

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

C.M.S.A. No.21 of 2024

DATE: 01.07.2026

Between:

M/s. Musaddilal Gems and Jewels India Private Limited.

...Appellant

AND

**The Deputy Director,
Directorate of Enforcement,
Ministry of Finance Department, Revenue,
03rd Floor, Shakar Bhawan,
Basheer Bagh, Hyderabad - 500 004.**

...Respondent

JUDGMENT: *(per the Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. B.Chandrasen Reddy, learned Senior Counsel for
Mr. B.Vamshidhar Reddy, learned counsel for the appellant; and
Mr. D.Narender Naik, learned Standing Counsel for Enforcement
Directorate for the respondent.

2. The instant appeal under Section 42 of the Prevention Money
Laundering Act, 2002 (for short the 'PMLA, 2002') has been filed by

the appellant assailing the order dated 28.10.2024, in FPA-PMLA-765/HYB/2024, passed by the Appellate Tribunal under SAFEMA at New Delhi (under the PMLA, 2002).

3. Vide the impugned order; the Tribunal dismissed the appeal preferred by the appellant affirming the order dated 22.08.2023, in O.A.No.757 of 2022, passed by the Adjudicating Authority. Thus, the present becomes Second Appeal on the part of the appellant against the order of the Adjudicating Authority as also against the order of the Appellate Tribunal.

4. The Office of the Assistant Director of Enforcement Directorate, Hyderabad filed an application before the Adjudicating Authority under Section 17(4) of the PMLA, 2002 seeking for retention of the seizure made from the searches conducted during 17.10.2022 to 19.10.2022 at the premises of (i) M/s.MBS Jewelers Private Limited; (ii) M/s. Musaddilal Gems and Jewels India Private Limited; (iii) Mr. Sukesh Gupta, Director of M/s.MBS Jewelers and (iv) Mr. Anurag Gupta, Director of M/s. Musaddilal Gems and Jewels. In the application, the Assistant Director of Enforcement Directorate had given the details and description of the various documents seized in the course of search from each of the premises. The application revealed the movable properties

including cash and jewels; likewise, movable properties particularly electronic devices were seized in the course of search and seizure. After collecting all the seized documents, articles, cash and jewelry and on analyzing the same, the Enforcement Directorate was prima facie of the view that the seized properties could be a part of the proceeds of crime related to a schedule offence. It was in this context that initially an authorization under Section 17(1) of PMLA, 2002 got issued and in the course of investigation under the PMLA, 2002, the Enforcement Directorate had, on giving reasons, requested for the retention of the records / properties / electronic gadgets under Section 17(4) of the PMLA, 2002.

5. It is this application which the Adjudicating Authority under the PMLA passed the order on 22.08.2023 allowing the application of the Enforcement Directorate subject to the decision of the Hon'ble Supreme Court in the SLP (Crl.) No.7965 of 2023. While allowing the application, the learned Adjudicating Authority in its operative part of the order has held as under:

***“12.** In light of the aforementioned circumstances, it is imperative for the progress of the ongoing investigation and the fair dispensation of justice that the Application filed by the Enforcement Directorate be approved. The requested retention of records/ documents, cash, gold and precious stones/metals jewelleryes, electronic items/ digital devices of the Prevention of Money Laundering Act (PMLA), which were seized during the searches*

conducted on 17.10.2022, 18.10.2022 and 19.10.2022 as stated in Original Application (OA) and page 13 of this order, should be permitted to proceed.

a. Hence the Application as filed by the Enforcement Directorate is allowed.

b. Hence OA-757 of 2022 is allowed. However, the above order is subject to the decision of Hon'ble Supreme Court in SLP No. 7965 of 2023."

6. Aggrieved of the order passed by the Adjudicating Authority, the appellant preferred an appeal before the Appellate Tribunal under Section 26 of the PMLA, 2002. The Appellate Tribunal also having dealt with all the issues which the appellant had raised, *vide* the impugned order dated 28.10.2024, dismissed the appeal.

7. It is these two orders i.e. the order of the Adjudicating Authority dated 22.08.2023 and the order of the Appellate Authority dated 28.10.2024 which are under challenge in the instant appeal under Section 42 of PMLA, 2002.

