APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

MP-PMLA-2134/GWH/2026 A.D.
MP-PMLA-832/GWH/2025 Misc.
MP-PMLA-831/GWH/2025 Exemp.
MP-PMLA-830/GWH/2025 Stay
FPA-PMLA-422/GWH/2025

M/s Fonepaisa Payment
Solutions Pvt. Ltd. … Appellant

Versus

The Deputy Director,
Directorate of Enforcement, Guwahati … Respondent

Advocates/Authorized Representatives who appeared

For the Appellant	:	Mr. Debesh Panda, Adv. Mr. Piyush Pandit, Adv.
For the Respondent	:	Mr. Mayank Bawa, Adv. Ms. Saubhagya Sharma, Adv. Mr. Prabhat Sharma, Adv.

CORAM

JUSTICE MUNISHWAR NATH BHANDARI : CHAIRMAN

FINAL ORDER
04.11.2026

By this Appeal filed under Section 26 of the Prevention of Money-laundering Act, 2002 (in short **"the Act of 2002"**), a challenge has been made to the order dated 14.01.2025 (**"Impugned Order"**) passed by the Adjudicating Authority confirming the Provisional Attachment Order (**"PAO"**) No. 01/2024 dated 08.08.2024 in Original Complaint No. 2407/2024 whereby the funds of the Appellant amounting to a total of Rs. 33,73,26,957/- laying in virtual nodal account

bearing MID No. 129730 maintained with M/s PayU Payments Pvt. Ltd. and two bank accounts bearing numbers 92002074005887 and 921040061472462 maintained with Axis Bank were provisionally attached being direct proceeds of crime.

Brief facts of the case

2. The case originated on complaints being lodged by various persons/victims alleging that an app-based platform i.e., HPZ token promised substantial returns on investments made in mining machines for bitcoin and cryptocurrencies, however, no such returns were given to the investors/victims. Subsequently, FIR No. 03/2021 dated 08.10.2021 by Cyber Crime Police Station, Kohima, Nagaland, FIR No. 0006/2021 dated 21.09.2021 by CID Police Station, Ulubari, Guwahati and FIR No. RC2212022E0022 dated 08.06.2022 by CBI, EO-III, Delhi were registered for offences under Sections 420 and 120-B of the Indian Penal Code, 1860 (in short **"IPC"**) and Section 66(D) of the Information Technology Act, 2000 against M/s Shigoo Technology Pvt. Ltd. and others. The Respondent ED recorded ECIR finding a scheduled offence and initiated the investigation.

3. The investigations revealed the following:

a. M/s Lillian Technocab Pvt. Ltd. (LTPL) represented by its directors Raj Narayan and Krishan Kumar Raut, and M/s Shigoo Technology Pvt. Ltd. (STPL) represented by Sushanta Behera and Pawan Kumar, conspired to defraud the public through the mobile application called HPZ token. M/s LTPL and M/s STPL collected

approximately Rs. 100 Crores from the public through the HPZ token application. To further deceive the users and deny them access to their investments, the operations of the HPZ token application were halted by M/s LTPL and M/s STPL from the second week of August, 2021.

b. The investigation further revealed that an amount of Rs. 41.32 Crore was credited in the account of M/s LTPL and an amount of Rs. 41.13 Crore was debited from its account from 06.06.2021 to 02.08.2021. Additionally, an amount of Rs. 50 Crore was credited in the account of M/s STPL and an amount of Rs. 49.50 Crore was debited from its account from 01.04.2021 to 17.11.2021. Thus, there was diversion of funds to unknown persons, resulting in significant losses to investors and unlawful gains for the companies and other unknown individuals.

c. It was found that various UPIs were used to receive funds from the investors and the bank accounts linked to such UPIs had total credits and debits of approximately Rs. 115 Crore. The funds were further transferred to various entities and individuals including M/s AJ Info Solutions, M/s Zavion Trading Pvt. Ltd., M/s Garv Enterprises, M/s Mobilo Communications, M/s Ninecity Technologies Pvt. Ltd. and M/s Mahakali Enterprises. Though some of the proceeds were returned to investors, a significant portion was diverted to other

entities through different bank accounts and payment aggregator accounts.

d. 99 domain names linked to various companies were involved in the criminal activities while projecting to be applications/websites for online gaming, loans and other services.

