the investigation that M/s SPPL sold part of its investment in CCDs of M/s Aradhak Buildcon Pvt. Ltd. to M/s PMPL for a consideration of Rs. 4,56,00,000/- on 02.03.2017. The remaining Rs, 12,301/- was refunded. Later, on 24.02.2021, the CCDs held by M/s MDSPL were converted into equity shares. Accordingly, the total outstanding of M/s PMPL was Rs. 4,56,00,000/-;

5.3.8. Thus, M/s SPPL had total outstanding of Rs. 23.85 crores During the course of investigation, further related entities of M/s SPPL, viz. M/s Glorius Projects Pvt. Ltd., M/s Ratnanidhi Estates Pvt. Ltd., M/s Vareshwar Realtors Pvt. Ltd. And M/s Dvok Buildcon LLP, the immovable properties of M/s SPPL and its related entities, namely, in which key managerial persons of M/s SPPL are KMPs have been identified during the investigation and mentioned as under:

Table No. 19: Details of the properties identified of M/s SPPL and its related entities

S.No	Details of Property	Owner of the Property	Cost (in Rs.)
1.	E-156, Suncity Rewari Township, Sector- 6 & 7, Tehsil & District Rewari, Haryana	M/s SPPL	78,93,600/-
2.	Khasra No. 1228, 1229 1238, 1239, 1230, 1231, 1232, 1233, 1233/2385, 1234, 1234/2386, 1240, 1241, 1242, 1243, 1240/2371, 1410, 1411, 1412, 1413, 1414, 1414/2384, 1416, 1417, 1417/2383, 1418. Land situated at village Kukas, Tehsil & District Amber, Jaipur, Rajasthan	M/s SPPL	15,87,06,503/-
3.	Land at Village-Nangli, Tehsil & District Gurugram, Haryana (Rect no.8 kila no.18/2 &19/1, total 8 kanal 4 marla (share 54/164) & Rect no. 13 & 14 kila no. 7,14/1,15,1/2,2,10 &11 total 2 kanal 13 marla, total land 0.66875 acre)	M/s Glorius Projects Pvt. Ltd	2,67,50,000/-
4.	Agriculture land at village Bhkhtawarpur, North West Delhi, District Delhi (Kasra no.36/21 min (3-0), 37/25 min (4-7), 16/3/1 south (1-0), 16/3/2 south (0-13) Total 8 bigha 19 biswa	M/s Ratnanidhi Estates Pvt. Ltd.	61,72,380/-
5.	Agriculture land at village Bhkhtawarpur, North West Delhi, District Delhi (Kasra	M/s Vareshwar Realtors Pvt. Ltd.	77,84,375/-

	no.36/12/1 (1-5), 12/2/2 (0-7), 12/3/2/2 (2- 13/1/2 min (1- 18), 13/2/2 (1-0) & 2/3 share of khasra no. 36/26 (0-4)		
6.	Agricultural land admeasuring 575 biswa 0 Biswansi comprised in Kehwat No. 205 Khata No. 205, Khasra no. 954,955,957,959; Kehwat no. 329, Khata no. 329, Khasra no. 964,965,1314 and Kehwat no. 340, Khata No.340, Khasra no. 2499/972/2, 1313 situated within the revenue estate of Village Shikohpur, Tehsil Manesar, District Gurugram	M/s Dvok Buildcon LLP	310,00,00,000 /-

28. The facts enumerated in the aforesaid paragraphs of the PAO have been considered carefully. They no doubt establish flow of funds between **M/s Mercury Digital Services Pvt. Ltd. (MDSPL), M/s Prudential Metallics Pvt. Ltd. (PMPL)** and **M/s Maa Durga Steel Works Pvt. Ltd. (MDSWPL)** and M/s Suncity Projects Pvt. Ltd., the appellant in Appeal No. FPA-PMLA-574/GGM/2025 herein. However, on a thorough examination of the facts stated in the PAO, the O.C. and the impugned order of the Ld. AA, no indication of any flow of funds from M/s ASL or any of its associated entities which stand accused in the scheduled offence case, to any of the above-mentioned three “related companies”, namely, M/s MDSPL, M/s PMPL or M/s MDSWPL is found. This was also the primary submission of the Ld. Counsel for the appellants. It appears that the sole criterion for linking the appellant companies with the proceeds of crime is that these

