APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

MP-PMLA-2717/AHD/2025 Stay
MP-PMLA-2716/AHD/2025 Misc
FPA-PMLA-1309/AHD/2025

Shruti Rampal ... Appellant

Versus

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

Advocates/Authorized Representatives who appeared

For the Appellant	:	Mr. Harshit Sethi, Adv. Ms. Mansi Tipathi, Adv. Mr. Kartik Yadav, Adv.
For the Respondent	:	Mr. Abhimanyu Kaul, Adv.

CORAM

SHRI V. ANANDARAJAN : MEMBER

FINALORDER
20.05.2026

The present appeal arises from order dated 13.05.2025 of the Ld. Adjudicating Authority (AA) established under the Prevention of Money Laundering Act, 2002 (PMLA) in Original Application (OA No.14/25) confirming the retention of three frozen bank accounts of the appellant herein, and also allowing retention/continued freezing of other properties and records seized from other persons with which we are not concerned in the present appeal. The appellant Ms. Shruti Rampal was Respondent No. 9 before the Ld. AA.

2. The facts of the case briefly are that an **FIR bearing No. 11191067240082 dated 12.06.2024** was registered by Cyber Crime Police Station, Ahmedabad under section 379 of IPC and under various provisions of the Copyright Act, 1957 and the Information Technology Act, 2000 on the complaint filed on behalf of M/s Star India Pvt Ltd. The

allegation was that the website https://magicwin.games had unauthorizedly hosted/stream-broadcast ICC Men's T20 World Cup, 2025 cricket matches for which rights had been given by the International Cricket Council (ICC) to M/s Star India Pvt Ltd. Magicwin is a website compatible with any internet browser, including mobile phones, smart TVs and computers. It was gathered by the complainant that Magicwin had illegally broadcast some of the cricket matches of ICC Men's T20 World Cup 2024 causing huge financial loss to the company which officially held the broadcast rights. It was also alleged in the FIR that the website of Magicwin provides match details such as match viewing facility of different games along with payment options through various modes such as UPI-based applications.

3. On the basis of the aforesaid FIR which disclosed offence punishable under Section 63 of the Copyright Act, 1957 which constitutes a scheduled offence under the PMLA, the Enforcement Directorate (ED) registered an Enforcement Case Information Report (**ECIR No. AMZO/14/2024 dated 02.08.2024**) against the owner of Magicwin and others.

4. During the investigation, it was also found that Magicwin was also involved in betting on online live cricket matches and other games. In the course of the investigations undertaken by ED under the PMLA, 47 searches were conducted on various dates and an Original Application was filed. Further searches were conducted at 23 premises on 10.12.2024, 13.12.2025 & 24.12.2024 wherein various incriminating documents, records, digital devices and properties were seized/frozen. Subsequent to the searches conducted on the aforesaid three dates, another Original Application numbered as **OA 14/2025 dated 08.01.2025** was filed before the Ld. AA on. Adjudication under section 8 of the Act conducted by the Ld. AA culminated in the passing of the

impugned order dated 13.05.2025 confirming the retention/continuation of the seized/frozen properties, documents, digital devices and bank accounts etc, including the bank account of the appellant.

5. Aggrieved by the said order of the ld. AA, the appellant has filed the present appeal impugning the said order on various factual and legal grounds as discussed below.

Arguments from the Appellant's Side

6. It is contended that the impugned order is absolutely cryptic, mechanical and does not deal with any submission made by the appellant. Despite the appellant demonstrating that the property in question was neither proceeds of crime, nor involved in money laundering, the Adjudicating Authority has proceeded to pass the order without dealing with the said submissions. It is contended that the impugned order is a mere reproduction of the averments made by the ED in its OA without dealing with the submissions made by the Appellant in her Reply.

7. It is next contended that the funds lying in the Bank Account of the Appellant are legitimate tax paid money of the appellant from her job and has got nothing to do with the alleged proceeds of crime. The Appellant had made elaborate submissions before the Adjudicating Authority and had even filed a detailed reply. However, none of her submissions have been dealt with by the Adjudicating Authority. It is contended that the Adjudicating Authority cannot shy away from dealing with the submissions of the Appellant on the pretext that only a 'prima facie' case has to be seen. Such an approach is unwarranted and renders the impugned order unsustainable.

8. It is next submitted that the Appellant has not committed any act nor has any concern with the allegations levelled in the FIR or the ECIR. The Appellant has no concern, connection, acquittance with any illegal screening of World Cup or any kind of cricket betting. Further, the companies which had employed the Appellant from time to time also have nothing to do with 'Magicwin'. It is contended that even after more than 6 months of investigation, no proceeds of crime have been traced to the Appellant.