4. The Respondent Directorate conducted several searches on various premises under Section 17 of the Act of 2002 which resulted in freezing of various bank and merchant accounts of the companies and entities which received proceeds of crime. The investigation revealed that various payment gateways including M/s Fonepaisa Payment Solutions Pvt. Ltd. were connected to HPZ token scam, involved in cheating gullible public and generating proceeds of crime.

5. The ED further conducted investigation based on intelligence input and found that M/s Fonepaisa Payment Solutions Pvt. Ltd. was using services of M/s PayU Payments Pvt. Ltd. to collect payments on behalf of several illegal betting websites. Therefore, ED sent email to M/s PayU Payments Pvt. Ltd. under Section 54 of the Act of 2002 seeking details concerning the Appellant M/s Fonepaisa Payment Solutions Pvt. Ltd. The response received from M/s PayU Payments Pvt. Ltd. revealed that it has withheld a balance of Rs. 33,14,50,433/- of the Appellant Company due to fraudulent activities and misuse of salt and key for processing payments related to pornographic, gaming and betting apps and websites. Similarly, email dated

24.06.2024 received by the ED from M/s PayU Payments Pvt. Ltd. revealed that the Appellant was receiving funds from betting websites like india24bet.com and 24betting.com which was not in line with the declared line of business (E-commerce – Payment Services) and traffic was being routed from different betting sites. Further, inquiries were made by ED with Axis Bank with respect to bank accounts held by the Appellant. The Axis Bank replied stating that account bearing number 921040061472462 was having balance of Rs. 57,84,913/- and account bearing number 92002074005877 was having balance of Rs. 91,611/- belonging to the Appellant herein.

6. Thus, finding the aforesaid amounts to be direct proceeds of crime, the Provisional Attachment Order was confirmed by the Adjudicating Authority *vide* the Impugned Order and aggrieved by the same, the present Appeal has been preferred.

Arguments of counsel for the Appellant

7. Ld. Counsel for the Appellant submitted that the Provisional Attachment Order is passed without jurisdiction. It is based entirely on the *ipse dixit* of the ED for the reason being that the Respondent has improved the predicate offence to sustain its act of attachment of properties of Appellant which is beyond the jurisdiction of the Directorate as it has the power to investigate only the offence of money-laundering and not the scheduled offence. The same is evident from the difference of contents between the Impugned Order/PAO and the FIRs in the predicate offence. Ld. Counsel for the Appellant relied upon the

judgment in the case of ***R. K. M. Powergen (P) Ltd. v. Enforcement Directorate*** reported in (2025) 1 HCC (Mad) 380 to support his arguments.

8. Ld. Counsel for the Appellant also submitted that there is no live link between the alleged offences and the Appellant and its monies. The investigation in the predicate offence pertained to HPZ token scam as unknown fraudsters launched an app-based token (HPZ token) promising astronomical returns in relation to investments in bitcoin mining and cryptocurrency, and consequently cheated people. However, neither the Appellant nor its directors were named in the FIRs. They were not summoned even by the investigating agencies in the predicate offence. In fact, the Appellant has nothing to do with any bitcoin mining, cryptocurrency or HPZ token scam.

9. Ld. Counsel for the Appellant further submitted that the ED conducted the investigation for more than two years against sixteen companies and ten individuals, and thereafter filed the Prosecution Complaint on 03.03.2024 against 299 accused persons, without naming the Appellant. In fact, the Appellant was arraigned as an accused only in the Supplementary Prosecution Complaint filed before the Special Court on 12.01.2026 i.e., after almost two years of the PAO dated 08.08.2024. No concrete material was placed on record before the Adjudicating Authority or was in possession of the ED at the time of passing of the PAO to arrive at the finding for involvement of Appellant in the offence of money-laundering.

