

APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

MP-PMLA-10702/DLI/2023 Stay
MP-PMLA-10703/DLI/2023 Exem.
FPA-PMLA-5347/DLI/2023

M/s Bhushan Airways Services Pvt. Ltd. ... Appellant

Versus

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

Advocates/Authorized Representatives who appeared

For the Appellant : Ujjwal Jain, Mayank Sharma,
Rohit P. Aakash Tiwari, Mrijunjay
Pratap Singh, Advocates

For the Respondent : Ms. Anubha Bhardwaj, Advocate

CORAM

SHRI G. C. MISHRA : MEMBER
SHRI V. ANANDARAJAN : MEMBER

FINAL ORDER
18.02.2026

This is an appeal under section 26 of the Prevention of Money Laundering Act, 2002 ("PMLA") against the order dt. 23.11.2022 passed by the Ld. Adjudicating Authority ("AA") in Original Complaint No. 1763/2022, whereby provisional attachment of one movable property, i.e., a Cessna aircraft of the appellant, was confirmed.

FACTS IN BRIEF

2. The brief facts of the case are that an FIR bearing no. RCBD1/2019/E/0002 dated 05.04.2019 under sections 120-B r/w 420, 468, 471 and 477A of the Indian Penal Code, 1860 and sections 13(2) r/w 13(1) of Prevention of Corruption Act, 1988 was registered by the CBI, BS & FB New Delhi. It was stated in the FIR that **M/s Bhushan Power & Steel Limited (M/s BPSL)** a public limited company incorporated on 22 February 1999, involved in manufacturing of basic iron & steel and having various units located at different places in the country, through its directors Sanjay Singal,

Aarti Singal, Dinesh Kumar Yadav, Ravi Prakash Goyal, Ram Naresh Yadav, Hardev Chand Verma and Ravinder Kumar Gupta, and staff, availed various credit facilities from 33 different banks/ financial Institutions between 2007 to 2014 under the leadership of Punjab National Bank, Large Corporate Branch, Chandigarh for different purposes, namely, working capital, term loan for purchase of plant & machinery, non-fund based term loans etc., and defaulted on repayment. The outstanding defaulted amount as on 30.01.2018 was Rs. 47,204 crores. It was further alleged that M/s BPSL and its directors deliberately defaulted in repayment of loan amounts to lender banks/ financial institutions as per the time schedule and their accounts remained continuously irregular. Subsequently, the lead bank, i.e., the PNB, declared the account of M/s BPSL as NPA on 31.12.2015, followed by the other banks/financial institutions.

3. The Income Tax authorities conducted searches on the premises of M/s BPSL in Chandigarh on 21.12.2014 and found illegal diversion of funds from the accounts of M/s BPSL through various modus-operandi. It was found that

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- M/s BPSL, its directors and their staff dishonestly and fraudulently diverted Rs. 2,348 crores into the accounts of various companies showing the same as advances between 01.04.2007 to 31.3.2014 without any obvious purposes and thereby misused funds;
- Out of the above funds diverted fraudulently, M/s BPSL and its directors/ staff had paid an amount of Rs. 537.85 crores without any obvious purpose to 86 shell companies, out of which Rs. 30.90 crores were dishonestly and fraudulently diverted during the financial year 2013-14 alone without any valid business transactions, in violation of terms of loan sanction;

- Outstanding amounts in the books of M/s BPSL shown as capital advances given to various companies were different from the balances shown by these companies in their books as on 31.03.2017 which showed falsification of books of accounts;

4. It was further revealed that the directors of M/s BPSL also arranged fake/ forged CENVAT-able invoices/ paper bills and supporting documents like GRs, transport documents, vouchers, etc., through one Ritesh Kapoor, resident of 1st Floor, 16, Road No. 57, West Punjabi Bagh, New Delhi for fraudulent diversion of bank funds in the name of M/s R.K. Industries, M/s Anil Steel Pvt Ltd., M/s Passive Infra Projects Pvt Ltd., M/s Srishti Metals Pvt Ltd., M/s Preet Machine Ltd., (M/s PML), without any corresponding supply of goods, and also dishonestly availed unauthorized CENVAT credit to the tune of Rs. 41.02 crores from October, 2011 to April, 2015. The major part of the payments which were made through RTGS/Cheques against these invoices/bills were later on returned to the Directors/ Staff of M/s BPSL without supply of goods, thereby causing loss to banks/ financial Institutions and government exchequer.