8. The matter originates from an FIR being registered by CBI on the alleged fraud, cheating and wrongful cause caused to one M/s. Minerals and Metal Trading Corporation Limited (for short 'MMTC Ltd.') by Mr. Sukesh Gupta, the Managing Director of M/s. MBS Group. After the FIR was lodged, a charge sheet *vide* **CC.No.25 of 2014, dated 27.11.2014**, was also filed against

Mr. Sukesh Gupta for the offences under Section 120(b) read with **Section 429, 469, 471, 477-A of IPC** and Section 13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988. The estimated loss caused to M/s. MMTC Ltd. was over Rs.226 crores of principal amount. Meanwhile, an ECIR/05/HYZO/2014 was also registered on 25.02.2014 against Mr. Sukesh Gupta, Managing Director of M/s. MBS Group. Meanwhile, however on the basis of the search and seizure conducted, seizures were made of the items those were reflected in the application filed by the Assistant Director, Enforcement Directorate under Section 17(4) of PMLA, 2002.

9. Learned Senior Counsel for the appellant challenged the impugned order on the ground that the two authorities have failed to appreciate the fact that the High Court in a Criminal Petition i.e. Crl.P.No.431 of 2023 had quashed the ECIR case registered against Mr. Sukesh Gupta. It was also the contention of the learned Senior Counsel for the appellant that the Adjudicating Authority as also the Tribunal has failed to appreciate the aspect that the only relationship which the appellant had with the business of Mr. Sukesh Gupta was that of pure business transactions under proper invoices and on payment of GST as also the income tax. According to the learned Senior Counsel for the appellant, the

partnership firm of M/s. Musaddilal and Sons subsequently stood dissolved and the amount generated from the said distribution of the share, which went to each of the partners is what was pumped in as an unsecured loans, which was also reflected in the balance sheets. It was also the contention of the learned Senior Counsel for the appellant that the impugned order also suffers from lack of reasons more particularly establishing as to how the seized material were directly or indirectly the proceeds of crime in the teeth of the explanation that were provided by the appellant. That the orders of the Adjudicating Authority as also the Appellate Tribunal failing to establish the fact that the jewelry was procured from the proceeds of crime, the entire proceeding gets vitiated holding it to have been fundamentally fraud, misconceived and illegal.

10. Learned Senior Counsel for the appellant has also questioned the proceedings initiated to be barred by limitation as the order passed under Sub-Section (5) of Section 5 of PMLA, 2002 was beyond a period of 180 days from the date of search and seizure dated 17.10.2022. It was also contended by the learned Senior Counsel for the appellant that the stay granted in CrI.P.No.431 of 2023 insofar as case of Mr. Sukesh Gupta is concerned, the stay period cannot be excluded for the purpose of calculating the

limitation, for the reason that the appellant was not a party to the said ECIR proceedings nor was he made as an accused by the CBI in any of those cases. According to the learned Senior Counsel for the appellant, neither the appellant company nor any of the Directors being an accused in ECIR case registered against Mr. Sukesh Gupta, they are in no manner connected with any of the scheduled offences nor do they have nexus with the said person insofar as alleged illegal criminal act on the part of the accused in the ECIR case and therefore, the assets belonging to the appellant is not in any manner a part of the proceeds of crime as there is no nexus between ECIR case or the case put forth by the CBI against Mr. Sukesh Gupta.

11. Lastly, it was contended by the learned Senior Counsel for the appellant that the Appellate Tribunal as also the Adjudicating Authority failed to look into the aspect that in order to bring the seized articles within the ambit of proceeds of crime as defined under Section 2(1)(u) of PMLA, 2002 the basic ingredient is that of there being a criminal activity relating to a scheduled offence available so as to establish the seized property to be proceeds of crime. In the instant case, there is no allegation of any criminal activity to have been undertaken by the appellant so as to constitute an offence of money laundering and also in order to

make the appellant guilty of an offence of money laundering. Therefore, according to him the entire case of the prosecution is liable to be vitiated only on this aspect.

12. Learned Senior Counsel for the appellant relied upon two judgments, one by the Hon'ble Supreme Court in the case of **Sri Chamudi Mopeds Limited vs. Church of South India Trust Association**¹ and other by the Delhi High Court in the case of **Baljeet Singh v. School Management of Guru Harikishan Public School and others**². The aforesaid two judgments were cited in respect of the arguments advanced by him stating that subsequent to the quashing of the ECIR, the order passed under Section 17(4) of the PMLA, 2002 and which has also been affirmed by the Appellate Tribunal becomes bad in law in the teeth of the aforesaid two judgments. In addition, the learned Senior Counsel for the appellant also relied upon another decision of the Delhi High Court in the case of **Mohan Kumar Khanelwal vs. Directorate of Enforcement**³ and also the decision of Madras High Court in the case of **M.Sathyanandan vs. State of Tamil Nadu**⁴, both of which were on the aspect of limitation.

