

APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

- 1. MP-PMLA-2936/DLI/2025 Stay
MP-PMLA-2937/DLI/2025 Exemp.
FPA-PMLA-1360/DLI/2025**
Sidhant Gupta ... Appellant
- 2. MP-PMLA-2939/DLI/2025 Stay
MP-PMLA-2940/DLI/2025 Exemp.
FPA-PMLA-1361/DLI/2025**
Sonika Gupta ... Appellant
- 3. MP-PMLA-2942/DLI/2025 Stay
MP-PMLA-2943/DLI/2025 Exemp.
FPA-PMLA-1362/DLI/2025**
Surya Kant Bhola ... Appellant
- 4. MP-PMLA-2945/DLI/2025 Stay
MP-PMLA-2946/DLI/2025 Exemp.
FPA-PMLA-1363/DLI/2025**
Samarth Gupta ... Appellant
- 5. MP-PMLA-2948/DLI/2025 Stay
MP-PMLA-2949/DLI/2025 Exemp.
FPA-PMLA-1364/DLI/2025**
Anand Goyal ... Appellant
- 6. MP-PMLA-2951/DLI/2025 Stay
MP-PMLA-2952/DLI/2025 Exemp.
FPA-PMLA-1365/DLI/2025**
Sushma ... Appellant
- 7. MP-PMLA-2954/DLI/2025 Stay
MP-PMLA-2955/DLI/2025 Exemp.
FPA-PMLA-1366/DLI/2025**
Radhey Krishna marketing Pvt. Ltd. ... Appellant
- 8. MP-PMLA-3009/DLI/2025 Stay
MP-PMLA-3010/DLI/2025 Exemp.
FPA-PMLA-1382/DLI/2025**
M/s Golf Link Project Pvt. Ltd ... Appellant
- 9. MP-PMLA-3012/DLI/2025 Stay
MP-PMLA-3013/DLI/2025 Exemp.
FPA-PMLA-1383/DLI/2025**
M/s JKC Builders Pvt. Ltd. ... Appellant
- 10. MP-PMLA-3015/DLI/2025 Stay
MP-PMLA-3016/DLI/2025 Exemp.
FPA-PMLA-1384/DLI/2025**
M/s Livlite Industries Pvt. Ltd. ... Appellant
- 11. MP-PMLA-3018/DLI/2025 Stay
MP-PMLA-3019/DLI/2025 Exemp.
FPA-PMLA-1385/DLI/2025**

M/s Universal
Infrastructure Company Pvt. Ltd ... Appellant

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

Advocates/Authorized Representatives who appeared

For the Appellant : Mr. Gurpreet Singh, Adv.
Mr. Harsh Yadav, Adv.
Mr. Bakul Jain, Adv.
Mr. Naveen Kohar, Adv.
Mr. Madhav Khurana, Adv.
Mr. Jagjit Nandal, Adv.

For the Respondent : Mr. Kshitiz Aggarwal, Adv.

CORAM

SHRI V. ANANDARAJAN : MEMBER

FINAL ORDER

12.05.2026

The present appeals have been filed against the common order dated 19.05.2025 passed by the Ld. Adjudicating Authority (AA) in Original Application (O.A.) No. 08/2025, whereby the O.A was allowed and the retention/continued freezing of immovable and movable properties in the form of cash, vehicles, digital devices, bank lockers, bank accounts, Fixed Deposits (FDs), shares and demat accounts of the appellants herein as per the details given below was permitted by the AA:

Siddhant Gupta

S. No.	PROPERTY	FROZEN FROM PREMISES
1.	IPhone 16 Pro	F-9/9, Vasant Vihar, Delhi

S. No.	A/c No. or PAN No. DEMAT No.	Account maintained with
1.	Linked with PAN AEVPG8722Q	HDFC Bank
2.	Linked with PAN AEVPG8722Q	ICICI Bank

Sonika Gupta

S. No.	REG. No.	MAKE, YEAR AND MODEL	FROZEN FROM PREMISES
1.	DL12CL5151	Toyota, 2017 & Fortuner E4 Sigma along with car key	F-9/9, Vasant Vihar, Delhi
2.	DL1CS8282	Mercedes, 2014 & E200 along with car key	F-9/9, Vasant Vihar, Delhi

S. No.	A/c No. or PAN No. DEMAT No.	ACCOUNT MAINTAINED WITH
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1.	1208160085430661 (demat account linked with PAN AEHPG5604D)	Zerodha Broking Ltd.
2.	50100203435736	HDFC Bank
3.	50200039130593	HDFC Bank
4.	Linked with PAN AEHPG5604D	IDFC Bank
5.	Linked with PAN AEHPG5604D	HSBC
6.	Linked with PAN AEHPG5604D	ICICI Bank

Locker No.64	HDFC Bank, Vasant Vihar, N.Delhi	03.12.2024
Locker No. 74	HDFC Bank, Vasant Vihar, N.Delhi	03.12.2024
Locker No. 710	HDFC Bank, Vasant Vihar, N.Delhi	03.12.2014

Surya Kant Bhola

S. No.	PARTICULARS	FROZEN FROM PREMISES
1.	1 Mobile Phone- Samsung Galaxy S-22 Ultra	S-354 Greater Kailash, Part-1, N. Delhi-110048

Samarth Gupta

S. No.	A/c No. or PAN No. DEMAT No.	ACCOUNT MAINTAINED WITH
1.	Linked with PAN CCHPG6820M	ICICI Bank
2.	Linked with PAN CCHPG6820M	HDFC Bank

Anand Goyal

1.	Locker No. 79 in the name of Anand Goyal	Federal Bank, Kirti Nagar, New Delhi	03.12.2024
2.	1 Samsung Mobile Phone	Having 2 sims	
3.	Jewellery items including 15 Gold items and one silver item from the bank locker of Anand Goyal	Valued at Rs. 35,80,815/- as mentioned in the valuation report dt. 03.12.2024	

M/s Radhey Krishna Marketing Pvt.Ltd.

S. No.	REG. NO.	MODEL/MAKE	REGISTERED IN NAME OF	SEIZED FROM THE PREMISE
1.	HR26EH3426	BMW 7 series along with the car key	M/s Radhey Krishna Marketing	16B, Central Drive, DLF Farms, Chhatarpur, Delhi
2.	HR06C9998	Porsche	M/s Radhey Krishna Marketing	16B, Central Drive, DLF Farms, Chhatarpur, Delhi

M/s Golf Link Projects Pvt. Ltd.

