

APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

MP-PMLA-1451/KOL/2025 Stay

FPA-PMLA-625/KOL/2025

Shri Raghuman A. ... Appellant

Versus

The Deputy Director

Directorate of Enforcement, Kolkata ... Respondent

Advocates/Authorized Representatives who appeared

For the Appellant : Ms. Akshita Chand, Adv.
Mr. Karan Kumar, Adv.

For the Respondent : Mr. Chandra Prakash, Adv.
Mr. Abhinav Kumar, Adv.

CORAM

SHRI V. ANANDARAJAN : MEMBER

FINAL ORDER

25.05.2026

The present appeal is filed under section 26 of the PMLA, 2002 against the order dated 25.02.2025 passed by the Ld. Adjudicating Authority (AA) in Original Complaint No. 2441/2024 which confirmed the Provisional Attachment Order No. 07/2024 dated 19.09.2024, wherein the following property of the appellant was attached:

“Plot No.11 measuring 846 sq. ft. and Plot No. 10 measuring 845 sq. ft. at Melpakkam, Chennai having market value of Rs. 42,67,500/-”

2. The **brief facts** of the case are that an FIR was registered by Cossipore Police Station registered vide FIR No. 81 dated 16.05.2023 u/s 420, 406 and 120B of the Indian Penal Code, 1860 against unknown individuals associated with online gaming app, ‘FIEWIN’ and others based on the complaint received from one Sekhar Pal, s/o Shri Manoj Kumar Pal. It was alleged in the FIR that the said online gaming app ‘FIEWIN’ along with others, dishonestly induced the complainant to play online game by promising substantial winnings. Based on the assurance, the complainant invested a total of approximately Rs. 21,69,079, played the game and got addicted. But he did not receive the winning amount from the said gaming app. Thus, the complainant got cheated by the said

app causing wrongful loss of the complainant. 'FIEWIN' app was allegedly engaged in illegal activity of receiving money from people against promise of winning prize money but did not deliver the winning amount to the winners.

3. Since sections 420 and 120B of the IPC, 1860, are scheduled offences under PMLA, inquiries were launched against the accused and an ECIR No. KLZO-I/04/2024 dated 21.02.2024 was registered.

4. During the investigation, the bank account details of Shri Sekhar Pal, the complainant of the above mentioned FIR from which the financial transactions were made for recharging his wallet were obtained and subsequently, bank statements of the said accounts were obtained from the respective banks. During the scrutiny of the said bank account statements, it was revealed that Shri Sekhar Pal had transferred amounts to a number of entities/persons and also received amounts from a number of entities through different banks. The total amount transferred was to the tune of Rs. 32,97,008/-, whereas the amounts received from FIEWIN app were Rs.13,52,414/-.

5. During the course of the investigation proceedings, a Provisional Attachment Order (PAO) was passed on 19.09.2024 and subsequently, an Original Complaint (OC) was filed on 17.10.2024 before the AA.

6. The Ld. AA confirmed the said PAO vide its order dated 25.02.2025.

7. Aggrieved by the said order of the Ld. AA, the appellant has filed this appeal.

8. Ld. Counsel for the **Appellant** argued the appeal only on one ground which Constitutes Ground no. 32 of the appeal paperbook. The gist of the ground is that at the time of passing of the impugned order by

Ld. Adjudicating Authority, the property in question already stood confiscated by the order of Ld. Special Court passed on 07.10.2024. As such, since attachment proceedings are only of an interim nature awaiting confiscation or otherwise of the property upon conclusion the prosecution case, there was no ground to confirm the attachment, as the property already stood confiscated on the said date. It is stated that the PAO in this case was filed on 19.09.2024 and cognizance of the Prosecution Complaint filed in the PMLA offence was taken on 07.10.2024, and on that very day, an order was passed by the Special Court confiscating the property in question. Even so, an OC was filed by the Respondent Directorate dated 17.10.2024 which came to be confirmed by the order of the Ld. Adjudicating Authority dated 25.02.2025. The text of paragraphs 32-33 comprising part of the grounds of appeal are reproduced below:

“THE WHOLE PROCEEDINGS IS INFRUCTUOUS AMD REDUNDANT

32. The Complainant in the OC at para no.18 has admitted that the prosecution complaint under PMLA has been filed for offences u/s 3 r/w Section 70 of PMLA against seven accused excluding this Appellant on 07.10.2024 in Money Laundering Case No. 7 of 2024 and the same was taken cognizance by the Trial Court, Kolkata on the same day. The Complainant has conveniently not brought to the notice of the Ld. AA regarding the cognizance order dated 07.10.2024 (has been annexed herewith and marked as Annexure 8), wherein, the prayer for the confiscation of the properties was allowed and accordingly, the properties involved in the money laundering which have been used for commission of offence of money laundering have been confiscated to the Central Government in accordance with law i.e. impugned attached property has been confiscated u/s 8(5) of PMLA.

