

APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

FPA-PMLA-765/MUM/2025

Rashmi Prasad ... Appellant

FPA-PMLA-766/MUM/2025

Rashmi Prasad ... Appellant

Versus

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

Advocates / Authorized Representatives who appeared:

For the Appellant(s) : Mr. Harshad Bhadbade,
Advocate
Ms. Nikita Mandaniyan,
Advocate
Ms. Shagufa, Advocate
Ms. Samridi Jain,
Advocate

For the Respondent(s) : Ms. Kshitiz Aggarwal,
Advocate

CORAM

JUSTICE MUNISHWAR NATH BHANDARI : CHAIRMAN

ORDER
13.05.2026

Two separate appeals have been preferred by the appellant, Mrs. Rashmi Prasad in view of the fact that two different Provisional Attachment Orders (“**PAO**”) were passed by the respondent followed by two different orders for its confirmation by the Adjudicating Authority. A common order

has been passed looking into the fact that it pertains to one and the same person, Mrs. Rashmi Prasad and the PAOs were caused out of the common ECIR recorded by the respondent after an FIR in which the main accused was Mr. Amber Dalal, proprietor of M/s Ritz Consultancy Services.

Brief facts of the case:

2. It is a case where an FIR was registered by the investors alleging that the main accused, Mr. Amber Dalal cheated the investors. It is in view of the fact that the accused lured the investors to invest in their company. It was to invest in the funds for nine commodities (Gold, Silver, Crude Oil, Natural Gas, Zinc, Lead, Nickel, Copper and Aluminum) for trade. It is with the assurance that the capital amount would be kept safe with monthly return @ 1.5% to 1.8% to the investors. The investors were asked to invest through banking channels in the account of M/s Ritz Consultancy Services of which proprietor was Mr. Amber Dalal. The investors were accordingly assured for return and to depose confidence in them, cheques of equivalent amount of the investment promising their capital to be safe were issued. It was with the liberty to withdraw the cheques any time. The investors later on found that the

promises made by Shri Amber Dalal through the company was false and a sum of Rs.54.45 Crore was cheated.

3. After the investigation, EOW, Mumbai filed a charge-sheet against the accused for offence under Section 406, 409, 420 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (**MPID**) Act, 1999.

4. After registration of the FIR, the respondent recorded ECIR finding predicate offence. During the course of investigation under the Prevention of Money Laundering Act, 2002 (in short “**the Act of 2002**”), the misdeeds of the main accused, Mr. Amber Dalal, proprietor of M/s Ritz Consultancy Services were revealed. The main accused formed a scheme for investment in the company and in lieu of the investment by the investors, the company paid regular returns for some time and thereupon it was stopped. It was revealed that the amount involved in the commission of crime is Rs.564.33 Crore which was initially found to be Rs.54.45 Crore in respect of 56 investors which was later on found to be 2015 investors involving an amount of Rs.564.33 Crore.

5. So far as the appellant is concerned, she had a personal acquaintance with Mr. Amber Dalal and never stood as an investor. She could still receive a sum of Rs.18.81 Crore, out of it, a sum of Rs.3.77 Crore returned by her and thereby a balance of Rs.15.04 Crore remain. The properties of the appellant were provisionally attached to the extent of proceeds of crime in her hand. Few properties were purchased out of proceeds of crime while others were attached for the value equivalent. The PAOs have been confirmed by the Adjudicating Authority and aggrieved by the aforesaid, two separate appeals were preferred to challenge the two separate orders passed by the Adjudicating Authority confirming the PAOs of different properties involved in these orders. However, other than involvement of the properties separately in two different orders, facts pertaining to the appellant are common.

Arguments of the Ld. Counsel for the appellants:

6. Ld. Counsel for the appellants submitted that the provisional attachment of the properties by the respondent is in ignorance of the fact that the appellant was one of the investors in the scheme floated by Mr. Amber Dalal, proprietor of M/s Ritz Consultancy Services. She had invested around Rs.10,50,03,119/- out of which she received an amount of Rs.