S. No.	REG. No.	MAKE, YEAR AND MODEL	FROZEN FROM PREMISES
1.	CH01CJ9999	Mercedes Benz, 2016 & Maybach S500 along with car key	F-9/9, Vasant Vihar, Delhi
2.	DL8CAK0007	BMW, 2024 & 740i	F-9/9, Vasant Vihar, Delhi
3.	DD01A3157	Porsche, 2020 & Cayenne along with car key	F-9/9, Vasant Vihar, Delhi

S. No.	A/c No. /PAN No.	NAME OF THE BANK/ NAME OF SHARE
1.	092813011681 (FD)	ICICI Bank
2.	092813011683 (FD)	ICICI Bank
3.	092813011695 (FD)	ICICI Bank

4.	092813011706 (FD)	ICICI Bank
5.	092813011949 (FD)	ICICI Bank
6.	092813012009 (FD)	ICICI Bank
7.	092813009050 (FD)	ICICI Bank
8.	092813011291 (FD)	ICICI Bank
9.	092813011292 (FD)	ICICI Bank
10.	092813011396 (FD)	ICICI Bank
11.	092813010840 (FD)	ICICI Bank
12.	092813010852 (FD)	ICICI Bank
13.	092813010853 (FD)	ICICI Bank
14.	092805001471 (FD)	ICICI Bank
15.	092805001872 (FD)	ICICI Bank
16.	092805001887 (FD)	ICICI Bank
17.	AADCL5104E	Aditya Birla Sun Life Corporate Bond Fund
18.	AADCL5104E	Aditya Birla Sun Life Savings Fund
19.	AADCL5104E	HDFC Corporate Bond Fund
20.	AADCL5104E	HDFC Liquid Fund
21.	AADCL5104E	HDFC Top 100 Fund
22.	AADCL5104E	HDFC Ultra Short-Term Fund
23.	AADCL5104E	ICICI Prudential Blue-Chip Fund
24.	AADCL5104E	ICICI Prudential Ultra Short-Term Fund
25.	AADCL5104E	Motilal Oswal Large and Midcap Fund
26.	AADCL5104E	HAL Share
27.	AADCL5104E	HDFC Shares
28.	AADCL5104E	ITC Shares
29.	AADCL5104E	Jio Finance
30.	AADCL5104E	L T Shares
31.	AADCL5104E	Maruti Shares
32.	AADCL5104E	Reliance Shares
33.	AADCL5104E	Shri Ram Finance Share
34.	AADCL5104E	Tata Motors Shares

Bank account maintained with aforementioned banks of M/s Golf Link Projects Pvt.Ltd. linked with the PAN No. AADCL5104E also frozen.

S. No.	PARTICULARS	FROZEN FROM THE PREMISES
1.	SSD bearing serial number 977234123082900248 of black colour and capacity of 512 GB removed from computer bearing BIOS S No. BXBZD02	Third Floor, A-2/11, Safdarjung Enclave, above Kia Showroom, Africa Avenue, N. Delhi-29

M/s JKC Builders Pvt. Ltd.

From the premises of M/s JKC Builders Pvt. Ltd. At Plot No. 16B, Central Drive, DLF Farms, Chhatarpur, Delhi

S. No.	A/c No. or CIN No.	IN THE NAME OF	A/C MAINTAINED WITH
1.	409001688611	Neelkanth Trading	Ratnakar Bank Ltd.
2.	135305002591	M/s Livlite Trading	ICICI Bank Ltd.
3.	0664100100005032	Sushma	Punjab National Bank Ltd.
4.	00600350114763*	Aditya Birla Finance Ltd.	HDFC bank Ltd.
5.	Shares of JKC Builders Pvt. Ltd. (CIN-U45201DL1982PTC013660)**	N.A	N.A

**After verifying, it was found that the said account is in the loan account of Aditya Birla Finance Ltd. And therefore the account was defreezed.*

***The shares of JKC Builders Pvt.Ltd have been attached provisionally vide PAO No. 19/2024 dated 20.12.2024 inclusive of the assets of the company for which separate OC will be filed.*

M/s Livlite Industries Pvt. Ltd.

S. No.	A/s No./ Demat No.	ACCOUNT MAINTAINED WITH
1.	135305002591	ICICI Bank Ltd.

M/s Universal Infra. Co. Pvt. Ltd.

S. No.	Account No./ PAN No.	NAME OF THE BANK/ NAME OF SHARE
1.	89800300002991	Bank of Baroda
2.	032213026200	ICICI Bank
3.	629313042265	ICICI Bank
4.	91902007018548	Axis Bank
5.	912020060109194	Axis Bank
6.	920020035387210	Axis Bank
7.	69400200000092	Bank of Baroda
8.	89800200001191	Bank of Baroda
9.	629305041923	ICICI Bank

Bank account maintained with aforementioned banks of M/s Universal Infra. Co. Pvt. Ltd. linked with the PAN No. AACCCJ4434E also frozen.

Facts in Brief

2. The brief facts of the case are that a written complaint dated 11.08.2020 had been received by CBI from Sh. Manish Gupta, Assistant General Manager, Bank of India, New Delhi, Large Corporate Branch, 10th Floor, Chanderlok Building, 36, Janpath, New Delhi.

3. On the basis of the aforesaid complaint, an FIR (No. RC2232020A0005 dated 10.09.2020) had been registered by CBI, AC-V, New Delhi against the following entities/individuals, namely:

(i) M/s Kwaliti Limited, KDIL House, F-82 Shivaji Place, Rajouri Garden, New Delhi, West Delhi.

(ii) Sh. Sanjay Dhingra, Director, M/s Kwaliti Ltd., Resident of House No. 14, road no 8, East Punjabi Bagh, New Delhi.

(iii) Sh. Sidhant Gupta, Director, M/s Kwalitiy Ltd. Resident of X-12, Second Floor, Hauz Khas, New Delhi.

(iv) Sh. Arun Shrivastava, Director, M/s Kwalitiy Ltd. 314, 1 floor, Sri Nagar, Shakur Basti, New Delhi.

(v) Other unknown persons and public servants.