9. It is next contended that nothing incriminating whatsoever was recovered from Appellant. In the OA, the ED had mentioned the following role of the Respondent No.9 (the appellant herein):

> *"She is the sister of Sahil Gandhi (allegedly Sameer, who was a part of Speedyzone Ecom Pvt. Ltd.) Speedyzone had made payout(s) to the winner(s) of magicwin website. Shruti Gandhi has invested amount of more than 1.29 Crores to New Spice solutions Pvt. Ltd. in which she is also a shareholder. She is also a business partner of Sahil Gandhi"*

10. It is contended that the said allegation is hopelessly misconceived. Firstly, the appellant's brother Sahil Gandhi is not known as 'Sameer'. He has never been called by that name by anyone. The present case is a case of mistaken identity where the ED has mistaken Appellant's brother Sahil to be some 'Sameer'. Consequently, in the absence of any illegality by M/s New Spice Solutions Pvt. Ltd., being a shareholder or giving any loan to it cannot result in proceedings under the PMLA. Hence, the entire set of allegations by the ED are baseless, without any substance and lacking of any kind of material to support the same. Secondly, it is submitted that the Appellant has nothing to do and is not at all connected with Speedyzone. Till date, the ED has miserably failed to show that the amount lying the Appellant's Bank Account is proceeds of crime or is involved in money laundering. The continued freezing thereof,

is therefore, absolutely illegal and untenable. It is contended that the Appellant had urged the above grounds before the Adjudicating Authority in her reply, but no heed was paid to the same.

11. It is next contended that after issuance of Show Cause Notice, the purported reasons to believe under Section 8(1) of PMLA were supplied however, the same are absolutely cryptic, and mechanical and do not spell out any actual reason apart from mere reproduction of the text of Section 8 of PMLA. The show cause notice did not spell out any actual reason which would justify that the ED had followed the procedure prescribed under section 17 of the PMLA. Also, the Adjudicating Authority, without any basis and cogent reasons, justified the prayer of the ED for the retention of the properties. The proceedings under section 8 were a mere formality and the statutory wordings of Section 8 of PMLA were reproduced without following the same in its letter and spirit. There was neither any specific allegation, nor any prima facie evidence against the Appellant.

12. It is next contended that Respondent No. 1 has not complied with the provisions of Section 17(1) of the PMLA. The Ld. Adjudicating Authority failed to appreciate that that there was a mechanical compliance of reason to believe as mandated under section 17(1) of the PMLA. Despite having no prima facie case against the Appellant, on the basis of mere suspicion, the search was conducted and the bank accounts of the Appellant were frozen. It is submitted that Respondent No. 1 miserably failed to produce and provide any specific evidentiary ‘reasons to believe’ for the seizure/retention of the property qua the Appellant herein. In this regard it is submitted that ‘reason to believe’ is a much stronger expression than the word ‘suspicion’. When Section 17(1) itself is not complied with, any compliance under Section 17(2) of PMLA by forwarding the mechanically recorded "reasons to believe" to the

Ld. Adjudicating Authority is also a nullity and has no relevance in the eyes of law. It is submitted that the legal ingredients of Section 17(1) of PMLA were not met for conducting search and seizing the property of the Appellant. The funds in the bank accounts of the Appellant are from legitimate sources of her previous jobs. Furthermore, the Enforcement Directorate has not proven that the bank accounts are related to proceeds of crime or involved in money laundering. It is further contended that even the mechanically recorded "reasons to believe were never communicated to the Appellant which is against the principles of natural justice. The judgment in the case of *C.B Gautam v Union of India (1993) 1 SCC 78,* of the Hon'ble Supreme Court is cited wherein it was held that reason to be recorded in writing not only be incorporated in the order but also shall be communicated to the affected parties which was not done in the present case and hence the same would vitiate the entire proceedings as being in violation of the principle of natural justice. Ld. Adjudicating Authority failed to appreciate that what is necessary is an order in the file recording the belief as provided under Section 17(1) of PMLA before the communication is issued and thereafter the requirement of Section 17(2) of PMLA after the seizure is made is to be complied. In the present case, there is no material placed before the Ld. Adjudicating Authority to indicate compliance with Section 17 of PMLA, more particularly for filing an application after seizure of the property are made. Hence, the seizure of the property of the Appellant under Section 17(1A) of PMLA or the continuation thereof is without due compliance with the legal requirement and, therefore, not sustainable. Furthermore, it is also relevant to mention that there are no specific allegations against the Appellant in the FIR or in the ECIR which are yet to be proved by the prosecution beyond the reasonable doubt. Furthermore, the ED has seized the personal property of the Appellant which amounts to penalizing the Appellant without proving her involvement in the alleged

crime and retention of the same will result in added sufferings to the Appellant.