10. Ld. Counsel for the Appellant submitted that the finding of the Respondent that the Appellant has committed scheduled offences and was involved in money-laundering is perverse, without corroboration and contradictory to the RUDs on record. In fact, the conclusion of the Respondent in the PAO that as per the Police FIRs and various other material, the Appellant was involved in operating and collecting money from the gullible public through unregistered gaming/betting website/apps is incorrect. The FIRs do not record any allegation of 'unregistered gaming/betting'. Even otherwise, the investigating agencies/complainant in the predicate offence did not allege involvement of the Appellant in bitcoin, cryptocurrency or HPZ token scam, which constitutes the predicate offence. Similarly, the RUDs, including the emails forming part of the Prosecution Complaint do not include any reference to bitcoin, cryptocurrency or HPZ token scam.

11. Ld. Counsel for the Appellant also submitted that the case of the ED against the Appellant is based on a borrowed satisfaction which fails to satisfy the test of 'reason to believe' required under law. It was further submitted that the Respondent has actually rubber stamped the opinion of a private third entity (M/s PayU Payments Pvt. Ltd. herein) which is an interested party as it has contractual disputes with the Appellant. The ED failed to conduct an independent investigation regarding the involvement of the Appellant in money-laundering. The entire case of the ED against the

Appellant is based on the opinion of M/s PayU Payments Pvt. Ltd. mentioned in email dated 24.06.2024 sent to the ED, stating that it has withheld an outstanding balance of Rs. 33,14,50,433/- for alleged "*fraudulent activities and misusing salt and key for receiving payments from pornographic, gaming, betting etc. apps and websites*" unknown to the Appellant. However, the internal reports and other documents enclosed with the emails forming part of RUDs do not state anything regarding bitcoin, cryptocurrency or HPZ token.

12. Ld. Counsel for the Appellant further argued that the internal report of M/s PayU Payments Pvt. Ltd. suggests that the Appellant was receiving funds from betting and gambling websites (like india24bet.com, 24betting.com and king567), however, the Respondent has failed to connect the activities of betting and gaming with the scheduled offence. Therefore, the ED has failed to establish the money trail connecting the Appellant to the HPZ token crypto-mining fraud.

13. Ld. Counsel for the Appellant further submitted that there was no material in the possession of the ED to form 'reason to believe' that the Appellant was involved in the alleged acts of HPZ token scam, bitcoin or cryptocurrency as even the documents provided to it by M/s PayU Payments Pvt. Ltd. and Axis Bank did not mention involvement of the Appellant in such activities. In fact, the documents only dealt with transactions of betting and gaming, which is not the predicate offence in the present case.

14. Ld. Counsel for the Appellant urged that the Appellant operates as a payment aggregator/gateway providing digital payment infrastructure to merchants and there is nothing on record to demonstrate that the Appellant had actual knowledge that the funds received by it and transferred to M/s PayU Payments Pvt. Ltd. were proceeds of crime, which is essential to constitute the offence of money-laundering under Section 3 of the Act of 2002 as held by the Hon'ble High Court of Karnataka in the case of ***Razorpay Software Private Limited v. Union of India*** reported in 2024 SCC OnLine Kar 23.

15. Ld. Counsel for the Appellant also argued that the Respondent has placed on record the Supplementary Prosecution Complaint in order to fill the lacuna in the case of the ED against the Appellant. However, the said Supplementary Prosecution Complaint cannot be taken into consideration while examining the Impugned Order as the same must stand on the reasons contained therein as per the settled position of law. Ld. Counsel for the Appellant cited the judgments of the Apex Court in the case of ***Mohinder Singh Gill* v. *Chief Election Commissioner*** reported in (1978) 2 SCC 405 and in the case of ***Opto Circuit India Ltd.* v. *Axis Bank*** reported in (2021) 6 SCC 707 to support his arguments.