4. As per the FIR, M/s Kwalitiy Limited was engaged in processing, manufacturing and trading of milk and various dairy products. The company, through its directors, namely Sanjay Dhingra and Sidhant Gupta, had carried out falsification and fabrication of books of accounts to misrepresent sales, purchases, debtors and creditors and, thereby, cheated the consortium of banks with the Bank of India as the lead bank, and illegally caused wrongful gain to themselves and wrongful loss to the consortium banks to the tune of Rs. 1400.62 cr. (balance outstanding as on 30.11.2019).

5. The offences made out against the aforesaid entities/individuals in the FIR were section 120 B read with 420, 468, 471, & 406 of the erstwhile Indian Penal Code (IPC) and section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (P.C. Act). Out of the aforesaid, sections 120-B, 420 and 471 IPC and sections 13(2) & 13(1)(d) of the P.C. Act are scheduled offences under the Prevention of Money-Laundering Act, 2002 (PMLA). Accordingly, from the aforesaid FIR, a case of offence of money laundering under section 3 of the PMLA, 2002, punishable under Section 4 of the said Act appeared to have been made out against the above-named persons/entities. As such, an Enforcement Case Information Report (ECIR) bearing No. ECIR/DLZO-1/24/2020 was recorded by the Directorate of Enforcement (ED) on 14.12.2020 and investigation under the provisions of the PMLA, 2002 and Rules framed thereunder was initiated.

6. As regards the background facts, it emerges from the record that M/s Kwality Limited was incorporated in 1992 as Kwality Dairy (India) Limited and registered with Registrar of Companies (West Bengal) at Kolkata. In the year 2002, the original promoters of M/s Kwality Dairy (India) Limited (KDIL) exited the business completely. Thereafter, KDIL was acquired by JMD Group whose promoter was Sh. Sanjay Dhingra.

7. In 2013, the name of M/s Kwality Dairy (India) Limited was changed to Kwality Limited. The allegations mentioned in the complaint also revealed that M/s Kwality Limited, through its directors, in the year 2010, approached Bank of India requesting for working capital limit of Rs. 75 cr. and the Bank of India sanctioned working capital limits of Rs. 75 cr. on 30.07.2010. Further, on 30.03.2011, the consortium of banks was formed having the Bank of India as lead consortium bank with consortium limit of Rs. 390 crore.

8. Thereafter, the Bank of India consortium was reconstituted on multiple occasions with enhancement of limits from time to time and lastly, on 25.07.2014, it was reconstituted consisting of 10 member banks, i.e., Bank of India, Bank of Baroda, Andhra Bank, Central Bank of India, Corporation Bank, IDBI Bank Ltd., Allahabad Bank, Canara Bank, Syndicate Bank and Dhanlaxmi Bank and have granted both fund-based and non-fund based facilities to the tune of Rs. 1125 crore to M/s Kwality Limited. The account came under default due to non-servicing of interest and instalments and slipped to NPA on 31.08.2018.

9. Investigations revealed cash flow mismatch, non-routing of proportionate sales, delay in debtor realization and repayment obligation of term lenders. The underlying object of the company was to indulge in sham transactions and rotate the funds disbursed by banks as loan, either by withdrawing in cash or transferring in the accounts of bogus

companies/ firms, inflating the turnover of the company, inflating bogus debtor and enhancing further loans. It was also found that Sanjay Dhingra and Sidhant Gupta had created a number of dummy entities in the names of their employees and in the names of persons known to them. These entities were involved in the bogus sale/purchase with M/s Kwality Limited.

10. It was also revealed that considerable amount of trading sales/purchase were made without actual receipt of the same in the factory premises and physical deliveries therefrom. Supplies had been made directly by the suppliers of the company to the customers of the company, which indicated towards the unaccounted out-of-the-books sales by the Kwality Ltd., the suppliers, as well as the customer company.

11. It was also found that the directors and proprietors of many of the concerns, who were shown to be the suppliers and customers of M/s Kwality Ltd., were existing employees of M/s Kwality Ltd. Commonality of directors and shareholders with suppliers and distributors implied that the entire network of companies was merely a bogus/sham network operated through persons planted by M/s Kwality Limited. For instance, one of the major suppliers of M/s Kwality Ltd was Ameerjay Enterprises Pvt. Ltd. Harshdeep Chandokhe s/o Ninder Jeet Singh Chandokhe was the director of this company. Harshdeep and Ninder Jeet Singh were persons known to the erstwhile directors of M/s Kwality Limited, namely, Sanjay Dhingra and Sidhant Gupta. They were also directors and owners of many of the companies and firms which had dummy transaction with M/s Kwality Limited as stated by the erstwhile employees of M/s Kwality Limited in their statements.

12. On the basis of findings as above, it was evident that these companies were formed only for the purpose of making bogus transactions with M/s Kwality Ltd. They existed only on paper and were formed in the name of the employees of M/s Kwality Ltd. In garb of the bogus sales/purchases, the directors of M/s Kwality Limited siphoned off the bank loan funds in cash, or used the funds for purchase of immovable and movable assets.

13. Statements of various persons recorded under Section 50 of PMLA, 2002 during the course of investigation also revealed that turnover of M/s Kwality Ltd. was enhanced through bogus transactions with the dummy entities.

14. During the forensic audit of M/s Kwality Ltd. by consortium of banks, the appellants had directed the employees of the companies to prepare bogus purchase invoices with back dates and also rent some premises to be shown as registered addresses of the bogus companies.

15. As per the forensic audit report conducted by GSA and Associates, the balance confirmation in respect of receivables showed huge deviation. As against total outstanding of INR 1807.57 crore, parties confirmed receivables of INR 972.82 crore only, which indicated inflation of receivables by Rs. 834.75 crores. These receivables were either realized out of books or were bogus figures, which led to generation of proceeds of crime by Kwality Limited. Further, it was noticed that the entities with whom there was a difference in balance confirmation were mainly the bogus entities which were in the names of the then employees of M/s Kwality Limited or persons known to the directors of Kwality Limited. These bogus entities were not run by the dummy directors in whose names they were floated but were being managed by Sanjay Dhingra and Sidhant Gupta. Therefore, a difference in balance confirmation with

respect to these entities indicated deliberate siphoning of funds by Sanjay Dhingra and Sidhant Gupta.

16. Investigations also revealed that Sidhant Gupta along with Sanjay Dhingra had siphoned off the proceeds of crime, i.e., the loan funds availed by M/s Kwaliti Limited from the consortium of banks for the purpose of creation of assets in their own names as well as in the names of their family members and entities beneficially owned by them.