13. It is argued that the ED could not discharge the onus of stating with reasons as to the necessity of passing such orders or the basis for seizure of the property under Section 17(1) of the PMLA and the Adjudicating Authority failed to appreciate that the ED is required to provide some specific reason while passing the order under section 17(1). The absence of the reasons or basis of an apprehension, factual or otherwise, for seizing the properties of the Appellant is apparent from the impugned order dated 13.05.2025. The requirement of satisfaction of the conditions stated in Sections 17(1) and 17(2) of the PMLA does not contemplate parroting the words used in the sections but a precise statement, in writing, reflecting the factors which form the basis of the conclusion arrived at in the present case, the ED did not give any reason for passing the seizure order qua the Appellant under section 17(1) of the PMLA.

14. It is next contended that the statutory obligations laid down in sections 20(1). 20(2), 20(4), and 21(4) of PMLA have not been complied with in the present case. Attempt has been made to retain the property without recording any "reason to believe" or supplying the same to the Appellant. The order passed in *Rajesh Kumar Agarwal v. Directorate of Enforcement, Delhi 2019 SCC OnLine ATPMLA 1* decided on 06-02-2019, is relied upon wherein, due to the non-compliance of Section 20(2) of PMLA, the Appellate Tribunal set aside the impugned order and held that as per Section 20(2) PMLA, immediately after passing of retention order, a copy of the said order along with the material is to be referred to the Adjudicating Authority in a sealed envelope. But no order had been passed under Section 20(2) of the Act in the instant case. In view thereof, the impugned order was held unsustainable in the eyes of the law.

15. It is contended that the Ld. Adjudicating Authority failed to appreciate that there was no iota of evidence against the Appellant which may raise any suspicion whatsoever. Without any basis and cogent proof, the Appellant was put to face the rigour of the PMLA for someone else's act or omission. The Adjudicating Authority failed to appreciate that there is no provision in the PMLA which permits retention of property in the interest of investigation or for the purpose of investigation. Retention can only be within the parameters under Section 17 of PMLA which are missing in the present case.

16. It is also submitted that the Appellant in her reply has specifically stated that source of her funds is salary from her jobs. It was for the ED to demonstrate as to how the said funds are connected with proceeds of crime. Moreover, the said funds in the bank account of the Appellant were received from her jobs which were much earlier to the alleged illegal screening of T-20 World Cup.

17. The judgments of the Hon'ble Supreme Court in *Vijay Madanlal Choudhary v. Union of India 2022 SCC OnLine SC 929* and *OPTO Circuit (India) Ltd. v. Axis Bank and Others (2021) 6 SCC 707* are relied upon. It is pointed out that in the *OPTO Circuit* (supra) it has held that it would be mandatory, obligatory, and essential pre-requisite for the concerned officer exercising powers under Section 17 to record his reasons to believe on the basis of information in his possession. The Court in this regard also remarked in para 14 that though the Authorised Officer is vested with sufficient power, such power is circumscribed by a procedure laid down under the statute. As such the power is to be exercised in that manner alone, failing which it would fall foul of the requirement of complying due process under law. The Hon'ble Court also observed that

PMLA also safeguards the rights of the persons who would be proceeded against under the Act by ensuring fairness in procedure.

18. It is submitted that the Ld. Adjudicating Authority failed to apply his judicious mind as no independent "reason to believe" was formed by it qua the Appellant while issuing the show cause notice dated 29.01.2025 under section 8(1) of the PMLA. The show cause notice issued by the Ld. Adjudicating Authority was vague and generic and was issued in a mechanical manner merely reproducing the same "reasons to believe formed by Respondent No. 1. It is prima facie evident that the Ld. Authority had not applied his mind and the reasons to believe recorded under Section 8(1) of PMLA do not disclose any independent reason to believe and nothing has been specifically alleged about the Appellant. it is contended that independent reason of the Ld. Adjudicating Authority is the sine qua non for the exercise of powers under Section 8 of PMLA and the show cause notice does not demonstrate any independent application of mind. From the mechanical mention of Section 8 of the PMLA, it is evident that there was complete non-application of mind by the Ld. Adjudicating Authority in framing the "reasons to believe under Section 8 of the PMLA and therefore the show cause notice is itself non-est and bad in law