3,72,29,119/- and remaining amount is still payable to her which comes to nearly Rs.6.77 Crore. Looking into the fact aforesaid, there was no reason to provisionally attach the properties of the appellant.

7. Ld. Counsel for the appellants further submitted that the provisional attachment order has been caused even of the properties purchased prior to commission of crime. Those properties were not connected with the crime and therefore the respondent could not have provisionally attached those properties. Aforesaid has been ignored while causing PAO. Thus, on the aforesaid ground also, the impugned orders deserve to be set-aside.

8. Ld. Counsel for the appellants, further, submitted that the investments made by the appellant were out of her own sources which was disclosed to the respondent during the course of investigation and while filing reply to the notice before the Adjudicating Authority. It has been ignored. In fact, the respondent failed to take note of the fact that all the transactions were made through the banking channels and there was no reason to doubt on the investment made by the

appellant either by herself or through her entities, M/s Arya and M/s Garima Fashion.

Arguments of Ld. Counsel for the respondent:

9. Ld. Counsel for the respondent vehemently contested the appeals on all the grounds raised by the appellant. The argument would be referred while recording finding on each issue raised by the appellant to avoid repetition of the same facts and for the sake of brevity.

Findings of the Tribunal:

10. I have considered the rival submissions of the Counsel for the parties and perused the records carefully. In the opening paras of this order, I made reference of the FIR registered by the investors alleging that the accused, Mr. Amber Dalal cheated 56 investors involving a sum of Rs.54.45 Crore. The FIR was registered for the offence under Section 406, 409 & 420 of IPC and u/s 3 & 4 of MPID. During the course of investigation, it was found that it is not 56 investors but total investors cheated by the accused were 2015 and the amount involved is not Rs.54.45 Crore but Rs.564.33 Crore. It is, however, a fact that FIR was not registered against the appellant. However, proceeds travelled to the appellant and therefore to the extent

of the proceeds received by the appellant, provisional attachment of the properties was caused in the first provisional attachment order dated 14.10.2024 for one property while in the PAO dated 08.11.2024 appellant's five properties were attached which was either taking it to be out of the proceeds of crime or for the value equivalent and thereby in two appeals, total six properties of the appellants are under provisional attachments.

11. Ld. Counsel for the appellants submitted that the amount of Rs.10,54,03,119/- was invested by the appellant from time to time followed by another investment of Rs.3,00,74,000/- by cash on bank. The appellant transferred a sum of Rs.3,74,00,000/- of M/s Arya and M/s Garima Fashion to M/s Ritz Consultancy Services. The appellant invested a sum of Rs.3,72,29,119/- to her Demant Account operated by Mr. Amber Dalal. It was with assessed return.

12. In view of the above, appellant has justified the receipt of the amount out of her own investment and not as proceeds of crime. In fact, remaining amount yet to be received is Rs.15.04 Crore. The amount returned to the appellant is said to be out of investment. However, during the course of investigation, no

material could be collected to prove investment of Rs.18.81 Crore by the appellant. In fact, modus operandi of the accused, Mr. Amber Dalal was revealed who passed on the huge amount to the appellant out of the proceeds of crime. It is due to his acquaintance with the appellant and accordingly when the statement of Mr. Amber Dalal was recorded during the course of investigation under the Act of 2002, he claimed that the appellant had extended friendly loan of approximately Rs. 14 Crore which remains unpaid. While the appellant had asserted her investment in M/S Ritz Consultancy Services, however, she failed to prove it by documentary evidence such as Memorandum of Understanding, Agreement or any other evidence to substantiate her claim for investment. It is more so MoUs were signed with all other investors and exception could not have been the case of the appellant. In fact, no MoUs or documents were executed in favour of the appellant.