17. A search and seizure proceeding was carried out on 27/28-11-2024, wherein statements of various persons were recorded u/s 17 of PMLA, 2002. Several incriminating documents, movable/immovable properties were found at different premises during the search operation which had been acquired by erstwhile directors of M/s Kwaliti Limited, Sanjay Dhingra and Sidhant Gupta by siphoning off funds received as bank loan.

18. In consequence of the search and seizure action, an application under section 17(4) was filed before the Ld. Adjudicating Authority (AA) requesting for retention of the records/property and continuation of freezing of properties. The Ld. AA, vide its order dated 19.05.2025 has allowed the retention/continuation of freezing of properties.

19. Aggrieved by the aforesaid order of the Ld. AA, the appellants have challenged the said order before this Appellate Tribunal on various factual and legal grounds.

Contentions of Parties

20. Common arguments were made on behalf of all the appellants herein. As such, all these appeals are taken up for consideration and disposal through this common order.

21. It is firstly contended on behalf of the **appellant** that basic ingredients of section 17(1A) were not satisfied in so far as there was no 'reason to believe' as envisaged in Section 17 (1A) PMLA, 2002. Reliance is placed on the judgement of the Hon'ble High Court of Delhi in *Directorate of Enforcement v. Poonam Malik & Ors, Misc. Appeal (PMLA) 4/2021 decided on 14.11.2025*, wherein it was held:

"67. Equally well-established is the rule of statutory interpretation that when a statute prescribes that a particular act is to be performed in a specified manner, it must be performed in that manner alone or not at all. Deviation from the prescribed procedure is impermissible in law. The record of the present cases unmistakably discloses non-compliance with the mandatory provisions of Sub-sections (1) and (1A) of Section 17 of the PMLA, as well as Rules 3 and 4 of the PMLA (Search and Seizure or Freezing of Property) Rules, 2005. Such non-compliance renders the freezing orders dated 05.09.2018 issued by the ED not only procedurally defective but also substantively contrary to law.

68. It must also be borne in mind that the freezing of a bank account in violation of statutory requirements has far-reaching consequences. Such action directly impinges upon the constitutional right to property guaranteed under Article 300A of the Constitution of India, which mandates that no person shall be deprived of property except in accordance with the authority of law. Any violation of this constitutional safeguard strikes at the very root of the legitimacy of the impugned action and cannot be countenanced."

22. Copies of the aforesaid judgment as well as the judgment passed by the Delhi High Court in *ED v. Rajesh Kumar Aggarwal, Misc. Appeal (PMLA) 03/2023* have been have been submitted. It is contended that prior to passing the freezing order, ED has to specifically state the reasons why the property constitutes proceeds of crime rather than merely making a lame statement without any reasons quoted. It is contended that in the present case, ED has failed to comply with the provision of Section 17. It failed to record any reason that how the Appellant is in possession of proceeds of crime.

23. It is next contended that the Ld. AA decided the Application submitted under Section 17 PMLA, 2002 without complying with the mandatory provision under Section 21(2) of the PMLA as documents/records seized were never filed or produced before the Ld. AA and copies of the same were never supplied to the appellant. The Ld. AA without the perusal of the said seized documents passed the impugned order for retaining the documents/records. Thus, the same is not in conformity with Section 17 of the PMLA and also u/s 21(2) read with section 8(1) of PMLA.

24. It is submitted that the Appellant had raised the issue of non-compliance of provision u/s 21(2) r/w section 8(1) of PMLA before the Ld. AA. In the case of *Sarla Gupta & Another v. Directorate of Enforcement, 2025 INSC 645*, vide Criminal, Appeal No. 1622 of 2022, the three Judges bench of the Hon'ble Supreme Court had issued the following directions

"When records, instruments, or documents of title of the property are seized along with the property under Sections 17 and 18 of the PMLA, the accused from whom the same are seized is entitled to true copies thereof."

25. It is submitted that in view of above, during the course of oral arguments, a direction was issued by the Ld. AA to the ED to make available true copies of the records, instruments, or documents seized under section 17 and 18 of the PMLA, 2002, within 30 days of the filing of the application u/s 21(2) by the respondents (appellants herein). It is submitted by the counsel for the appellant that the compliance of Section 21 PMLA, 2002 is a statutory provision and it is to be complied prior to deciding the application under Section 17(4) PMLA, 2002. Thus, the impugned order passed without looking into the seized records thus the same is not in conformity with the provisions of the PMLA, 2002.

26. It is next submitted that the impugned order did not satisfy the provisions of Section 8(2) of PMLA, 2002 as the documents/records/accounts seized has nothing to do with the commission of alleged scheduled offence and were not involved in any money laundering. The impugned order failed to satisfy the basic ingredient of the provisions of PMLA, 2002 Act and is liable to be set aside on the following grounds.

27. Next, the appellants have pointed out that the respondent and the Ld. AA have relied upon the forensic Audit Report of M/s GSA and Associates to prove its allegations, but the said report cannot be relied upon in terms of the order dated 02.06.2021 passed by the Hon'ble High Court of Delhi wherein the said GSA and Associates report is under challenge on the basis of bias and being contrary to the records, the Hon'ble High Court recorded as follows:

"21. By virtue of this email, the observations which were pointed out by the auditor in regard to the affairs of the company were informed to the petitioners. By the same email the petitioners were directed to submit their reply to the observations as pointed out by forensic auditor to the consortium latest by 15.04.2019. The reading of this email shows that the forensic auditor M/s G.S.A. & Associates have submitted their final forensic audit report which has been shared with all the lenders. So, if this is the case, there was no scope for the petitioners to have sent any reply as asked by this email. But still as per the petitioners they had sent their reply along with annexures vide email dated 18.04.2019.

22. Even if we go by this assertion that it was a draft report, the reply though sent late by the petitioners could have been considered in response to the findings of the forensic audit report of M/s G.S.A. and Associates. It is a fact on record that the complaint in this case was filed on 11.08.2020 and the FIR was registered on 10.09.2020. So, there was ample time between the issuance of this email and filing of the complaint between which the reply sent by the petitioners could have been considered and further clarifications if any could have been called for.