19. The judgment of the Hon'ble Supreme Court in *Vijay Madanlal Choudhary vs. Union of India* (supra) is also relied upon for the proposition that the offence of money laundering is dependent upon generation of proceeds of crime from an offence stated in the Schedule to the PMLA. Relevant paragraphs of the said order are referred to. Paragraphs 250 to 253 of the said judgment as reported in SCC OnLine are cited in this regard. It is contended that it is manifestly clear that all properties recovered or attached by the investigating agency in connection with the criminal activity relating to a scheduled offence

under the general law cannot be regarded as ‘proceeds of crime’. Hence, the funds in the frozen bank accounts cannot ipso facto be regarded as proceeds of crime. The Hon'ble Supreme Court even went on to the extent of citing an example in Para No.251 that even the vehicle used in commission of scheduled offence may be attached as property in the concerned case (crime), it may still not be proceeds of crime within the meaning of Section 2(1) (u) of the 2002 Act.

20. It is argued that mere existence of money in a bank account does not mean it is a proceed of crime unless some evidence is led by the ED to prove the same. However, in the present case, ED has failed to lead any such evidence. Therefore, the most important ingredient, i.e., existence of proceeds of crime has not been proven and, therefore, the entire case under PMLA has no legs to stand.

21. It is next contended that there was absolutely no basis to infer that the Appellant had in any way directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in any process or activity connected with the 'proceeds of crime. The entire case set up by the ED is based on assumptions, and presumptions and not on the basis of cogent evidence.

22. It is submitted that when the investigation is not even complete, to say that the ED had discharged its initial burden of proving that 'proceeds of crime' are 'involved in money laundering'. would tantamount to putting a cart before the horse. Obviously, the ED has made prima facie allegations on the basis of which the OA was filed. However, the Appellant is able to clearly demonstrate the falsity & hollowness of the said allegations qua him and has a sanguine case to dislodge the allegations on the yardstick of 'preponderance of probability.

23. It is next contended that it is well settled that where there is a statutory requirement of recording reasons in writing, the same is essentially required to be communicated to the person adversely affected thereby. In the instant case, there is no material to infer that separate reasons to believe have been recorded by the concerned officer qua the Appellant while exercising powers under Section 8(1) nor have they been separately communicated to the Appellant, resulting in vitiation of the entire proceedings. In the instant case the reasons to believe recorded in terms of Section 8(1) is a mere reproduction of the Section itself without actually highlighting the ground for such reason to believe to proceed against the Appellant thereby rendering the entire impugned proceedings illegal, otiose, nugatory and redundant in the eyes of law. The failure to disclose the aforesaid cogent reasons to believe at the outset cannot be termed as mere irregularity but would be an incurable illegality which would vitiate the entire proceedings and cause the order of provisional attachment to be rendered null and void ab initio.

24. It is next submitted that the presence of mens rea being a necessary concomitant which is conspicuously absent in the present case

25. It is next contended that for want of any evidence to connect the amount lying in Appellant's Bank Account with any proceeds of crime, ED has miserably failed to satisfy basic ingredients for confirmation under Section 8(3) of PMLA.

26. It is next contended that the projection of 'proceeds of crime as 'untainted property' is a necessary ingredient of Section 3 of PMLA. In the present case, there is neither any proceeds of crime nor any 'projection' thereof as 'untainted' by the Appellant. No evidence has been brought on record to even remotely suggest (much less prove) that the seized amount in Appellant's bank accounts is proceeds of crime'. In the absence of

proving that the said amount is 'proceeds of crime', the question of considering that the said amount is 'involved in money laundering' does not arise. The ED was duty-bound to first prove the existence of proceeds of crime, in order for such proceeds of crime to be presumed to be involved in money laundering. However, in the present case, ED has failed to discharge the initial burden cast on it to prove the existence of proceeds of crime and therefore, the question of proving the same being involved in money laundering does not arise. No evidence has come on record to show any property sought to be connected to the Applicant is proceeds of crime generated as a result of the criminal activity relating to the said FIR (supra). Hence, there is no presumption that any such property is "involved in money laundering".