¹ 1992 (3) SCC Page 1

² 2018 SCC OnLine Delhi 10795

³ 2024 (SCC) Online Delhi 645

⁴ 2010 SCC Online Madras 4618

13. Per contra, the learned Standing Counsel for Enforcement Directorate opposing the instant appeal submits that a threadbare perusal of the two impugned orders would go to show that all the aspects which were raised and contested before the two forums have been duly considered with and decided accordingly. Learned Standing Counsel would submit that the investigations have revealed that appellant company's financial operations were used as a conduit to layer and integrate proceeds of crime derived from predicate offences. It is further submitted that while the appellant contends that M/s. Musaddilal Gems and Jewels (India) Pvt. Ltd. is an independent entity unrelated to M/s. MBS Jewelers Pvt. Ltd. or Mr. Anurag Gupta, investigation has revealed otherwise. Evidence gathered indicates that M/s. Musaddilal Gems and Jewels (India) Pvt. Ltd. was incorporated in the year 2013 shortly after Mr. Anurag Gupta ceased being a director of M/s. MBS Jewellers Pvt. Ltd., and was used as a conduit to launder proceeds of crime. Mr. Anurag Gupta, despite no longer being a director, was found to have financial and operational involvement with M/s. Musaddilal Gems and Jewels (India) Pvt. Ltd., including unexplained loans and share capital investments by him and his family members. These connections demonstrate that the appellant company is not entirely

independent but is closely associated with the individuals and entities under investigation for money laundering.

14. According to the learned Standing Counsel for Enforcement Directorate, investigation into M/s. MBS Jewellers Pvt. Ltd. and its associated entities revealed a large-scale fraud involving the Buyer's Credit Scheme of M/s. MMTC Ltd. resulting in significant losses to the exchequer. The connection between M/s. Musaddilal Gems and Jewels (India) Pvt. Ltd. and the M/s. MBS Group has been established through financial records and the movement of tainted funds and the evidence indicates that the proceeds of crime generated through the fraudulent activities of M/s. MBS Group were layered and integrated into the appellant company.

15. Learned Standing Counsel for Enforcement Directorate would further submit that the investigation revealed that their total declared income, as per their income tax returns, are insufficient to justify the capital contributions made to M/s. Musaddilal Gems and Jewels (India) Pvt. Ltd., and that Mr. Shashank Gupta declared an income of Rs.3.47 lakhs in the financial year 2012-13 and Rs.4.30 lakhs in the financial year 2013-14 contradicts the claim that he had sufficient funds to make such investments. The appellant has not provided credible evidence demonstrating as to how the capital

infusion aligns with the income and resources declared in financial records. The investigation has shown that the funds transferred to the appellant company, including the unsecured loans and capital investments, do not have a credible source. The argument regarding inherited stock does not address the core issue of the unexplained and disproportionate financial contributions made by the family members.

16. According to learned Standing Counsel for Enforcement Directorate, the alleged transfer of gold stock and its subsequent conversion into unsecured loans raises questions about the legitimacy of these transactions. The financial documentation does not sufficiently explain the transition of assets and the alignment of these transactions with declared incomes. It is further submitted that while the appellant claims these were legitimate transactions, the investigation has shown that the flow of funds and stock adjustments were structured to obscure the origin of assets and the financial trail remains inconsistent with declared resources. It is further submitted that the search conducted in the year 2022 was based on additional material and was fully in compliance with the provisions of the PMLA, 2002. The retention of assets is necessary to prevent their dissipation and ensure their availability for adjudication under the PMLA. The “reasons to believe” required

under Section 17 were duly recorded prior to the search, and the seizure was carried out in accordance with the law. The search warrant and panchanama were lawfully issued based on credible material evidence linking the appellant company to the proceeds of crime.

17. With all the aforesaid submissions, learned Standing Counsel for Enforcement Directorate prayed to dismiss the present appeal.