23. *Therefore, in these facts and circumstances of this case, at this stage, I am not inclined to quash the Forensic Audit Report of Mis GSA & Associates, so a fresh Forensic Audit Firm namely PVRN & Co. is appointed from the list of IBA empanelled Forensic Audit Firms which are empanelled for conducting forensic audit of frauds above an exposure of Rs. 50 Crores with the directions to examine the matter afresh between the period 01.10.2015 to 30.06.2018. The said Forensic Audit Firm shall give its report within 5 months and till that time no further coercive action be taken against the petitioners. All the expenses in respect of the said Audit shall be borne by the petitioners."*

28. Thus, the Hon'ble High Court appointed a fresh Auditor for forensic Audit of the company and despite the above facts, the Ld. AA at page no. 39 of the impugned order recorded as follows:

1. Respondent No. I argued that M/s GSA & Associates acted in collusion with the bank and submitted a one-sided, prejudiced forensic report, whereas Satya Prakash Mangal & Co. had concluded in their draft forensic audit that there was no diversion of funds and working capital was properly utilized.

In response, the applicant mentioned that the Delhi High Court, in its order dated 2nd June 2021, did not quash the report of M/s GSA & Associates. Instead, it appointed a fresh forensic auditor, PVRN & Co., whose report also confirmed the misappropriation and mishandling of bank funds by the company and its directors.

29. It is submitted that the Ld. AA concluded that PVRN & Co. report confirmed misappropriation and mishandling of bank funds, whereas neither the said report was placed before the Ld. AA nor any averments were made in the Application or rejoinder filed by the Respondent. Thus, it is not clear on what basis the Ld. AA came to the said conclusion. Further the report of PVRN & Co. is total contradictory from the allegations made in the report of GSA and Associates. Further the said report for the first time is mentioned in the reply filed by the Respondent no. 1.

30. With regard to the report of M/s PVRN & Co., it is further stated that respondent, in their reply to the appeal, at para no. 35, has relied

upon a report of PVRN & Co., which was conducted in compliance of the order passed by the Hon'ble High Court. But the said report was never a part of the proceedings before the Ld. AA and is stated in the reply to be annexed as Annexure A, but the same was never supplied to the Appellant, thus the same cannot be relied upon. Further the allegations made that the said report also confirmed the misappropriation and mishandling are false and misleading.

31. It is next contended that the Ld. AA failed to take into consideration the grounds and facts stated in the reply and the arguments on presented on behalf of the appellant. While the submissions of the Appellant have been recorded, the same have been rejected without giving any reason. Instead, the Authority recorded as follows:

"10. At this point, it is vital to emphasize the importance of the ongoing investigation, considering the existence of prima facie allegations related to the offense of money laundering. The information provided in the document adequately demonstrates the involvement of proceeds derived from illicit activities. Currently, a thorough investigation into money laundering is underway. The comprehensive details regarding the Respondent's involvement money laundering, as well as their connection to the seized material, have been provided on para 5 (III) of this order, which describes their respective roles."

32. It is firstly submitted by the appellant that there is no. para 5 (III) in the impugned order. Thus, the order shows non-application of mind. Secondly, it is an admitted fact that the seized things and other properties were not produced before the Ld. AA, and therefore, the reasoning given is unfounded and without the application of mind. The documents and articles seized and the properties were not linked /connected with the commission of the scheduled offence, thus the basic ingredient of section 8 of the PMLA was not made out. The Ld. AA erred in not holding that the OA was liable to be dismissed as the Complainant had failed to comply with the provision of Section 21(2) read with Section

8(1) of the PMLA by failing to file the seized documents before this AA, and further, by not supplying the documents to the Appellant.

33. In the light of the above contentions, the appellants have prayed that the impugned order dated 19.05.2025 passed by the Ld. Adjudicating Authority be set aside and the appeals be allowed.

34. The **respondent directorate** has strongly contested the arguments on behalf of the appellants. The underlying facts leading to the investigations under PMLA against the appellants have been stated in detail by the respondents. As the relevant facts and the allegations against the appellants have already been discussed in para 2 to 17 above, the same are not reiterated here.

35. By way of background of the appellant company, it is submitted that the company was formed in January 2018. Sonu and Avinish Kumar Shrivastava are the present Directors of the company. Sonu is the driver of Sidhant Gupta and Avinish Kumar is the known person of Sidhant Gupta. The company owns land parcels in Karnal and is in the business of plotting of the land parcels. This company is completely controlled by Sidhant Gupta and the same has been stated by him in his statement recorded during the proceedings u/s 17 of PMLA. The same has also been stated by Anand Goyal (an employee working under Sidhant Gupta) in his statements recorded u/s 50 of PMLA as under:

"The major share-holder of this company (99.99%) is Ved Prakash Gupta who is holding 9.99 Lakh shares of this company. The rest 1000 shares were hold by Samarth Gupta as on date. However, all the activity of this company is being managed by Sidhant Gupta Avinish Kumar Srivastava and Sonu are the directors of this company. Sonu is the driver of Golf Link working under Sidhant Gupta and Avinish Kumar Srivastava was ex-employee of Kquality Limited and was a known person of Sidhant Gupta."

36. Further, Avinish Kumar Srivastava, director in the company, whose statement was recorded under section 50 of PMLA, 2002, stated

that he was just a namesake director and did not have any control over the company. The other director is also a driver under Sidhant Gupta. He also stated that the entire control of the company is with Sidhant Gupta and he manages all the affairs of the company and that he doesn't have knowledge of any of the transaction of the company.

37. Summons was issued to Sonu to provide the source of the funds which have been used to acquire the properties by the company. But he did not comply with the summons. Enquiries revealed that Ved Prakash Gupta and Samarth Gupta are the shareholders in the company. Ved Prakash Gupta is the father of Sidhant Gupta who is living in Jammu and Samarth Gupta is the son of Sidhant Gupta and is studying abroad. Further, since Sidhant Gupta was managing all the affairs of the company, therefore, he was found to be the beneficial owner of the company.

38. Further, this company had purchased the property from JTPL Private Limited. JTPL Private Limited was formed in June, 2001 and the company went under liquidation before IRP. The past directors of the company were Sanjay Dhingra and Ved Parkash Gupta, which establishes the connection of the company M/s JTPL Private Ltd with Kwality Limited. Further, this company is also under default of credit facilities with outstanding principal amount of Rs. 190.37 Crore.