27. It is next contended that the standard of proof in a case of PMLA was laid down by the Hon'ble Supreme Court in *J. Sekar @ Sekar Reddy vs. Directorate of Enforcement, (2022) 7 SCC 370,* wherein, while quashing a case under PMLA at the threshold/Complaint stage itself, the Hon'ble Supreme Court held as under:

> *"21. In our opinion, even in cases of PMLA, the Court cannot proceed on the basis of preponderance of probabilities. On perusal of the statement of Objects and Reasons specified in PMLA, it is the stringent law brought by Parliament to check money laundering. Thus, the allegation must be proved beyond reasonable doubt in the Court Even otherwise, it is incumbent upon the Court to look into the allegation and the material collected in support thereto and to find out whether the prima facie offence is made out. Unless the allegations are substantiated by the authorities and proved against a person in the court of law, the person is innocent."*

28. Hence, the ED cannot proceed on the basis of preponderance of probabilities and is under an obligation to prove its case beyond reasonable doubt. Hence, no refuge can be taken by the ED to Section 24 of PMLA because of their failure to prove existence of proceeds of crime.

29. The judgment of the Hon'ble Gujarat High Court in the case of *Jafar Hassanfatta & Others vs. Deputy Director & Another, Criminal Revision Application No. 926 of 2016* is also relied upon wherein it was held:

> *"41. On the basis of the said Section 24 read with Section 3 of PMLA, it was contended on behalf of the Respondent that 'knowledge' of the Scheduled Offence or proceeds of crime is not essential under Section 3, and mere assistance in handling proceeds of crime even without knowledge would attract offence of money laundering, and burden would shift on the accused to prove that he is not involved in money laundering. It was submitted that the petitioners are all adults having knowledge of right and wrong. The bank accounts in which they received payments and made further payments were all in their names and they were the signatories having power to operate the accounts. None of them had the slightest hesitation in allowing their account to be used as a transit point for further transfer of the proceeds of crime. It shall thus be presumed that they have thus knowingly allowed the use of their bank accounts and knowingly involved themselves in this activity having full knowledge of the purpose and intent of the transactions and helped in the process of layering. Thereby they are involved in the process of money laundering.*
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> *42. I find no merit in this stand of the Respondent. I am of the view that this amended Section 24 shows legislative intent of attachment and confiscation of proceeds of crime by presuming involvement of proceeds of crime in money laundering irrespective of whether the person concerned is or not charged with the offence of money laundering. Thus, there shall be a legal presumption in any proceeding relating to proceeds of crime under PMLA that such proceeds of crime are involved in money laundering. Burden would be on the person concerned to show to the contrary. However, as rightly pointed out by the Learned Senior Counsel for the petitioners, there is no legal presumption in this Section 24 that-*
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> *(a) The concerned property is "proceeds of crime",*

(b) The person accused has knowledge that the property is "proceeds of crime", and

(c) The person is involved in or is guilty of "money laundering" merely for possessing or having any concern with the proceeds of crime.
In fact, Section 24 clearly indicates that even a person in possession or connected with any proceeds of crime may or may not be charged with the offence of money laundering. Whether a person shall be charged with money laundering or not shall thus depend only upon satisfying the requirements of Section 3 of PMLA as already explained above."

30. It is argued that Section 24 of PMLA cannot be pressed into service by the prosecution/ED when the ED itself has failed to discharge the initial onus/burden to prove the foundational facts, viz., the existence of 'proceeds of crime'. In the absence of being able to prove as to how the seized movable properties are 'proceeds of crime', no presumption or assumption can be drawn that the said amount is in fact, proceeds of crime. Since the existence of proceeds of crime is not established, the question of presuming that the same being 'involved in money laundering' does not arise.

31. The order of the Hon'ble Bombay High Court in *Anil Babulal Chokhara V/s. Enforcement Directorate (Bail Application No. 1581 of 2017)* is cited wherein while granting bail to the petitioner the Hon'ble Court placed reliance on the judgment in Jaffar Hassanfatta's case wherein it is recorded that there is no legal presumption under section 24 of the Act that, i) the concerned property is "proceeds of crime", ii) the Accused has knowledge that property is proceeds of crime and, persons involved in or is guilty of money laundering merely of possession or are concerned, (iii) persons involved in or is guilty of money laundering merely of possession or are concerned. It is pointed out that the SLP filed by ED against the said judgment was dismissed on 19.02.2024.

32. It is submitted that, therefore, there cannot be an inference that any property is proceeds of crime and the same has to be demonstrated through evidence by the ED and this burden lies on the prosecution. As per the scheme of the Act, the burden described in Section 24 is on the accused to show why the proceeds of crime are not involved in money laundering after the prosecution has shown that there do exist proceeds which have been generated out of Schedule Offence. That therefore it is humbly submitted that there cannot be an inference that any property is proceeds of crime and the same has to be demonstrated through evidence by the ED and this burden lies on the prosecution. As per the scheme of the Act, the burden described in Section 24 is on the accused to show why the proceeds of crime are not involved in money laundering after the prosecution has shown that there do exist proceeds which have been generated out of Schedule Offence.