33. It is respectfully submitted that the judicial order of the Trial Court overrides any pending adjudication proceedings regarding the confirmation of attachment. It is submitted that the adjudication u/s 8 of PMLA is for the eventual confiscation of properties by the Criminal Court. Therefore, when the same property has already been confiscated by the Criminal Court, the entire adjudication

proceedings are wholly infructuous and redundant. Therefore, the continuation of proceedings is an empty formality.”

9. Ld. Counsel for the **Respondent** strongly opposed the contention raised on behalf of the appellant. He pointed out the role of the appellant herein which is discussed on page no. 11 of the impugned order. He further submits that an order was erroneously passed by the Special Court confiscating the properties on the very day on which cognizance of the PMLA offence was taken whereas as the said order should have been passed at the conclusion of the trial in the PMLA case. He further submits that this fact does not affect the proceedings arising out of the attachment of properties. A PAO having been passed by the respondent directorate, the same has rightly been followed up with filing of an OC u/s 5(5) of the PMLA, which came to be confirmed by the order of the Ld. Adjudicating Authority vide the impugned order. By way of background of the case, he mentioned that this is a case of a Chinese national indulging in money laundering through the gaming apps, and, there were strong grounds for the attachment as well as for the confirmation thereof for the reasons discussed in the impugned order.

10. He also relied on the judgment of the Hon'ble Supreme Court in *Navnirman Builders & Developers Pvt. Ltd. v. Union of India, SLP (Crl.) 9216 of 2023*), wherein it has been held that the order for confiscation cannot be passed while an appeal against confirmation is pending.

Analysis and Decision

11. I have perused the material on record and have also considered carefully the arguments advanced on behalf of both the parties. As already mentioned, the only issue raised on behalf of the appellant is whether the confiscation order passed by the Special Court after passing of the PAO but prior to filing of the Original Complaint before the

Adjudicating Authority, renders the proceedings before the AA infructuous and redundant and, therefore, the continuation of proceedings was an empty formality.

12. The Provisional Attachment Order (PAO) was passed in the instant case on 19.09.2024, whereas the Special Court's order of confiscation of the properties was passed on 07.10.2024. It is an admitted position that the OC was filed after the order of the Special Court was pronounced.

The scheme laid down by the PMLA in respect of attachment and confiscation of properties constituting proceeds of crime is quite clear from the text of section 8 of the said Act. The relevant provision is reproduced below for ready reference:

8. Adjudication.—(1) *On receipt of a complaint under sub-section (5) of section 5, or applications made under sub-section (4) of section 17 or under sub-section (10) of section 18, if the Adjudicating Authority has reason to believe that any person has committed an offence under section 3 or is in possession of proceeds of crime, it may serve a **notice** of not less than thirty days on such person calling upon him to indicate the sources of his income, earning or assets, out of which or by means of which he has acquired the property attached under sub-section (1) of section 5, or, seized 2 [or frozen] under section 17 or section 18, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties should not be declared to be the properties involved in money-laundering and confiscated by the Central Government:*

Provided that where a notice under this sub-section specifies any property as being held by a person on behalf of any other person, a copy of such notice shall also be served upon such other person:

Provided further that where such property is held jointly by more than one person, such notice shall be served to all persons holding such property.

(2) *The Adjudicating Authority shall, after—*

(a) considering the reply, if any, to the notice issued under sub-section (1);

(b) hearing the aggrieved person and the Director or any other officer authorised by him in this behalf; and

(c) taking into account all relevant materials placed on record before him,

*by an **order**, record a finding whether all or any of the properties referred to in the notice issued under sub-section (1) are involved in money-laundering:*

Provided that if the property is claimed by a person, other than a person to whom the notice had been issued, such person shall also be given an opportunity of being heard to prove that the property is not involved in money-laundering.

(3) *Where the Adjudicating Authority decides under sub-section (2) that any property is involved in money-laundering, he shall, by an order in writing, **confirm the attachment of the property** made under sub-section (1) of section 5 or retention of property or record*

seized or frozen under section 17 or section 18 and record a finding to that effect, **whereupon such attachment or retention or freezing of the seized or frozen property or record shall—**

- (a) continue during investigation for a period not exceeding [three hundred and sixty-five days] or the pendency of the proceedings relating to any offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and**
(b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60 by the Special Court;

Explanation.- For the purposes of computing the period of three hundred and sixty-five days under clause (a), the period during which the investigation is stayed by any court under any law for the time being in force shall be excluded.