13. It was, further, found that the account of the appellant, Mrs. Rashmi Prasad was categorized in the account of M/s Ritz Consultancy Services towards “income” or “expenses” rather than investments. This was fortified by Mrs. Gargi Ganesh Ipte and Ms. Aishwarya Parab former employees of M/s Ritz

Consultancy Services. It was also revealed that the appellant, Mrs. Rashmi Prasad received a total sum of Rs.18.81 Crore from Mr. Amber Dalal and M/s Ritz Consultancy Services. However, she returned Rs.3.77 Crore leaving outstanding amount of balance Rs.15.04 Crore and accordingly properties of the equivalent value was attached either taking it to be to the property acquired directly out of proceeds of crime or for the equivalent value. The appellant utterly failed to prove an investment by her in M/s Ritz Consultancy Services so as to get return out of it. It is more so when Section 24 of the Act of 2002 casts burden of proof on the appellant.

14. Ld. Counsel for the appellants failed to show any evidence or document to prove investment by the appellant in M/s Ritz Consultancy Services so as to get return of the amount as a consequence thereof. Ld. Counsel could not refer to any document to prove the aforesaid which can be the agreement, MoU or any other documents similar to what was executed in favour of the investors who lodged the FIR. The reference of the bank statement and other documents was given but those were not indicative and proof of investment by the appellant. It is more so while making investment, the appellant should have shown the source of the money that was invested. Ld. Counsel

for the appellant failed to show the source for investment of the money and in fact the respondent could bring on record the rotation of the money parked by the accused with the appellant and therefore the properties of equivalent value were attached.

15. In view of the above, I don't find the appellant to be innocent investor with M/s Ritz Consultancy Services in absence of sufficient proof.

16. The next issue is as to whether the property acquired prior to the crime period can be attached. The law on the issue is now well settled by the Division Bench of Punjab and Haryana High Court in the case of the ***Dilbag Singh @ Dilbag Sandhu Vs. Union of India & Ors.*** in CWP 22688-2024 dated 13.11.2024 where interpretation of definition of "proceeds of crime" was given after taking into consideration the judgement of the Apex Court in the ***Vijay Madanlal Choudhary Vs. Union of India*** reported in 2022 SCC OnLine SC 929. It is with the finding that the property purchased prior to crime period may fall under "proceeds of crime". The relevant paras of the judgment in the case of ***Dilbag Singh (supra)*** are quoted thus:

"3.2. In light of the Division Bench's judgment in Seema Garg's case (supra), this Bench would have been obligated to either follow it or refer the matter to a Larger Bench. However, the

Supreme Court in *Vijay Madanlal Chaudhary's case (supra)* has interpreted the provision in para 298, which is extracted as under:

"It was also urged before us that the attachment of property must be equivalent in value of the proceeds of crime only if the proceeds of crime are situated outside India. This argument, in our opinion, is tenuous. For, the definition of "proceeds of crime" is wide enough to not only refer to the property derived or obtained as a result of criminal activity relating to a scheduled offence, but also of the value of any such property. If the property is taken or held outside the country, even in such a case, the property equivalent in value held within the country or abroad can be proceeded with. The definition of "property" as in Section 2(1)(v) is equally wide enough to encompass the value of the property of proceeds of crime. Such interpretation would further the legislative intent in recovery of the proceeds of crime and vesting it in the Central Government for effective prevention of money-laundering."

3.3. The aforesaid observations made by the Supreme Court enable this Bench to re-examine the entire issue, as in the considered opinion of this Bench, the judgment passed in *Seema Garg's case (supra)* is no longer a good law. This Court has taken this view due to the subsequent interpretation by the Supreme Court, which has superseded the legal principles established in *Seema Garg's case (supra)*.