three companies were “related companies” of M/s ASL on account of having common directors/shareholders. The issue to be considered, therefore, is whether the mere fact of having common directors/shareholders is enough to hold that tainted money flowed from the accused entities to M/s MDSPL/PMPL/MDSWPL and further, through them to the appellant companies who received money from these three companies by way of ICDs/CCDs. The obvious answer in my view would be ‘no’.

29. In order to provisionally attach a property under section 5(1), the authority specified thereunder has to have the reason to believe, on the basis of material in his possession, that the person whose property is being proceeded against “*is in possession of any proceeds of crime*”. The term “proceeds of crime” has been defined under section 2(1)(u) to mean property derived or obtained, whether directly or indirectly, by any person, as a result of criminal activity relating to a scheduled offence. No doubt, the ‘value’ of such proceeds of crime also falls within the ambit of ‘proceeds of crime’ under the said sub-section 2(1)(u). However, in order to invoke the “value” element of the definition, some material would have to be there to show that some part of the actual proceeds of crime flowed either directly or indirectly to the person in whose hands it is sought to be attached, either directly or indirectly, so that its ‘value’ can be attached in lieu of the proceeds of crime itself. In the absence of any such evidence of flow of proceeds of crime to a person, the question of attachment of its ‘value’ in his hands cannot arise.

30. During the final hearing of the case, based on the submissions made from the side of the appellant, the Ld. Counsel for the respondent was specifically asked to point out evidence, if any, of flow of any part of

the proceeds of crime, or for that matter, any money whatsoever, from M/s ASL or from any of the other accused entities, to M/s MDSPL, M/s PMPL or M/s MDSWPL, the three “related company” so as to hold that the same flowed further from these entities to M/s Suncity Projects Pvt. Ltd. (appellant herein) by way of investment in ICDs/CCDs. Both parties were permitted to submit written synopsis of their respective arguments. The Ld. Counsel for the Appellants has since submitted the same. However, none was received from the side of the respondent. Therefore, based on the materials on record as well as the verbal arguments presented at the time of final hearing, the assertion from the side of the appellant that the only relationship found between the three companies, namely, MDSPL, PMPL and MDSWPL and the entities accused of the scheduled offence is of having common directors/shareholders remains un rebutted. Consequently, there is nothing to show that any funds flowed from M/s ASL (or any other entity accused in the scheduled offence) to the aforesaid three companies i.e., M/s MDSDL, M/s PMPL or M/s MDSWPL. That being the case the question of tainted funds flowing to the appellant companies from those companies simply does not arise. The legal position is very clear that the property of any person can be proceeded against under the PMLA if the same is found to have been derived or obtained directly or indirectly from proceeds of crime or represents the value of such tainted property, regardless of whether or not such person himself/herself/itself had any role in the commission of the scheduled offence from which the proceeds were derived or obtained. In the landmark judgment of the Apex Court in *Vijay Madanlal Choudhary, Special Leave Petition (Criminal) No. 4634 of 2014*) it was categorically held that the objective of enacting the PMLA is the attachment and confiscation of proceeds of crime so as to combat the evil of money-laundering, by