5. Investigation under PMLA was initiated by the Respondent Directorate after recording an ECIR (ECIR/DLZO-I/02/2019 dated 25.04.2019). A Provisional Attachment Order (PAO No. 09/2022) was issued on 08.06.2022, wherein, one movable property, i.e., Cessna aircraft of the present appellant, **M/s Bhushan Airways Services Pvt. Ltd. (M/s BASPL)** was attached.

6. Pursuant to the above attachment, an Original Complaint (O.C. No. 1763/2022 dated 05.07.2022) was filed before the Ld. Adjudicating Authority (AA) as per the requirement of law.

7. As already mentioned, Ld. AA, vide order dated 23.11.2022, confirmed the attachment of the said property of the appellant.

8. Aggrieved by the said order of the Ld. AA, the appellant has filed this appeal under section 26 of the PMLA.

ARGUMENTS & CONSIDERATION THEREOF

9. The Ld. Counsel for the appellant raised the following issues in support of the appellant's case:

- (i) Absence of 'reason to believe' under section 5 of the PMLA
- (ii) Excessive attachment beyond the quantum of alleged proceeds of crime
- (iii) No nexus between alleged proceeds of crime and the attached property, and absence of any money trail, yet the property has been attached as direct proceeds of crime

10. The issues raised on behalf of the appellant were strongly contested by the Ld. Counsel for the respondent. The rival contentions are discussed and disposed of seriatim in the succeeding paragraphs.

11. *Issue No. 1: No 'reason to believe' u/s 5*

It was contended on behalf of the appellant that the reasons to believe mentioned in the PAO do not satisfy the requirement under second proviso of section 5(1) of the PMLA, 2002, same are not supported with any material whatsoever to show any attempt on the part of the defendant to deal with the property attached.

12. The argument raised on behalf of the appellant has been considered. The 'reason to believe' recorded under section 5(1) in this case by the

respondent directorate is extracted in detail in paragraphs 6 and 7 of the PAO, which is reproduced below for ready reference:

“6. Reasons to believe

On the basis of factual position as explained above and relevant legal provisions, I have reasons to believe that

- *Sh. Sanjay Singal by way of criminal activity related to scheduled offences has siphoned off an amount of Rs. 30,90,07,156 from BPSL in connivance with Smt. Aarti Singal, out of the funds obtained as loans from banks, which were routed through different entities projecting the same as legitimate and used the same for acquisition of Cessna 525 A CJ 2+ aircraft which are nothing but proceeds of crime categorically falling under the definition of 'proceeds of crime' as given under section 2(1)(u) read with 2(1)(v) of the PMLA, 2002;*
- *the acquisition of proceeds of crime and its integration in mainstream economy by way of creation of assets and thereby projecting & claiming as untainted property has led to commission of offence of money laundering defined under Section 3 of PMLA 2002 punishable under Section 4 and Section 70 ibid;*
- *the proceeds of crime/property involved in money laundering, as ascertained above, are in possession of BASPL and further investigation for identification and tracking more proceeds of crime is underway;*
- *such proceeds of crime/property in terms of Section 2 (1)(u) of PMLA, 2002 Le. the Cessna 525 A CJ 2+ aircraft as detailed in Table VII below are in the possession of BASPL and Sh. Sanjay Singal/Smt. Aarti Singal and the same are liable for provisional attachment as proceeds of crime under Section 5 (1) of the PMLA, 2002 as being involved in offence of money laundering and liable for confiscation in terms of Section 8 of PMLA, 2002.*
- *It is possible that investigation and trial of offences both under the PMLA as also of scheduled offences, may take considerable time and if, power of provisional attachment is not exercised here, when there are demands of circumstances and existence of material facts, it could result in defeating the very purpose for which, PMLA has been enacted.*
- *Therefore, if said properties being the proceeds of crime described as above, are not attached provisionally under section 5(1) of Prevention of Money Laundering Act, 2002 and the said property may be alienated, transferred or created encumbrance and thereby*

likely to frustrate the proceeding relating to confiscation of the property involved in money laundering under PMLA especially in view of the propensity of the accused to launder the proceeds of crime through a complex web of circuitous transactions.