3.4. It is evident that the original (unamended) definition of phrase 'proceeds of crime' was structured into two distinct parts. The first part relates to the property derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence, whereas, the second part relates to the value of any such property where the proceeds of crime are not traceable. This clearly means that if the property derived or obtained, directly or indirectly, from the proceeds of a crime of scheduled offence is not traceable, then any property of equivalent value falls within the scope of the expression 'proceeds of crime'. In 2015, the amendment restructured the definition into three parts to cover the property taken or held outside the country. The concept of the property of equivalent value was introduced with respect to the aforementioned properties. The amendment enabled the authorities to go after any other property of a person of equivalent value. In 2019, the scope of the phrase 'proceeds of crime' was further expanded so as to include other properties which were not directly or indirectly the proceeds of crime, but were held abroad, to be liable to attachment. In 2019, the explanation has been added so as to give a wider scope to the authorities. From the objects and reasons of the '2002 Act', it becomes evident that the money laundering posed a serious threat not only to the financial system of the countries but also to their integrity and sovereignty. The '2002 Act' was enacted to prevent money laundering and connected activities. The act of money laundering is a multi-layered, complex and complicated

diversion of the property, which is required to be prevented. Consequently, the definition of proceeds of crime has undergone transformative changes from time to time so as to include all the complex acts involved in the offence of money laundering.

3.5. In Axis Bank's case (Supra), the Delhi High Court has dissected the definition in three parts while covering tainted property and untainted property held in India; and the 'proceeds of crime' taken out of the country or any other property of equivalent value thereof. However, this Court is of the considered view that the definition can be divided into two broader categories namely tainted properties and untainted properties. The first part provides about the tainted properties derived or obtained directly or indirectly by any person as a result of criminal activity relating to a scheduled offence. Thereafter, the untainted properties are further divided into two parts; the first part deals with a situation where the property derived or obtained from 'proceeds of crime' is not traceable. In the aforesaid situation the competent authority is authorized to attach or confiscate any other property of accused, which is of the same value as that of the 'proceeds of crime'. The second sub-category is a result of amendment brought in 2015 and 2019 in the Act. It provides that if the property derived or obtained from the proceeds of crime has already been taken out of the Country then the property equivalent in value held within the Country or abroad can be made liable to be attached. This position has been explained by the Delhi High Court in an elaborate manner in Axis Bank's case (supra) and Prakash Industries case (supra).

3.6. It is not disputed that the Supreme Court in Vijay Madanlal Chaudhary's case (supra) was examining the scope of the '2002 Act' including definition of phrase 'proceeds of crime'. The submission put forth by the learned counsel that the phrase 'or the value of any such property' is superfluous was rejected by the Court and it was held that the definition of 'proceeds of crime' is wide enough to not only include to the property derived or obtained as a result of criminal activity related to a schedule offence but also any other property of equivalent value.

3.7. While interpreting a statutory provision, it is the bounden duty of the Courts to interpret it in manner so that each word used by the statute conveys a meaning it was assigned by the Legislature. The words used in statute are of utmost significance. The Court cannot widen or restrict the provisions on its own whims and fancies. When a statute's language is clear and unambiguous, the general rule of interpretation of statute is to read the provision as a whole and the Court must adhere strictly to the ordinary, plain meaning of the words used. The words in a statute are used precisely, not loosely, and efforts must be made to interpret them in a literal manner to give effect to the objective of the Act. This approach of interpretation is based on the idea that the legislature's intent is best reflected in the exact words of the statute.