18. Having heard the contentions put forth on either side and on perusal of records, it is necessary at the outset to know the fact that the challenge in the instant appeal is to an order passed under Section 17(4) of the PMLA, 2002. For ready reference, Section 17(4) is reproduced hereunder:

“The authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1 A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing served under sub-section (1 A), before the Adjudicating Authority.”

19. An application for retention is one which is moved under Section 17(4) of the PMLA, 2002 and an order is passed under Section 20(1) of the PMLA, 2002. For ready reference, Section 20(1) is also reproduced hereunder:

“20. Retention of property.- (1) Where any property has been seized under section 17 or section 18 or frozen under sub-section (JA) of section 17 and the officer authorised by the Director in this behalf has, on the basis of material in his possession, reason to believe (the reason for such belief to be recorded by him in writing) that such property is required to be retained for the purposes of adjudication under section 8, such property may, if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such property was seized or frozen, as the case may be.”

20. A plain reading of the aforesaid two provisions would in itself indicate that the power vested upon the Adjudicating Authority is a subjective one. All that the Adjudicating Authority is required to do is peruse the records and arrive at from the basis of materials in its possession that there are “reasons to believe”. Such property seized or frozen is required to be retained for the purpose of adjudication under Section 8 of the PMLA, 2002. Thus, the order of retention is one which is passed for the purpose of adjudicating the proceedings initiated under Section 8. While deciding the proceedings or in the course of adjudication of the proceedings under Section 8, the Adjudicating Authority has to reach to a conclusion holding as to whether all or few of the properties referred to in the notice issued to the concerned person is one who is involved in money laundering. Once such properties are held to be in money laundering, the Adjudicating Authority by an order in writing

confirms the provisional attachment order. Subsequent to the confirmation of the provisional attachment order, the Adjudicating Authority thereafter proceeds for confiscation of the attached properties.

21. In the instant case, it is only the order passed for retention which has been confirmed by the Appellate Tribunal, put to test before this Bench. For the said reason we need to look into the finding given by the Adjudicating Authority at the first instance.

22. In the course of investigation the authorities came to know about the misdeeds of MBS Group, in which one Mr. Sukesh Gupta as also one Mr. Anurag Gupta were the directors. In the course of investigation it was found that the aforementioned MBS Group purchased huge quantity of gold bullion from MMTC Ltd. without paying full amount for the said gold bullion. At the same time, the MBS Group after purchase of such gold bullion, used the same for its business activities in spite of knowing fully well about the huge outstanding payment on the part of MBS Group payable to MMTC Ltd. and continued delivery of gold bullion under the Buyers Credit Scheme which was alleged to be part of a criminal conspiracy with Mr. Sukesh Gupta and the amount payable by MBS Group meanwhile was also got paid using MMTC funds without approval of

the corporate office of MMTC Ltd. resulting in huge loss of over 500 crores.

23. In the course of investigation, it was also revealed that immediately on an FIR getting lodged on 03.01.2013 against Mr. Sukesh Gupta, M/s. MBS Jewellers Pvt. Ltd. and M/s. MBS Impex Private Limited by the CBI, Mr. Anurag Gupta resigned from the directorship of all companies to escape the clutches of investigation. At the same time, Mr. Anurag Gupta incorporated a new company in the name and style of M/s. Musaddilal Gems and Jewels on 12.04.2013. In the said company, Ms. Vandana Gupta, wife of Mr. Anurag Gupta and Mr. Shashank Gupta, son of Mr. Anurag Gupta, were also made as the shareholders and directors. The Enforcement Directorate, in the course of investigation found that the new company established by Mr. Anurag Gupta was started with an initial fund of Rs.38 lakhs, a share capital of Rs.1 lakh, and an unsecured loan of Rs.37 lakhs from the directors. However, on scrutiny of income tax returns it was observed that the two directors Ms. Vandana Gupta and Mr. Shashank Gupta, both of them together also did not have with them evidence worth Rs.37 lakhs in the year 2013 to invest in the company. Later on also both Ms. Vandana Gupta and Mr. Shashank Gupta further invested Rs.6 lakhs of share capital in the said company, however they were not

able to give justification in respect of the source of income insofar as the investment of Rs.6 lakhs made in the company by them. In addition they had also given an unsecured loan of Rs.4.84 crores and Rs.4.62 crores respectively to the said company by way of unsecured loan, the source of which also was not able to be satisfactorily explained. Similar were the findings which were prima facie reflected in the course of investigation in respect of large number of transactions of investments made by the directors of the appellant's company.