7. Reason to invoke Second proviso to Sub-Section (1) of Section 5 of PMLA, 2002

The scheduled offence is being investigated by Central Bureau of Investigation which has not forwarded a report to the Magistrate under Section 173 of the Code of Criminal Procedure, 1973. Accordingly, if property as per Table VII below which is being attached is not attached immediately, there is every likelihood that the said property may change hands or could lead to creation of bona fide third party interest in any other proceedings which may make it difficult to retrieve the same at a later stage and the same may become unavailable for confiscation during trial proceedings. Therefore, on account of past conduct of the accused (routing of money through multiple bank accounts) and their capability and propensity to acquire and launder Proceeds of Crime in a highly sophisticated and circular manner being professionals in their field, I have reasons to believe that if the said property as detailed in Table VII below is not attached immediately under second proviso to Section 5(1) of PMLA, 2002, the non-attachment is likely to frustrate the proceedings under PMLA, 2002 relating to confiscation of such proceeds of crime.”

13. Having perused the above reason to believe recorded by the Deputy Director, Directorate of Enforcement, we do not find any substance in the contention that no reason to believe has been recorded that if the property involved in money-laundering is not attached immediately, the non-attachment of the property is likely to frustrate any proceeding under the Act. On the contrary, we find that the officer has recorded very specific and cogent reasons for invoking the provisions of Second Proviso to section 5(1) of the Act.

14. Accordingly, the first argument put forward on behalf of the appellant is found to have no substance and is hereby rejected.

15. *Issue No. 2: Excessive attachment beyond the quantum of Proceeds of Crime*

With regard to this issue, it is submitted by the appellant that even if the allegations made by ED are taken at their face value, though denied, the alleged proceeds of crime can be only Rs. 9,90,07,156/- which is much less than the value of property (Cessna aircraft) attached in the hands of the appellant company, i.e., Rs. 30,90,07,156/-.

16. A second limb of the argument regarding 'excessive attachment' is that the Directorate has already attached an amount of Rs. 4025.23 crore which is much in excess of the alleged amount diverted by M/s Bhushan Power & Steel Ltd. as alleged in the ECIR.

17. With regard to the second limb of the argument, at the outset, it may be pointed out that the present appeal has been filed by M/s Bhushan Airways Services Pvt. Ltd. (M/s BASPL) and the only attachment in the hands of the said company is one aircraft valued at Rs. 30.90 cr. As such, the question of attachment to tune of Rs. 4450 cr. does not arise in the present appeal. The case of the primary accused company, M/s Bhushan Power & Steel Ltd. (M/s BPSL) or any of the other individuals/entities of the group is not before the Bench at present and, therefore, no comment can be made about the overall quantum of proceeds of crime or the extent of cumulative attachment in the hands of various persons connected with M/s BPSL.

18. Secondly, an ECIR is registered by ED on the basis of the FIR registered in the scheduled offence case by the agency which is investigating that case. The allegations contained in the FIR are only the starting point of the investigations in the predicate (scheduled) offence case. It is not even the final outcome of the investigation in the scheduled offence case, not to speak of the

final outcome of the investigation by the ED under the PMLA. If the facts stated in the FIR and the ECIR registered on the basis of the said FIR were to be the final determinant of the quantum of proceeds of crime, there would be no need for a separate investigation by ED for which the Act bestows vast powers on the Directorate.

19. Coming to the first limb of the argument of 'excessive attachment', namely that even if the allegations made by ED are taken at their face value, though denied, the alleged proceeds of crime can be only Rs. 9,90,07,156/- which is much less than the value of property (Cessna aircraft) attached in the hands of the appellant company, i.e., Rs. 30,90,07,156/-, the issue is fully addressed in the discussions under Issue No. 3 below.