39. Also, the company had received an amount of approx. 63.71 Crore from the bogus firms namely Nayyar Dairy, Gogia Enterprises, Uttam Enterprises and Sukhpreet Dairy Private Limited. These company/ firms were nothing but bogus firms/companies used for providing dummy sales purchase bills and entries to Kwality Limited. Therefore, it was inferred that the company was in receipt of proceeds of crime from these firms/companies who were just providing entries to Kwality Limited.

40. As regards the legality of the proceedings in terms of the provisions of section 8, it is submitted by the respondents that before issuing a show cause under Section 8(1) of the PMLA, the Adjudicating Authority has to independently reach a conclusion based on the complaint before it that reasons to believe' exist regarding the commission of money laundering. The purpose of a show cause notice under Section 8(1) of the PMLA is to accord a fair opportunity of adjudication to a party whose property is sought to be attached. The judgement of the Hon'ble High court of Bombay dated 05.08.2010 in *Radha Mohan Lakhotia Vs. Deputy Director, PMLA (First Appeal No. 527-529 of 2010)* is relied upon wherein it was held that:

"The fact that respondents could have acted only if there was reason to believe that a person is in possession of proceeds of crime does not mean that the Authorities at the stage are obliged to prove the fact beyond doubt that the property in possession was in fact proceeds of crime. All that the Authority is required to show is that there was "substantially probable cause" to form opinion that the property under attachment is proceeds of crime..."

41. The decision of the Division Bench the Hon'ble High Court at Bombay in the case of *Brizo Reality Company Pvt. Ltd. Vs. Aditya Birla Finance Ltd. and Others* is also cited wherein it was held:

"6. Apparently, in view of various references to the Petitioner in the complaint, the impugned notice dated 29.04.2014 was issued. It is contended that the said notice does not furnish any reason to believe that the petitioner has committed an offence under section 3 or is in possession of proceeds of crime. In view of this contention, it is necessary to set out the entire notice.

"You are called upon to indicate the source of your income, earning or assets out of which or by means of which you have acquired the property attached under subsection (1) of section 5 of the Prevention of Money Laundering Act, 2002 the evidence on which you rely and other relevant information and particulars and show cause why all or any such property should not be declared to be the properties involved in money-laundering and consequently why the attachment order should not be confirmed

You are called upon to show cause why the provisional attachment order in respect of properties should not be confirmed as representing proceeds of crime being value of properties involved in money laundering [Copy of the complaint and Annexure / relied upon documents thereto enclosed herewith].

You are directed to appear before the Hon'ble Chairman and Member, Adjudicating Authority (PMLA) in person or through an advocate / authorised representative duly instructed on 12.06.2014 at 11.00 am. at Adjudicating Authority, Prevention of Money Laundering, 4th Floor, Court Room 2, Room No.20, Jeevan Deep Building, Parliament Street, New Delhi-110001, failing which the complaint shall be heard and decided in your absence."

7. *The contention that the show cause notice does not state that the Adjudicating Authority has reason to believe that the petitioner has committed an offence under section 3 of the Act or is in possession of proceeds of crime is not well founded. The notice has, for all practical purposes, adopted, incorporated the complaint in toto. The notice, fairly read, indicates that the Adjudicating Authority, on the basis of the material in the complaint had reason to believe that the ingredients necessary for the attachment order existed. So read, it follows that the Adjudicating Authority stated in the show cause notice that he had reason to believe that there existed the factors necessary to serve the notice. The reasons, in turn, stand incorporated in the notice from the complaint. It is apparent that the notice has been issued based on the reasons to be found in the complaint and the documents which have been expressly referred to in the contention. The complaint itself expressly sets out the reason to believe. If, on the basis of the facts disclosed in the enclosures, the Adjudicating Authority had formed the opinion that there was no reason to believe the existence of the factors mentioned in section 8. he would not have issued the show cause notice. That he did indicates that he had reason to believe the existence of the said factors. In the facts and circumstances of the case this is sufficient compliance."*

42. The judgement of the Hon'ble Madras High Court dated 03.01.2020 in *G. Gopalakrishan Vs. Deputy Director & Anr., in W.P. W.P.(MD) No.11454 of 2018* is also relied upon, wherein, it was observed:

"The language used in Section 8(1) of PMLA is different from what it is used in Section 5(1) of PMLA. Both the expressions are different and distinct and the Adjudicating Authority is not required under Section 8(1) to record reasons as in the case of the Authority exercising under Section 5(1)

of PMLA which means that the Adjudicating Authority, on the basis of the complaint filed by the initial authority under Sub Section 5 of Section 5 of PMLA, can proceed with the adjudication process on the basis of subjective satisfaction. In any event, the Adjudicating Authority has to follow procedure provided under Section 8 as well as the procedure contemplated under the Adjudicating Authority (Procedure) Regulations 2013. Therefore, the writ petitioners are provided with sufficient opportunities to put forth their plea before the Adjudicating Authority. Moreover, even in the show cause notice issued, it is mentioned that there is compliance of Section 8(1) of PMLA which compliance can be verified by obtaining a copy of the order by making necessary application to the Registry. Therefore, these writ petitioners cannot successfully maintain their complaint before this Court. Hence, this Court is of the considered view that there appears to be no legitimate cause for complaining on this aspect."

43. Reliance is also placed in the judgment in the case of *M/s Gold Croft Properties Pvt. Ltd. vs. Directorate of Enforcement (LPA 167/2023)* wherein it was held that the PAO gives in detail the "reason to believe" that the Appellant is in possession of the proceeds of crime and such proceeds of crime have concealed, transferred or dealt with in a manner which can result in frustrating any proceedings under the PMLA. The particulars of the PAO form a part of the O.C. filed before the Ld. AA. A perusal of the PAO and the OC shows that the PAO itself contains all the reasons with the competent authority to believe that the properties which have been purchased in the name of the Appellant by using the funds of the accused are proceeds of crime, and therefore, the substantive satisfaction arrived at by the authority under Section 5 of the PMLA does not warrant any interference. The PMLA does not postulate a separate 'reason to believe' for each of the properties which stands attached under the in the Provisional Attachment Order under Section 5(1) of the PMLA.