33. An issue has also been raised on behalf of the appellant that the Authority suffers from the vice of *coram-non-judice*. The Member (who is not even a judicial member) has conducted the proceedings alone within the nomenclature of 'Adjudicating Authority. In terms of Section 6(15) of the Act, the Adjudicating Authority has been vested with the power to regulate its own procedure. In terms of the said provision, the 'Adjudicating Authority (Procedure) Regulations, 2013' have been published in the Official Gazette on 18.3.2013. Regulation 2 (1) (c) &Rule 26 of Adjudicating Authority (Procedure) Regulations, 2013 under PMLA reads as under:

> *"Regulation 2 (1) (c) Bench: means a Bench of the Adjudicating Authority constituted by the Chairperson of the Adjudicating Authority:*
>
> *26. Issue of Order (1) The order supported by reasons recorded shall be pronounced in open Court and on the date fixed in that behalf.*

(2) Every sheet of the order shall bear the signature of the Chairperson and Members constituting the Bench."

34. It is submitted that a bare perusal of the above rule leaves no doubt that the proceedings before the Adjudicating Authority cannot be conducted by a Single Member/Chairperson alone and that too, outside the field of law, and thus, any interpretation to the contrary accorded by the ED is untenable. Therefore, Chairperson/Member of Adjudicating Authority alone as a Single Member Bench conducting the Adjudication proceedings within the purported nomenclature of Adjudicating Authority' cannot sustain the test of law. Section 6 (2) of PMLA makes it abundantly clear that "An Adjudicating Authority shall consist of a Chairperson and one or two other Members". Therefore, the proceedings conducted by the Chairperson or a member alone would tantamount to coram non-judice.

35. In the light of detailed submissions as above, it is prayed by the appellant that the present Appeal be allowed and the impugned order dated 13.05.2025 passed by Adjudicating Authority in O.A. No. 14 of 2025 (PMLA/OA/14/DEL/2025) be set aside, and consequently, the bank accounts of the Appellant may be directed to be released.

Arguments from the Respondent's Side

36. No reply to the appeal has been filed by the respondent Directorate in the present case although they were granted the opportunity to do so on three occasions, namely, 18.08.2025, 03.11.2025, and once again on 18.12.2025 which was given as a last opportunity. Ld. Counsel for the respondent was also directed vide order dated 25.02.2026 to seek specific instructions of the Directorate whether the frozen property, i.e., bank accounts of the appellant, had been proposed for confiscation in

any prosecution complaint filed by the respondent. Furthermore, vide the same order, both parties were also directed to come prepared with the written synopsis of arguments. However, no written synopsis of arguments has been submitted either on behalf of the respondent.

In his verbal arguments, ld. counsel for the respondent stressed on the facts brought out in the impugned order. As regards the submission from the side of the appellant that the Sahil Gandhi has never been known as 'Sameer' and it is a case of mistaken identity, ld. counsel for the respondent submitted that one Syed Arif had made a statement under section 50 in which he has stated that Sahil and Sameer are one and the same person. He identified Sahil/Sameer from the picture show to him. He, however, admitted that the said statement is not a part of the record before this Appellate Tribunal. No reference to the said statement could be found in the impugned order either.

37. In response to the contention that the allegations in the scheduled offence case are only regarding copyright violation, ld. Counsel for the respondent reiterated that investigations conducted in the case have revealed illegal betting through gateways.

38. He further submitted that Sahil was promoter and co-founder of Speedy Zone, along with the present appellant. 'Smart Dukaan' is another r entity with which he was associated. A search and seizure operation was carried out at the premises of Smart Dukaan also.

Analysis & Findings

39. I have given careful consideration to the facts on record and the rival contentions of the parties. In the case of the present appellant, three bank accounts have been frozen, the details of which are as below:

19	Shruti	W/o	NIL	NIL	1. One freezing order in respect

	Gandhi	Suyash Rampal, R/o-3221, 4th Floor, Sector 23, Gurgaon, Haryana			of account no. 015501542164 in the name of Smt. Shruti Gandhi maintained with ICICI Bank. 2. One freezing order in respect of account no. 50100299855870 in the name of Smt. Shruti Gandhi maintained with HDFC Bank. 3. One freezing order in respect of account no. 0632000195082666 in the name of Smt. Shruti Gandhi maintained with Punjab National Bank.