20. *Issue No. 3: No nexus between Proceeds of Crime and Property Attached*

It is contended on behalf of the appellant that the property has been attached based on the allegation of siphoning of Rs. 9,90,07,156/- from M/s BPSL and repayment of bank loan to the tune of Rs. 21 cr. from tainted sources. However, no clear, direct and proximate link has been established between the alleged siphoning/diversion of money and the acquisition of the aircraft. No money trail has been established. Also, the source of funds of Rs 21 crore which had been ultimately used to pay off the loan received from Punjab National Bank, had been duly declared before the Income-tax authorities and applicable taxes were paid thereon.

21. Moreover, the aircraft was purchased in 2009. Even so, it has been attached as direct proceeds of crime although the alleged scheduled offence took place subsequent to the acquisition of the aircraft.

22. With regard to the above submissions, it is seen that the discussions with regard to the sources of acquisition of the aircraft are at pages 13 to 21 of the impugned order. The gist of the findings of the investigation conducted by the ED have been summarised in Para-III on page 17 to 19 of the impugned order which are reproduced below for ready reference:

“III. From the perusal of material brought on record by the Complainant, the role of Defendant in this complaint has been as under:-

M/s. Bhushan Airways Services Private Limited (D-1)

The investigation under PMLA, 2002, has revealed that out of total payment of Rs. 30,90,07,156/- for the purchase of Cessna 525 A CJ 2+ aircraft under the name of M/s. Bhushan Airways Services Private Limited (BASPL), Rs. 9,90,07,156/- were siphoned off from the coffers of M/s. Bhushan Power and Steel Ltd. by way of transferring money from its bank accounts either directly to BASPL or by routing it through other group entities under the control of Sh. Sanjay Singal, ultimately landing in the bank account of BASPL. Though the remaining payments were financed by way of a bank loan of Rs. 21 Crores from PNB, however, with respect to repayment of the said loan, it has been found that money was being constantly routed from the bank accounts of various group companies viz Flawless Holdings & Industries Private Limited, Rail Track India Private Limited, M/s Gainda Mal Chiranji Lal Private Limited, M/s Kishorilal Constructions Private Limited & Evergrowing Finvest Private Limited which were shown as loans and advances and the same were ultimately retired/repaid from cash deposit in the accounts of Sh. Sanjay Singal and Smt. Aarti Singal ascribed to income generated from speculative transactions. Sh. Sanjay Singal & Smt. Aarti Singal failed to provide any evidence with respect to these so called speculative transactions undertaken by them for which not even a single piece of paper is available with them to justify the legitimate nature of the huge deposits made in cash in their bank accounts. Both of them failed to provide any explanation about the financial transactions in their bank accounts. This coupled with the fact that there has been generation of cash by way of siphoning of funds from BPSL either by way of sale of goods in a clandestine manner (as admitted by Sh. Raj Kumar Bajaj, Assistant General Manager, Dispatch, at Orissa Plant of BPSL in his statement dated 22.08.2020) or by way of payments against bogus invoices for which no goods were received (as admitted by Sh. Sanjay Singal in his statement dated 03.10.2019) leads to a reasonable belief that such cash deposits form part of the funds siphoned from

BPSL. Thus BASPL, Sh. Sanjay Singal & Smt. Aarti Singal failed to discharge the obligation to prove that the said aircraft has been acquired out of legitimate funds. On the converse, it is clear from the investigation conducted as above that the said aircraft has been acquired by way of siphoning of funds from BPSL which had been used either for making remittances to the seller towards acquisition of the said aircraft or for repaying the bank loan taken for the purchase of the said aircraft.”

23. During the course of the appellate proceedings, it was pointed out by the respondents that the aircraft in question was purchased in 2009 and the period of the scheduled offence in this case is 2007-2012. Thus, at the outset, there is no merit in the argument of the appellant that the aircraft was acquired prior the period of commission of the alleged scheduled offence.