44. Reference is also made by the respondent to the following other case laws:

- (i) CIT v. Rajesh Jhaveri Stock Brokers (P) Ltd., (2008) 14 SCC

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- (ii) Brizo Reality Company Pvt. Ltd. Vs. Aditya Birla Finance Ltd. and Others (2014 SCC OnLine Bom 804)
- (iii) Dilbag Singh @ Dilbag Sandhu vs. Union of India & Ors. (2024:PHHC:143784-DB)
- (iv) Radha Krishna Industries vs. State of Himachal Pradesh 2021(6) SCC 771
- (v) Arissan Power Limited vs Enforcement Directorate & Ors.

45. It is submitted that when Legislature enacts a provision which states that the burden of proof is shifted to the accused then what is actually done is that standard of proof beyond reasonable doubt is lowered. It is further submitted that the proceeding before the authorities relates to action taken regarding prevention of offence of money-laundering and ordering, provisional attachment of property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence: and to inquire into all matters connected therewith and collect evidence to be presented before the Adjudicating Authority for consideration of application regarding confirmation of provisional attachment order as per Section 8 of the 2002 Act. This provision of reverse burden of proof must, however, apply to proceeding before the Adjudicating Authority regarding confirmation of provisional attachment order and eventually for ordering confiscation of the attached property for vesting in the Central Government under Section 9 of the 2002 Act.

46. It is thus, clear that this special provision regarding burden of proof in any proceeding relating to proceeds of crime under this Act would apply to stated proceeding before the Adjudicating Authority. The change effected in Section 24 of the 2002 Act is the outcome of the mandate of international Conventions and recommendations made in that regard. Further, keeping in mind the legislative scheme and the

purposes and objects sought to be achieved by the 2002 Act coupled with the fact that the person charged or any other person involved in money-laundering, would get opportunity to disclose information and evidence to rebut the legal presumption in respect of facts within his personal knowledge during the proceeding before the Authority or the Special Court, by no stretch of imagination, provision in the form of Section 24 of the 2002 Act, can be regarded as unconstitutional. It has reasonable nexus with the purposes and objects sought to be achieved by the 2002 Act.

47. It must be noticed that the legal presumption in either case is about the involvement of proceeds of crime in money-laundering. This fact becomes relevant, only if, the prosecution or the authorities have succeeded in establishing at least three basic or foundational facts. First, that the criminal activity relating to a scheduled offence has been committed. Second, that the property in question has been derived or obtained, directly or indirectly, by any person as a result of that criminal activity. Third, the person concerned is, directly or indirectly, involved in any process or activity connected with the said property being proceeds of crime. On establishing the fact that there existed proceeds of crime and the person concerned was involved in any process or activity connected therewith, itself, constitutes offence of money-laundering. The nature of process or activity has now been elaborated in the form of Explanation inserted vide Finance (No.2) Act, 2019. On establishing these foundational facts in terms of Section 24 of the 2002 Act, a legal presumption would arise that such proceeds of crime are involved in money laundering. The fact that the person concerned had no causal connection with such proceeds of crime and he is able to disprove the fact about his involvement in any process or activity connected

therewith, by producing evidence in that regard, the legal presumption would stand rebutted.

48. The legal presumption under Section 24(a) of the 2002 Act, would apply when the person is charged with the offence of money-laundering and his direct or indirect involvement in any process or activity connected with the proceeds of crime, is established. The existence of proceeds of crime is, therefore, a foundational fact, to be established by the prosecution, including the involvement of the person in any process or activity connected therewith. Once these foundational facts are established by the prosecution, the onus must then shift on the person facing charge of offence of money-laundering- to rebut the legal presumption that the POC are not involved in money laundering, by producing evidence which is within his personal knowledge. In other words, the expression “presume” is not conclusive. It also does not follow that the legal presumption that the POC are involved in money-laundering is to be invoked by the authority or the court, without providing an opportunity to the person to rebut the same by leading evidence within his personal knowledge.

49. Moreover, section 24(b) of the 2002 Act, that concerns person other than the person charged with the offence of money -laundering under section 3 of the 2002 Act. In his case, the expression used in clause (b) is “may presume”. This is essentially a factual presumption or discretionary presumption. Notably, the legal presumption in the context of section 24(b) of the 2002 Act is attracted once the foundational facts of existence of proceeds of crime and the link of such person therewith in the process or activity is established by the prosecution. The stated legal presumption can be invoked in the proceeding before the AA or the court, as the case may be. The legal presumption is about the fact that the

proceeds of crime are involved in money laundering which, however, can be rebutted by the person by producing evidence within his knowledge.

50. It is submitted that the Complainant has the Applicant has exercised its powers to conduct search and seizure under PMLA, 2002, which has been duly upheld by the Hon'ble Supreme Court in the case of *Vijay Madanlal Chaudhary & ors. vs. Union of India & ors.* The Applicant/EO is well within its powers to carry out search operations and also to seize the material/documents/properties found during the search for which there are reasons to believe that the same are required to carry out the investigation of money laundering and to trace the proceeds of crime, or the properties thus seized are part of the proceeds of crime.

51. It is stated that the Adjudicating Authority has, in its impugned order, recorded considered reasons for rejecting the explanations offered by the appellant and has evaluated the documentary evidence and material placed before it. The exercise undertaken by the Authority demonstrates that it did not act in a vacuum but engaged with the appellant response in relation to the statutory criteria. Mere non-acceptance of the accused's submissions cannot be equated with non-consideration. An adjudicatory order is not vitiated simply because the conclusions drawn are adverse to the appellant; rather, the test is whether the Authority has examined the relevant contentions in light of the material evidence and statutory scheme.

52. Based on the above stated submissions, it is prayed on behalf of the respondent that the present appeal be dismissed.

Analysis & Findings

53. I have given careful consideration to the material on record and the rival contentions of the parties. I find that certain issues going to the root

of the matter and thereby calling into question the legality of the entire order have been raised on behalf of the appellants. It is submitted, firstly, that the Ld. AA, having referred to the submissions made on behalf of the respondents (appellants in the present appeals), failed to record any findings of its own on the arguments advanced on behalf of the appellants and submissions made by the respondents. In the above context, I have perused the impugned order carefully. I find that the Ld. AA has, in the said order, firstly quoted the entire text of the O.A. filed before it. Thereafter, he has reproduced the text of the relevant provisions of the PMLA. Next, he has referred to the facts of the case and the allegations against the respondents (appellants herein) as emerging from the O.A. and the alleged role of each person. Next, he has extracted the gist of the replies filed by the respondents and rejoinders thereto filed by the Directorate. Thereafter, he has reproduced the written submission filed by the Directorate in respect of respondent no. 9 and 11. Thereafter, in para 6, a direction has been issued to the applicant/ED to make available true copies of seized records within 30 days in accordance with provisions of section 21(2). Thereafter, in paragraph 7 titled as "Conclusions", Ld. AA has once again narrated the facts of the case and the allegations against the appellants as well as the findings of the investigation by the ED in detail. Next, the contents of the show-cause notice issued to the appellants on the basis of reasons to believe arrived at by the AA have been stated. In para-9, the Ld. AA has recorded the submissions made by each of the respondents and the ED's response thereto, without giving his own findings thereon.