40. From the submissions made on behalf of the appellant as well the reply filed before Ld. AA by the respondent Directorate during the course of the adjudication proceedings, it is evident that the appellant, Ms. Shruti Rampal, is not named in the FIR registered in the scheduled offence case and there is no allegation about her involvement, either directly or indirectly, either in the offence which constituted the underlying scheduled offence in this case, i.e., violation of copyright by broadcasting cricket matches illegally. There is no allegation even of her involvement in illegal cricket-betting of which evidence is stated to have been unearthed by the Directorate during the course of investigation under the PMLA, even though there was no such allegation in the scheduled offence case which is only about copyright violation.

41. The findings recorded in the impugned order insofar as they relate to the present appellant are the following:

(i) That the appellant is the sister of Sahil Gandhi who allegedly also goes by the name “Sameer”, and is suspected to be involved with

Speedyzone Ecom Pvt. Ltd., a company which allegedly made payouts to winners of the betting website 'Magicwin';

(ii) That the appellant invested more than Rs. 1.29 crore in the company, New Spice Solutions Pvt. Ltd., where she is a shareholder/business partner along with her brother Sahil Gandhi (allegedly "Sameer");

(iii) That the appellant failed to explain the origin of the funds in her frozen bank accounts during her statement under section 50 of the PMLA, and the burden of proving legitimacy of the funds was upon the appellant in view of section 24 of PMLA;

(iv) That Sh. Sahil Gandhi ("Sameer") failed to appear before ED which has impeded further investigation;

(v) That investigation is still in progress and the retention of digital devices, documents/records seized/bank accounts frozen during the searches must be as mentioned in the OA must be permitted to proceed for advancement of the investigation.

42. I now proceed to examine the validity of retention of the frozen bank accounts (being the only property involved in the present appeal) on the above grounds.

43. The first finding against the appellant is that she is the sister of Sh. Sahil Gandhi who also allegedly goes by the name "Sameer". The said "Sameer" is suspected to be involved with Speedyzone Ecom Pvt. Ltd., a company which allegedly made payouts to winners of the betting website 'Magicwin'.

44. With regard to the above finding, it is firstly contended by the appellant that her brother Sahil has never been known as "Sameer" and, therefore, the entire case is based on mistaken identity. Even ignoring the said contention and assuming the appellant's brother assumed the name "Sameer" to involve himself in the activity of online betting, as has

been pointed out by the ld. counsel for the appellant, the scheduled offence in this case is not cricket-betting but violation of copyright by illegally broadcasting cricket matches. The scheduled offence based on which the PMLA case was initiated was violation of Section 63 of the Indian Copyright Act, 1957. It is further pointed out by the Ld. Counsel for the appellant that cricket-betting is not a scheduled offence. Even if it is taken to be a case of cheating, it is seen that section 420 of the IPC is has not been cited as a scheduled offence in the present case. As such, involvement in cricket-betting could not constitute the basis of action by the Directorate without any underlying scheduled offence.

45. Furthermore, the finding from the investigation conducted by the Directorate is that "Sameer" (assuming he is none other than the appellant's brother), is suspected to be involved with M/s Speedyzone Ecom Pvt. Ltd., a company which allegedly made payouts to winners of the betting website 'Magicwin'. There is nothing on record to show that the present appellant was in any manner connected with M/s Speedyzone Ecom Pvt. Ltd. There is no material to suggest flow of any proceeds of crime from the appellant's brother to the appellant herself. In fact, no financial relationship whatsoever between the two has been established by the investigation, but merely a blood relationship which does not lead to any presumption of flow of proceeds of crime from one to the other. The appellant and her brother are unquestionably two separate "persons" within the meaning assigned to that word 'person' under Section 2(s) of the PMLA. Nothing is mentioned in the impugned order about any finding of flow of money from the appellant's brother to her. The only finding of fact is that she and her brother were both shareholders/business partners in one M/s New Spice Solutions Pvt. Ltd. Notably, the said company, i.e., M/s New Spice Solutions Pvt. Ltd. was not a noticee before the Ld. AA and is nowhere stated to be involved in allegations of copyright violation which is underlying scheduled

offence in the present case, or even in cricket-betting which is not even a scheduled offence as already noted. In the landmark case of *Vijay Madanlal Choudhary v. Union of India & Ors. 2022 SCC OnLine SC 1929* the Hon'ble Supreme Court has held that the objective of enacting the PMLA was the attachment and confiscation of proceeds of crime so as to combat the evil of money-laundering, and the Act enables attachment of the proceeds of crime in whosoever's name they are kept or by whosoever they are held. However, without any finding in the first instance that that any part of the proceeds of crime travelled to the appellant, her property could have been legitimately attached.