24. Secondly, as pointed out by the respondent, the purchase consideration for the attached aircraft can be attributed mainly to two sources:

(a) Payment of Rs. 9 cr. (approx.) made by the appellant company, i.e., BASPL, and

(b) Bank loan of Rs. 21 cr. availed by the appellant from the Punjab National Bank

25. As regards the first-mentioned amount of 9 cr. (approx.), it was found that an amount of Rs. 7,39,72,156/- was received by the appellant company as a temporary loan from M/s. Bhushan Power and Steel Ltd. which is the primary accused in the money-laundering case. No information was provided regarding its repayment status on account of non-availability of books of accounts of BASPL. Sh. Ravi Prakash Goyal was unable to point out repayment of the said ‘temporary loan’ of Rs. 7,39,72,156/- received by BASPL from M/s. Bhushan Power and Steel Ltd. from the bank account statements of BASPL. Further, no information was provided regarding source

of payments of Rs. 1,62,00,000/- and Rs. 88,35,000/- made by M/s BASPL on 26.04.2008 and 29.08.2008, respectively, on account of the admitted non-availability of books of accounts of M/s BASPL for the year 2008. Information called for and received by the Directorate from bank revealed amounts received from four companies, namely, M/s Olympian Finvest Ltd., M/s Vintage Steel Pvt. Ltd., M/s Aromatic Steel Pvt. Ltd. and M/s Titanic Steel Inds Ltd. in March and April 2008, amounting to 1.64 Cr.

26. It was further found that the said companies were controlled by Sanjay Singal, Director of Bhushan Steel and Power Ltd. which was controlling the appellant company. The source of income to the said four companies, in turn, was found to be from another two companies, namely, M/s Evergrowing Iron and Finvest Ltd. and M/s Flawless Holdings and Industries Pvt. Ltd. which were also controlled by Sanjay Singal.

27. With respect to the payment of Rs. 88,35,000/- made on 29.08.2008, the same was made out of amount of Rs. 90,00,000/- received by the appellant company directly from M/s. BPSL in its account 0133002100063993 on 29.08.2008.

28. Hence, the first mentioned amount of Rs. 9 cr. was found to be directly linked to the money received from the main accused, M/s BSPL.

29. With respect to the second source, namely, bank loan of Rs. 21 cr. availed by the appellant from the Punjab National Bank, it was found that the loan instalments were sourced mainly through M/s Evergrowing Iron and Finvest Ltd. and M/s Flawless Holdings and Industries Pvt. Ltd. and some other associated companies of Sanjay Singal and recipients of credit money

from M/s BSPL, which is the main accused in the case. Further, the repayment of the loan was made during the offence period, in 2010.

30. It was also found that the Director of M/s BASPL, Sh. Vijay Kumar Tiwari was merely a priest and was made a dummy director by Sh. Ravi Prakash Goyal and Sh. Sanjay Singal. He was unaware about the business transactions, as revealed by his statement under section 50 of the PMLA.

31. Shri Ravi Prakash Goyal stated that funds were continuously inter-rotated among the accounts of BASPL, Flawless Holdings & Industries Pvt. Ltd., Rail Track India Pvt. Ltd., Gainda Mal Chiraniilal Pvt. Ltd., Kishorilal Constructions Pvt. Ltd., and Evergrowing Finvest Pvt. Ltd., primarily to retire and square off outstanding loans. Ledger account of M/s Evergrowing Finvest Pvt. Ltd. in BASPL's books showed Rs. 26,06,56,498/- outstanding loan squared off in FY 2009-10. Ledger account of M/s Flawless Holdings & Industries Pvt. Ltd. in BASPL books showed Rs. 26,12,42,794/- outstanding loan squared off in FY 2009-10. Ledger account of M/s Gainda Mal Chiranjilal Pvt. Ltd. in BASPL books showed Rs. 29,03,46,791/- outstanding loan squared off in FY 2010-11. Ledger of M/s Kishorilal Constructions Pvt. Ltd. in BASPL books showed Rs. 7,26,41,719/- outstanding loan squared off in FY 2010-11. In FY 2010-11, when share application money for allotment of shares of BASPL to Shri Sanjay Singal and Smt. Aarti Singal was received, all outstanding loans in the names of the above companies were squared off, as reflected in the BASPL balance sheet as on 31.03.2011. Shri Ravi Prakash Goyal could not provide company-wise details of how Rs. 29.70 crore of share application money received by M/s BASPL was used to square off the outstanding loans. Further, Sanjay Singal and Aarti Singal had deposited cash in their account which was further transferred as share application money in M/s BASPL. He had submitted that the same was accredited to

income from speculative transactions. However, he could not provide any documentary evidence and source for the cash deposited in his bank account and in the bank account of his wife.