54. Upon careful perusal of the impugned order, I find that the only findings recorded by the Ld. AA are in paragraph 8 and in paragraphs 10 to 12 which are reproduced below for ready reference:

"8. After conducting a meticulous examination and engaging in extensive discussions regarding the roles played by each Respondent, as outlined in

detail on para 5 (III) of the current order, it becomes evident that there is a prima facie involvement of the Respondents in the alleged proceeds of crime, as mentioned in the Application under Section 17(4), As a result, it is crucial to proceed with further investigation regarding the retention of immovable & movable properties in the form of cash, vehicles, digital devices & documents/ records seized and bank lockers, bank accounts, FDs, shares & DEMAT accounts frozen. These immovable & movable properties in the form of cash, vehicles, digital devices & documents/records seized and bank lockers, bank accounts, FDs, shares & DEMAT accounts frozen hold significant importance for the purpose of adjudication under Section 8(1), and it is imperative to thoroughly examine these accounts in order to arrive at a final determination.”

** * **

“10. At this point, it is vital to emphasize the importance of the ongoing investigation, considering the existence of prima facie allegations related to the offence of money laundering. The information provided in the document adequately demonstrates the involvement of proceeds derived from illicit activities. Currently, a thorough investigation into money laundering is underway. The comprehensive details regarding the Respondent's involvement in money laundering, as well as their connection to the seized material, have been provided on para 5 (III) of this order. which describes their respective roles.

11. The ongoing proceedings are in the form of an Original Application. (OA), which pertains to the seizure of immovable & movable properties in the form of cash, vehicles, digital devices & documents/ records seized and bank lockers, bank accounts, FDs, shares & DEMAT accounts frozen under section 17(1) of the Prevention of Money Laundering Act (PMLA). The Enforcement Directorate has sought the retention of immovable & movable properties in the form of cash, vehicles, digital devices & documents/ records seized and bank lockers, bank accounts, FDs, shares & DEMAT accounts frozen to facilitate the ongoing investigation and adjudication process. It is important to highlight that the present application does not involve any actions that would significantly impact the Respondent's rights, such as the confiscation of their property. The sole objective of this application is to retain the immovable & movable properties in the form of cash, vehicles, digital devices & documents/ records seized and bank lockers, bank accounts, FDs, shares & DEMAT accounts frozen mentioned in the OA ensuring uninterrupted progress in the investigation of the PMLA offense and subsequent adjudication process.

12. Considering the circumstances outlined above, it is crucial for the advancement of the ongoing investigation and the fair administration of

justice that the Application filed by the Enforcement Directorate be granted As a result, the retention of immovable & movable properties in the form of cash, vehicles, digital devices & documents/ records seized and bank lockers, bank accounts, FDs, shares & DEMAT accounts frozen during searches conducted on 27.11.2024, 28.11 2024, 29.11.2024, 02.12.2024, 03.12.2024 & 17.12.2024 under section 17(1) of the Prevention of Money Laundering Act (PMLA), as mentioned in the Original Application (OA) must be permitted to proceed. This decision is made with due regard for the investigation's advancement the upholding of principles, of justice and the preservation of crucial evidence required for a comprehensive examination of the case.”

55. From the preceding paragraphs, it is evident that while discussing the background facts of the case and the allegations and contentions of the parties in detail, and also discussing the legal position under the Act, the Ld. AA has, in fact, recorded no independent findings of his own. Reference may be had in to particular to the tabular summary of the replies and rejoinders of the parties in para 5.IV (page 27 of 43) and para 9.1 (page 39 of 43), wherein, the contentions of the both the parties have been mentioned, but no findings thereon have been recorded by the Ld. AA. Other than a single omnibus sentence in para 8 that, *“after concluding a meticulous examination and ongoing extensive discussion regarding the role played by each respondent, as outlined in para 5 (III), it becomes evident that there is prima facie involvement of the respondents in the alleged proceeds of crime as mentioned in the application filed under Section 17(4)”*. Even that one-line finding has been recorded without stating the process of reasoning and application of mind through which the conclusion was drawn. With that single sentence, all the arguments and contentions of all the respondents have been brushed aside in one go. Furthermore, from the text of the paragraph 8 and paragraphs 10-12 of the impugned order which have been reproduced above, I am also in agreement with the submission of the Ld. counsel for the appellants that the O.A. has been allowed by the Ld. AA on the ground that investigation is ongoing and, therefore,

retention of the seized property and records must be permitted. This finding in my view does not meet the requirement of section 8(3) which mandates that the adjudicating authority, after considering the reply to the notice, hearing both the parties and **“taking into account all relevant materials placed on record before him, record a finding whether all or any of the properties referred to in the notice are involved in money laundering.”** The retention of seized properties and records cannot be allowed solely, or even primarily, on the ground that investigation is ongoing.

56. In light of the above discussions, it is found appropriate to remand these matters back to the Ld. AA with a direction to conduct the adjudication de novo and pass a detailed speaking order recording his findings on the arguments and contentions raised on behalf of the appellants and the responses thereto from the side of the Directorate, and further, recording a reasoned finding whether or not the properties are involved in money-laundering.

57. Accordingly, the impugned order is hereby set aside and remanded back to the Ld. AA for fresh adjudication within a period of three months from the date of first appearance of the parties before the Authority. For this purpose, the parties hereto are directed to remain present before the Ld. AA on 18.05.2026 either personally or through their duly appointed representative.

58. In the meantime, the parties will maintain status quo with regard to the properties/records in question.

59. With the above, these appeals shall stand disposed of along with pending applications, if any.

60. No order as to costs.

(V. Anandarajan)
Member

New Delhi
12th May, 2026
'ST'