46. The next finding in the impugned order which relates to the present appellant is that she has invested more than Rs. 1.29 Crore in the company, New Spice Solutions Pvt. Ltd., where she is be a shareholder/business partner along with her brother Sahil Gandhi (allegedly "Sameer"). Needless to say, investment of any amount in any legitimate entity cannot lead to any presumption of wrongdoing. It is noteworthy that there are no allgetions against M/s New Spice Solutions Pvt. Ltd. in which the said investment was made by the appellant. The allegations of cricket-betting (that too, without any underlying scheduled offence) are against a different entity with which "Sameer" is stated to be involved, i.e., M/s Speedyzone Ecom Pvt. Ltd. However, the sources of investment of such a large amount could no doubt be legitimately called into question in a PMLA investigation. A related finding emerging from the impugned order is that the appellant failed to explain the origin of the funds in her frozen bank accounts during her statement under section 50 of the PMLA, and the burden of proving legitimacy of the funds was upon the appellant in view of section 24 of PMLA. It was further noted that Mr. Sahil Gandhi had failed to appear before ED which has impeded further investigation.

47. With regard to the above contentions, it is firstly noted that the appellant had submitted before Ld. AA, and has also submitted before this Appellate Tribunal, that the appellant is a "highly educated person" with degrees in Commerce, English, MBA, International Business Diploma in Fashion Design etc. and that she earned salary and incentives from various trading firms. It was also submitted that she has always worked independently had no business association with her brother Sahil Gandhi and is also a regular Income Tax payer. None of these facts have been refuted by the respondent in their reply before the AA. Copy of the Income Tax Return for Assessment Year 2019-20 filed by appellant, which was also submitted at the stage of adjudication, reveals that the appellant had disclosed a total income of Rs. 19,42,144/- for financial year 2018-19. Even otherwise, Hon'ble Supreme Court in the case of *Vijay Madanlal Choudhary* (supra) has held that possession of unaccounted property acquired by legal means may be actionable for tax violation and yet will not be regarded as proceeds of crime unless the concerned takes legislation prescribed such violation as an offence and such offence is included in the scheduled to the PMLA.

48. Even as regards the burden of proof under section 24, the position adopted by the respondents is not on firm grounds. The law in this regard, as explained by the Hon'ble Supreme Court in its landmark judgment in the case of *Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.* (supra) is that the legal presumption under Section 24(b) (presumption in the case person other than person charged with the offence of money laundering under Section (3), would be attracted once the foundational fact of existence of proceeds of crime and the link of such person in any process or activity connected with the proceeds of crime is established by the prosecution. Thus, the legal position with regard to the burden of proof under section 24(b) is not that on the mere say-so of the respondent directorate, the burden will shift to the person

being proceeded against and that person is then required to prove his/her innocence to the hilt.

49. Upon careful perusal of the impugned order, it is seen that the main consideration which weighed upon the Ld. AA while allowing the continued retention/freezing of the property is that the properties/records/documents/devices are required to be retained as investigation is still going on. This becomes absolutely clear from the following paragraphs of the impugned order passed by the Ld. Adjudicating Authority (AA):

> *"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 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. I have heard learned counsel for parties and carefully considered the rival pleadings of this case and find that there is a prima facie involvement of the Respondents in the alleged proceeds of crime.*
>
> *11. The ongoing proceedings are in the form of an Original Application (OA), which pertains to the seizure of digital devices & documents/records seized and bank accounts frozen under section 17(1) of the Prevention of Money Laundering Act (PMLA). The Enforcement Directorate has sought the retention of digital devices & documents/ records seized and bank 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 digital devices &*

documents/records seized and bank 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 digital devices & documents records seized and bank accounts frozen during searches conducted on 10.12.2024, 13.12.2024 & 24.12.2024 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.

a. The Application as filed by the Enforcement Directorate is allowed.
b. Hence OA 14 of 2025 is allowed.

Order is pronounced on 13.05.2025 through Video Conference.

50. From the above it can be seen clearly that the primary ground for allowing retention/continued freezing of records and properties is that investigation is still ongoing. The clear language of section 8(3) 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.

51. Upon careful perusal of the impugned order, I find that the other than a bland statement that there is a prima facie involvement of the respondent in alleged proceeds of crime, no finding, leave alone a reasoned one, has been recorded that frozen properties were involved in money laundering.

52. In the light of detailed discussions as above the present appeal is hereby allowed and the impugned order is set aside. Pending applications, if any, shall also stand disposed of.

53. No order as to costs.

(V. Anandarajan)
Member

New Delhi
20th May, 2026
'AD'