24. In the absence of any satisfactory material available in establishing the flow of funds, particularly the unsecured loans being provided, the Adjudicating Authority found those facts are “reasons to believe” and the amount of investment made to be the “proceeds of crime”.

25. A bare perusal of the order passed by the Adjudicating Authority would go to show that the Adjudicating Authority has in depth dealt with the factual matrix of the case and also threadbare perused the entire documents that were placed before the Adjudicating Authority and thereafter has reached to the conclusion so far as the “reasons to believe” is concerned and the findings of the Adjudicating Authority are reflected in the impugned order

insofar paragraph No.7, which is the conclusion that the Adjudicating Authority has arrived at.

26. Thus, from the reading of the findings and the conclusion arrived at by the Adjudicating Authority, this Bench has no hesitation in reaching to the conclusion that the Adjudicating Authority has, in fact, met with all the requirements as is required under the statute as also the said order being in tune with the judicial precedents on the issue.

27. Next what we need to scrutinize is whether the findings arrived at by the Appellate Tribunal in its impugned order dated 28.10.2024 also to be in accordance with law, or does it suffer the latches pointed out by the appellant, or was there any procedural lapse on the part of the authority in the course of deciding the appeal.

28. One of the points strongly harped upon by the learned Senior Counsel for the appellant was that since the ECIR itself stood quashed by the High Court, all further proceedings initiated are of no consequence.

29. It was also the contention of the learned Senior Counsel for the appellant that merely because there is a stay in operation

issued by the Hon'ble Supreme Court does not mean that the ECIR stands restored, rather it is only the effect and operation of the judgment of the High Court in Crl.P.No.4313 of 2023 which stands stayed. However, technically the ECIR, in terms of the order of the High Court for all practical purposes stands quashed and therefore the generation of income in the said circumstances cannot be said to be from any criminal activity. In that regard also, it cannot be brought within the purview of proceeds of crime as defined under Section 2(1)(u) of the PMLA, 2002.

30. This contention of the learned Senior Counsel for the appellant is hard to accept for the simple reason that admittedly the Hon'ble Supreme Court in SLP (Crl.) No.7965 of 2023 stayed the operation of the judgment of the High Court quashing the ECIR. As a consequence of staying of the judgment of the High Court, it has to be construed as if the order of the High Court is ineffective as of now. If the judgment of the High Court becomes ineffective, automatically it would lead to a situation where the stage prior to the judgment of the High Court as it stood getting revived. The judgment in the case of **Sri Chamudi Mopeds Limited** (supra) referred to by the learned Senior Counsel for the appellant also cannot be made applicable in a straight-jacket formula to the facts of the present case for the simple reason that once when we hold

that the judgment of the High Court quashing the ECIR has been stayed by the Hon'ble Supreme Court, we come to the conclusion that as a consequence of the stay, the judgment becomes ineffective and cannot be brought into operation. It does not, under any circumstances, would also mean that as long as the matter is pending before the Hon'ble Supreme Court, it has to be presumed that the ECIR stands quashed. Rather, it is the other way round of the judgment becoming inoperative and the position of the ECIR getting restored, or else the very purpose of obtaining a stay of the judgment of the High Court becomes redundant and would be of no purpose whatsoever.

31. Some of the other reasons to disagree with the arguments of the learned Senior Counsel for the appellant are:-

- a) If the principles advanced by the appellant of treating the ECIR to remain quashed pending the SLP before the Hon'ble Supreme Court and based on the said judgment of the High Court if all corresponding proceedings emanating from the FIR and ECIR and subsequent developments were to be dropped or closed, think of the situation if ultimately the SLP stands allowed?

- b) What would be the effect of all those proceedings which were either dropped or closed as a consequence of the allowing the SLP?
- c) Will they all automatically get revived or restored?

In the opinion of this Bench these would give rise to many complications and therefore the said contention of the appellant seeking interdiction of the two orders under challenge is not made out.

32. Coming to the objection of the appellant that the continuation of seizure being illegal as it is barred by limitation under Section 8(3)(a) of the PMLA, 2002, we need to first consider the provision of Section 8(3)(a)&(b) and the explanation attached to the said provision. For ready reference, Section 8(3)(a)&(b) of PMLA, 2002 and the explanation is reproduced hereunder:

“(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] [Inserted by Finance Act, 2018 (Act No.13 of 2018) dated 29.3.2018.] 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 58 B 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.]”