3.8. Moreover, the reasoning adopted in Seema Garg's case (*supra*) to the effect that there was no need to insert third part in the definition of the 'proceeds of crime' and that 'value of such property' is superfluous does not appear sound. It appears that transformative journey of the definition of phrase 'proceeds of crime' was not brought to the notice of the Division Bench in Seema Garg's case (*supra*). In Abdullah Ali Balsharaf's case (*supra*), Delhi High Court inadvertently overlooked the sub-category (i) of second part of definition of 'proceeds of crime'. Similarly, Andhra Pradesh High Court in Kumar Pappu Singh's case (*supra*) was not properly assisted. Furthermore, the attention of Patna High Court was not drawn to part 2(i) in HDFC Bank's case (*supra*). Similar is the position in M/s. Himachal Amta Power Limited's case (*supra*). In this case, the attention of the Bench was not drawn to the second broader category of the definition. In Hemanshu Rajnikant Shah's case (*supra*) the Court relied upon Seema Garg's case (*supra*) and held that the properties acquired before the alleged crime and before the enforcement of the '2002 Act' cannot be attached.

3.9. On the other hand the judgments passed in Vijay Madanlal Chaudhary's case (*supra*), Axis Bank's case (*supra*) and Prakash Industries case (*supra*) completely answer the question in favour of ED.

3.10. The petitioner's counsel has also heavily relied upon Pavana Dibbur's case (*supra*). This Bench has carefully read the aforesaid judgment. The aforementioned case involved attachment of property falling under the category of 'direct' or 'indirect' proceeds of crime. The complaint under Section 44-45 of 2002 Act was quashed by the Supreme Court. The Bench was never called upon to analyse the contentions based upon Section 2(i)(u) of 2002 Act, whereas, in Vijay Madanlal Chaudhary's case (*supra*) the Court directly answered the aforesaid question. Hence, there is no substance in the first argument of learned counsel for petitioner”.

17. The proceeds of crime has three components out of which the middle part is for “equivalent value” or “value thereof” to be proceeds of crime in absence of availability of proceed(s)/ property(s) acquired or obtained out of the scheduled offence. In case of non-availability of proceeds in the hands of a person, the property of equivalent value would fall under the definition

of “proceeds of crime” and can be attached. Thus, the second issue raised by the appellant cannot be accepted.

18. The issue now remains about the source of the amount said to have been invested by the appellant in M/s Ritz Consultancy Services. Detail of the amount received by the appellant and her entities has been given by the respondent which was revealed during the course of investigation. The amount of Rs.18.81 Crore was received by the appellant and her entities through the banking channel. It was involving Kotak Mahindra Bank and HDFC Bank. Out of the said amount, an amount of Rs.3.77 Crore was paid back by the appellant leaving an amount of Rs.15.04 Crore. The receipt of the amount and the return by the appellant is through banking channels and therefore it was not difficult to analyze the proceeds of crime in hands of the appellant. As against the receipt of the amount, the appellant had failed to disclose the source thereof. The effort of the appellant was to involve cash for showing it towards investment and for that bank statement was referred. The cash transaction is of an amount running in lakhs. It is without disclosure of the source. A person can invest huge amount only if he/she has a source. As against huge cash transaction in the

year 2019 and that too in April and May, 2019, the appellant failed to disclose its source and in fact if total bank account with M/s Ritz Consultancy Services is looked into, it involves unexplained entries of cash and source thereof and thereupon the receipt. The receipt of the amount was greater and otherwise the appellant remains a classic example of so called investment where the transactions were said to be frequent and if the bank account is looked into, receipt and payment remained frequent and throughout for a period of five years as an exception and just before the FIR.

19. Ld. Counsel for the appellant was asked to explain the cash transaction so as to justify the investment. He failed to explain the receipt of the cash and its deposit and consequential receipt of the amount from time to time and in any case if that was towards investment even with involvement of cash, the appellant was under obligation to prove the source of cash. It is said to be towards investment by producing any document of the nature involving in all other investments. The appellant has failed to produce any document to aforesaid.

20. In the light of the discussions made above, I am unable to accept any of the arguments raised by the appellants and accordingly appeals fail and are dismissed. It is, however, with a clarity that the impugned orders would remain subject to final outcome of the trial. In case of acquittal of the accused, it may remain favourable to the appellants.

(Justice Munishwar Nath Bhandari)
Chairman

NEW DELHI
13.05.2026
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