reaching the proceeds of crime in whosoever's name they are kept or by whosoever they are held. It was also specifically held that sweep of Section 5(1) is not limited to the accused named in the scheduled offence. It would apply to any person (not necessarily being accused in the scheduled offence), if he is involved in any process or activity connected with the proceeds of crime. Such 'process or activity' would include mere possession of tainted property. In sum and substance, therefore, the provisions of the PMLA enable the ED to attach the properties even of an unrelated person if any part of the proceeds of crime flowed to such unrelated person. Conversely, the property of even a "related" person cannot be attached if no part of the proceeds of crime flowed to the said person. The present case is one such. While a relationship based on existence of common directors/shareholders has been established, the respondents have failed to establish a flow of proceeds of crime, (or for that matter, any funds whatsoever), from the tainted entities which derived or obtained proceeds of crime from scheduled offence to the so-called "related" companies. Hence, these so-called "related companies" themselves not having received any tainted funds from the accused companies, could not have passed on the same to the appellant companies. Accordingly, no case for attachment of the properties of the appellants herein, either as proceeds of crime or as 'value' thereof can arise. Consequently, the impugned order confirming the attachment of their properties cannot be sustained.

31. For the same reason, even assuming that tainted funds had in fact flowed to M/s Suncity Projects Pvt. Ltd. from the accused entities, the same would not have been sufficient to attach properties of the other appellants herein, without any finding of flow of funds from M/s Suncity Projects Pvt. Ltd. to them. Needless to say, in the present case, there is no

evidence of flow of funds from the accused entities either to M/s Suncity or any of the other appellants companies.

32. In light of the above findings with regard to the fundamental issue involved in these appeals, the other issues raised on behalf of the Appellants, including the refusal to provide copies of the forensic audit reports though relied upon in the PAO and the impugned order, the submission that the accounts of the related entities, namely, M/s Mercury Digital Services Pvt. Ltd. (MDSPL), M/s Prudential Metallics Pvt. Ltd. (PMPL) and M/s Maa Durga Steel Works Pvt. Ltd. (MDSWPL) were already squared up/settled, the legality of attachment of property to “protect interests of revenue” etc., are not gone into, and the appeal is allowed on the sole ground of absence of any material to indicate towards the flow of tainted funds (Proceeds of Crime) to the appellant companies.

33. Before parting with the order, reference may also be made to the submission made in the written reply to the appeal filed by the respondent that substantial amount of funds has been transferred from the bank accounts (maintained outside of consortium) of M/s ASL, to M/s Suncity Projects Private Ltd., which is a non-related business entity, and its associated/related companies (the appellants herein) in the guise of share application money. It was submitted that the PAO clearly depicts the reasonable nexus between the appellants and accused persons/company (see para- 22 above). In this regard, upon perusal of the PAO and the impugned order, it is seen that no amount has been quantified as ‘proceeds of crime’ nor any equivalent property has been attached on account of the aforesaid share application money received by M/s Suncity Projects Pvt. Ltd. Upon receipt of the Show Cause Notice under section 8(1), the appellant M/s Suncity Projects, had submitted a reply wherein it was inter-

alia explained that M/s ASL had made an investment of Rs. 25.15 cr. in M/s Suncity Projects Pvt. Ltd. from July, 2010 to March, 2013. However, in 2013, the Companies Act was amended, which prohibited retention of share applications money with any company beyond a particular period. Accordingly, as M/s ASL had not paid the full amount of Rs. 50 Cr. for the allotment of shares, the money received from them, i.e., Rs. 25.15 Cr. was refunded to M/s ASL. A detailed chart showing the transactions through which the amount of Rs. 25.15 cr. was received between July, 2010 and May, 2013 and the transactions through which the same were refunded between June, 2014 and August, 2015, was also annexed to the said reply filed by the appellants before the Ld. AA. In view of the above, since the money received from M/s ASL had duly been returned even prior to the registration to the FIR in the predicate offence case, the same has rightly not been held to be proceeds of crime in the hands of M/s Suncity Project Pvt Ltd., both by the attaching officer as well as the Ld. AA. As such, there is no substance in the reference to “substantial amount of funds” transferred to the appellant company, M/s Suncity Project Pvt Ltd. in the reply to the appeal filed by the Directorate, as the Directorate itself has not held it to be proceeds of crime in the hands of the appellant.

34. Consequently, these appeals would stand **allowed**.

35. Pending applications, if any, shall also stand disposed of.

36. No order as to costs.

(V. Anandarajan)
Member

New Delhi,
16th March, 2026
'ST'