Reading of the aforementioned explanation makes it explicit that the period during which the investigation is stayed by **any Court and any law** for the time being shall be excluded.

33. The prosecution complaint was lodged on 16.02.2024 with SR.No.689 of 2024; the provisional attachment order No.7 of 2021 stood confirmed on 18.08.2022, the High Court in Crl.P.No.4313 of 2023 passed an interim stay order on 20.01.2023, and the said Crl.P. stood allowed on 03.04.2023 quashing the ECIR, and the Hon'ble Supreme Court in SLP (Crl.) No.7965 of 2023 had stayed the judgment of the High Court on 21.07.2023. In terms of the explanation provided under Section 8(3), the duration during which the stay was in operation under any Court and any law, the said period would have to be excluded for the purpose of counting the limitation. If the duration of stay is excluded in the instant case, there is no dispute so far as the prosecution complaint being filed within a period not exceeding 365 days.

34. It is worth mentioning the paragraph Nos.178.1, 178.2 and 178.3 of the landmark judgment rendered by the Hon'ble Supreme Court in the case of **Vijay Madanlal Choudary vs. Union of India**⁵, which for ready reference are reproduced hereunder:

"178.1. Reverting to sub-section (3), it postulates that where the adjudicating authority records a finding whether all or any of the properties referred to in the show-cause notice issued under sub-section (1) by the adjudicating authority consequent to receipt of a complaint/application that the property in question is involved in money laundering, he shall, by an order in writing confirm the attachment (provisional) of property made under Section 5(1) or retention of property or record seized or frozen under Section 17 or Section 18, and direct continuation of the attachment or retention or freezing of the property concerned for a period not exceeding three hundred and sixty-five days or the pendency of the proceedings relating to any offence under the 2002 Act before a court or under the corresponding law of any country outside India and become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of Section 8 or Section 58-B or Section 60(2-A) by the Special Court. The Explanation added thereat vide Act 7 of 2019 stipulates the method of computing the period of three hundred and sixty-five days after reckoning the stay order of the court, if any.

178.2. The argument proceeds that the period of attachment mentioned in Section 8(3)(a) of the 2002 Act does not clearly provide for the consequence of non-filing of the complaint within three hundred and sixty-five days from the date of attachment (provisional). This argument clearly overlooks the obligation on the Director or any other officer who provisionally attaches any property under Section 5(1), to file a complaint stating the fact of such attachment before the adjudicating authority within thirty days in

⁵ [2022 SCC OnLine SC 929]

terms of Section 5(5) of the 2002 Act. Concededly, filing of complaint before the adjudicating authority in terms of Section 5(5) within thirty days from the provisional attachment for confirmation of such order of provisional attachment is different than the complaint to be filed before the Special Court under Section 44(1)(b) for initiating criminal action regarding offence of money laundering punishable under Section 4 of the 2002 Act.

178.3. *Furthermore, the provisional attachment would operate only for a period of one hundred and eighty days from the date of order passed under Section 5(1) of the 2002 Act in terms of that provision. Whereas, Section 8(3) refers to the period of three hundred and sixty-five days from the passing of the order under sub-section (2) of Section 8 by the adjudicating authority and confirming the provisional attachment order and the order of confirmation of attachment operates until the confiscation order is passed or becomes final in terms of order passed under Section 8(5) or 8(7) or 58-B or 60(2-A) by the Special Court. The order of confirmation of attachment could also last during the pendency of the proceedings relating to the offence of money laundering under the 2002 Act, or before the competent court of criminal jurisdiction outside India, as the case may be."*

35. In view of the aforesaid factual matrix and the legal position as it stands, the objection of the appellant insofar as the limitation is concerned, also stands decided against the appellant holding the proceedings to be within limitation.

36. For all the aforesaid reasons stated in the preceding paragraphs and the findings arrived at by the two forums and specifically discussed in the instant appeal, we do not find any

strong case made out by the appellant in holding the two impugned orders to be bad in law. Rather, the two impugned orders are well-reasoned orders in tune with the judicial precedents on the subject matter and therefore there is hardly any scope of interference made out. Therefore, the instant appeal being devoid of merit, deserves to be and is accordingly dismissed.

37. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

P.SAM KOSHY, J

NARSING RAO NANDIKONDA, J

Date: 01.07.2026
Mrm / GSD