32. From the aforementioned, it can clearly be concluded that the funds utilized for the purchase of aircraft by M/s Bhushan Airways Services Private Limited were sourced from the loan account of M/s Bhushan Power and Steel Limited and hence, the Cessna Aircraft purchased by this company is nothing but proceeds of crime.

33. It is further pointed out by the respondent that upon receipt of the Show Cause Notice u/s 8(1), the appellant did not file their reply. A day before availing the opportunity of being heard, the appellant filed the reply which was not taken on record as there was inordinate delay and no time was left to obtain the comments of the Enforcement Directorate on it. However, adhering to the principle of natural justice, the appellant was given the opportunity to put forward its arguments orally in course of the final hearing before the Ld. Adjudicating Authority. The provisions of Section 8 of the PMLA which provides for adjudication by the Adjudicating Authority are very clear. Upon receipt of a notice u/s 8(1), the onus is entirely upon the person to whom the notice is issued is to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under section 5(1), the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money-laundering and confiscated by the Central Government. If he is unable to do so, the property in question would be liable to be considered to be proceeds of crime and attached as such, leading to its final confiscation upon successful conviction of the accused. The PMLA places reverse burden on the accused person to

produce appropriate evidence to prove that the property did not represent proceeds of crime. The provisions of Section 8(1), and Sections 23 and 24 of the Act lay down the principle of reverse burden firmly and unambiguously.

34. In the present case, the appellant has entirely failed to discharge its burden. On the contrary, the investigations carried out by the respondent directorate have succeeded in establishing a clear money trail from the proceeds of crime to the asset which has been attached as brought out in the preceding paragraphs. No specific submissions backed by documentary evidence have been made by the appellant even at the appellate stage to rebut the detailed and specific findings of the respondent directorate as discussed above. It is stated that the source of the repayment of Rs. 21 cr. received from PNB had been declared in the I-T Returns. However, the relevant I-T Returns have not been made a part of the record. The findings of the I-T Department have been briefly referred to in para-3 above. It appears that subsequent to the said investigation by that Department, additional income may have been declared by the appellant. The same cannot absolve the appellant of the consequences under the PMLA. Even otherwise, mere declaration of income from tainted sources as untainted income from legitimate sources for the purposes of income tax cannot constitute a defence under the PMLA. The entire aim of money-laundering is to give the colour of legitimacy to illegitimate income. Filing of ITRs declaring income from tainted sources as income from legitimate sources and paying tax thereon is only one more step in this direction. The appellant did not submit any cogent document to explain the sources of income for the purchase of the subject property.

35. Accordingly, in light of the elaborate findings recorded in the impugned order which have remained entirely uncontested with any tenable evidence, the argument regarding the lack of nexus between the attached property and

the proceeds of crime are also hereby rejected both on factual and legal grounds. Firstly, it was not for the respondent to prove the nexus but for the appellant to disprove the same, and, secondly, the respondent has, in fact, succeeded in establishing a clear nexus in the present case.

36. The respondent Directorate has also pointed out that a Supplementary Prosecution Complaint has been filed before Special Court on 05.01.2026 praying for confiscation of the attached property, i.e., Cessna Aircraft standing in the name of the appellant company.

37. Accordingly, the arguments advanced on behalf of the appellant fail, and are hereby rejected. No other arguments were pressed by the Ld. Counsel for the appellant. Consequently, we do not find any reason to interfere with the impugned order.

38. Consequent to the above, the appeal is found to be without merit and is hereby **dismissed**.

39. Pending applications shall also stand disposed of.

40. No orders as to costs

(V. Anandarajan)
Member

(G. C. Mishra)
Member

New Delhi,
18th February, 2026
‘PKV’