(4) Where the provisional order of attachment made under sub-section (1) of section 5 has been confirmed under sub-section (3), the Director or any other officer authorised by him in this behalf shall forthwith take the possession of the property attached under section 5 or frozen under sub-section (1A) of section 17, in such manner as may be prescribed: Provided that if it is not practicable to take possession of a property frozen under sub-section (1A) of section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.

(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

(6) Where on conclusion of a trial under this Act, the Special Court finds that the offence of money laundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.

(7) Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offence of money-laundering after having regard to the material before it.

(8) Where a property stands confiscated to the Central Government under sub-section (5), the Special Court, in such manner as may be prescribed, may also direct the Central Government to restore such confiscated property or part thereof of a claimant with a legitimate interest in the property, who may have suffered a quantifiable loss as a result of the offence of money laundering:

Provided that the Special Court shall not consider such claim unless it is satisfied that the claimant has acted in good faith and has suffered the loss despite having taken all reasonable precautions and is not involved in the offence of money-laundering:

Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such manner as may be prescribed. [Emphasis supplied]

13. The Hon'ble Supreme Court in their landmark judgement in the case of *Vijay Madanlal Choudhary & Ors. v. Union of India & Ors.*, *Special Leave Petition (Criminal) No. 4634 of 2014*, have explained the scheme of the Act as follows:

“70. The procedural safeguards provided in respect of provisional attachment are effective measures to protect the interest of the person concerned who is being proceeded with under the 2002 Act, in the following manner as rightly indicated by the Union of India:

i. For invoking the second proviso, the Director or any officer not below the rank of Deputy Director will have to first apply his mind to the materials on record before recording in writing his reasons to believe is certainly a sufficient safeguard to the invocation of the powers under the second proviso to Section 5(1) of the 2002 Act.

ii. There has to be a satisfaction that if the property involved in money-laundering or ‘proceeds of crime’ are not attached “immediately”, such non-attachment might frustrate the confiscation proceedings under the 2002 Act.

iii. The order passed under Section 5(1) of the 2002 Act is only provisional in nature. The life of this provisional attachment order passed under Section 5(1) of the 2002 Act is only for 180 days, subject to confirmation by an independent Adjudicating Authority.

iv. Under Section 5(2) officer passing provisional attachment order has to immediately forward a copy of this order to the Adjudicating Authority in a sealed envelope.

v. Under Section 5(5) of the 2002 Act, the officer making such order must file a complaint before the Adjudicating Authority within 30 days of the order of provisional attachment being made.

vi. Section 5(3) of the 2002 Act provides that the provisional attachment order shall cease to have effect on the expiry of the period specified in Section 5(1) i.e. 180 days or on the date when the Adjudicating Authority makes an order under Section 8(2), whichever is earlier.

vii. Under Section 8(1), once the officer making the provisional attachment order files a complaint and if the Adjudicating Authority “has a reason to believe that any person has committed an offence under Section 3 or is in possession of the proceeds of crime”, the Adjudicating Authority may serve a show cause notice of not less than 30 days on such person calling upon him to indicate the sources of his income, earning or assets or by means of which he has acquired the property attached under Section 5(1) of the 2002 Act.

viii. The above SCN would require the noticee to produce evidence on which he relies and other relevant information and particulars to show cause why all or any of the property “should not be declared to be the properties involved in money laundering and confiscated by the Central Government.

ix. Section 8(2) requires the Adjudicating Authority to consider the reply to the SCN issued under Section 8(1) of the 2002 Act. The Section further provides to hear the aggrieved person as well as the officer issuing the order of provisional attachment and also take into account “all relevant materials placed on record before the Adjudicating Authority”. After following the above procedure, the Adjudicating Authority will record its finding whether all the properties referred to in the SCN are involved in money-laundering or not.

x. While passing order under Section 8(2) read with Section 8(3) there are two possibilities which might happen:

- a. *the Adjudicating Authority may confirm the order of provisional attachment, in which case again, the confirmation will continue only up to*
- i. *the period of investigation not exceeding 365 days, or*
 - ii. *till the pendency of any proceedings relating to any offence under the 2002 Act or under the corresponding law of any other country before the competent Court of criminal jurisdiction outside India.*
- b. *Adjudicating Authority may disagree and not confirm the provisional attachment, in which case attachment over the property ceases.*
- x. *Under Section 8(4) of the 2002 Act, upon confirmation of the order of provisional attachment, the Director or other officer authorized by him shall take the possession of property attached.*
- xii. Under Section 8(5) of the 2002 Act, on the conclusion of a trial for an offence under the 2002 Act if the Special Court finds that the offence of money-laundering has been committed it will order that the property involved in money-laundering or the property which has been involved in the commission of the offence of money-laundering shall stand confiscated to the Central Government.**
- xiii. *However, under Section 8(6) if the Special Court on the conclusion of the trial finds that no offence of money laundering has taken place or the property is not involved in money-laundering it will release the property which has been attached to the person entitled to receive it.*
- xiv. *Under Section 8(7), if the trial before the Special Court cannot be conducted because of the death of the accused or because the accused is declared proclaimed offender, then the Special Court on an application of the Director or a person claiming to be entitled to possession of a property in respect of which an order under Section 8(3) is passed either to confiscate the property or release the property to the claimant, after considering the material before it.*
- xv. *Under Section 8(8), when a property is confiscated, Special Court may direct the central government to restore the property to a person with the legitimate interest in the property, who may have suffered a quantifiable loss as a result of money laundering. Provided that the person must not have been involved in money-laundering and must have acted in a good faith and has suffered a considerable loss despite taking all reasonable precautions.*
- xvi. *The order passed by the Adjudicating Authority is also subject to appeal before the Appellate Tribunal which is constituted under Section 25 of the 2002 Act. Thus, the Adjudicating Authority is not the final authority under the 2002 Act as far as the attachment of proceeds of crime or property involved in money-laundering is concerned.*
- xvii. *Any person aggrieved of an order confirming the provisional attachment order can file an appeal before the Appellate Tribunal under Section 26(1) of the 2002 Act. The Appellate Tribunal on receipt of an appeal after giving the parties an opportunity of being heard will pass an order as it thinks fit either confirming or modifying or setting aside the provisional attachment order appealed against.*
- xviii. *Further, the order passed by the Appellate Tribunal is further appealable before the High Court under Section 42 of*

the 2002 Act on any question of fact or question of law arising out of the order passed by the Appellate Tribunal.

It is, thus, clear that the provision in the form of Section 5 provides for a balancing arrangement to secure the interest of the person as well as to ensure that the proceeds of crime remain available for being dealt with in the manner provided by the 2002 Act. This provision, in our opinion, has reasonable nexus with the objects sought to be achieved by the 2002 Act in preventing and regulating money-laundering effectively. The constitutional validity including interpretation of Section 5 has already been answered against the petitioners by different High Courts. We do not wish to dilate on those decisions for the view already expressed hitherto. [Emphasis supplied]

14. From the text of the bare act provisions reproduced above as well as the extracts from the order of the Hon'ble Apex Court, it is evident that upon passing an order of attachment under section 5(1) of the Act, a copy thereof is required to be forwarded to the Adjudicating Authority along with material in possession of the officer passing the order of attachment, and thereafter, within a period of 30 days of the period of attachment, a complaint (OC) has to be filed before the Adjudicating Authority stating the facts of such attachment. On receipt of the said complaint, the AA, if he has reason to believe that any person has committed the offence of money laundering or is in possession of proceeds of crime may serve a notice on such person calling upon him to indicate the sources of his income etc. by means of which he has acquired the attached property. After conducting the proceedings as mentioned in sub-section (1) and (2), the AA is required to pass an order recording a finding whether all or any of the properties referred to in the notice are involved in money laundering, and where he finds that to be the case, he shall confirm the attachment of the property. Therefore, in the present case, upon receipt of the original complaint, having had the reason to believe as required under section 8(1), the AA has rightly issued a notice, conducted the adjudication proceedings, and passed an order under section 8(2), and confirmed the attachment under section 8(3). The action of the AA is strictly in accordance with the provisions of law and the judgment of the Apex Court.

15. On the other hand, as is evident from the clear language of section 8(5) as well as para 70 (xii) of the order of the Apex Court, confiscation of property is conditional upon "*conclusion of a trial of an offence under this Act*" and only after "*the Special Court finds that the offence of money laundering has been committed*". It cannot be even the appellant's case that the criminal trial in the present case concluded on the very day cognizance was taken by the Ld. Special Court.

16. As regards the legality of the order of confiscation passed by the Ld. Special Court at the very stage of taking cognizance of the offence, this Appellate Tribunal not being the appropriate judicial forum before which appeal from the said order lies, does not wish to offer any views. It would be for the appropriate judicial forum to which appeal from the order of the Ld. Special Court lies under law to adjudge the legality of the same, if challenged by either party.

17. Before parting with this order, it may also be mentioned that the issue raised in the present appeal, i.e., that the property already stood confiscated and therefore, there was no ground to confirm the order of provisional attachment, was never raised by the appellant before the Ld. AA. No reply to the Show Cause Notice was filed by the appellant before the Ld. AA. It was orally argued that the appellant is not involved in money laundering and there is no evidence to suggest that proceeds of crime were enjoyed by the appellant. However, the present issue was not raised by the appellant.

18. In light of the above discussions, I find no infirmity in the impugned order in-so-far as the above issue is concerned. As no other grounds have been pressed on behalf of the appellant, the present **appeal stands dismissed.**

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

20. No order as to costs.

(V. Anandarajan)
Member

New Delhi
25th May, 2026
'AD'