16. Ld. Counsel for the Appellant further submitted that the Respondent Directorate failed to discharge its burden to demonstrate that the attached funds of the Appellant were derived or obtained as a result of criminal activity. In fact, the

Respondent has failed to indicate that the attached funds or the Appellant were involved in any criminal activity or if such alleged criminal activity was relating to a scheduled offence as required under Section 3 read with Section 2(1)(u) of the Act of 2002.

17. Ld. Counsel for the Appellant pointed out that no material existed before the Respondent or the Adjudicating Authority to form reason to believe required under Sections 5 and 8 of the Act of 2002 *qua* the Appellant. In fact, the ED failed to conduct any independent investigation *qua* the Appellant and formed its reason to believe on the borrowed satisfaction by rubber stamping the opinion of M/s PayU Payments Pvt. Ltd. Ld. Counsel for Appellant cited the judgments in the cases of ***J. Sekar v. Union of India*** reported in 2018 SCC OnLine Del 13481, ***Calcutta Discount Company Ltd. v. ITO*** reported in AIR 1961 SC 327, ***S. Narayanappa v. CIT, Bangalore*** reported in AIR 1967 SC 523, ***Sheo Nath Singh* v. *Asst. ACIT*** reported in 1992 Supp(1) SCC 335 and ***Tata Chemicals* v. *Commissioner of Customs*** reported in (2015) 11 SCC 628 in support of his arguments.

18. Ld. Counsel for the Appellant argued that in the instant case, the ED has failed to show even a scintilla of probable cause connecting HPZ token victim monies to the Appellant's MID account with M/s PayU Payments Pvt. Ltd. Thus, there is no probable cause at all in the present case.

19. Ld. Counsel for the Appellant submitted that the Respondent has sought to shift the burden of proof on the

Appellant under Section 24 of the Act of 2002 without establishing the foundational facts which is contrary to the settled position of law as laid down in ***Adnan Nisar v. Enforcement Directorate*** reported in (2024) SCC OnLine Del 6498. Nevertheless, the Appellant is an independent corporate payment aggregator incorporated in 2014 having no corporate, familial or transaction connection with the HPZ token promoters (LTPL/STPL) and there is no evidence that any crime proceeds have been transferred into the accounts of the Appellant. Likewise, the Respondent has failed to establish any nexus between the attached properties of the Appellant and the scheduled offence, which is the *sine qua non* for lawful attachment in view of Section 5(1) read with Section 2(1)(u) of the Act of 2002. Even otherwise, there is no money trail connecting the Appellant or the attached fund of Rs. 33,14,50,433/- to the HPZ token crypto-mining fraud.

20. Ld. Counsel for the Appellant further submitted that the said amount of Rs. 33,14,50,433/- is the pooled funds of various legitimate business as even the Respondent has admitted that the Appellant processed a GMV of Rs. 3.345 Crores from 2017 to 2022.

21. Ld. Counsel for the Appellant also submitted that the submission of ED regarding non-appearance of the erstwhile directors of the Appellant is baseless in view of the fact that they had appeared before the investigating agency during the course

of investigation. Also, such a submission cannot fill the lacuna in the case of the Directorate against the Appellant.

Arguments of Counsel for the Respondent (ED)

22. Ld. Counsel for the Respondent contested the Appeal and submitted that the Appellant is a payment aggregator which was actively involved to collect substantial amounts of money collected from the public through unregistered illegal betting websites, such as india24bet.com, 24betting.com and king567.com, which is not in consonance with the declared business practices of e-commerce payment services. Moreover, documents seized during the course of investigation including analysis of M/s PayU Payments Pvt. Ltd.'s internal reports, website traffic data and banking transactions revealed that the Appellant facilitated transactions as significant portion of its web traffic originated from illegal betting websites. In fact, the attached funds in the virtual nodal account of the Appellant as well as in the accounts maintained with Axis Bank are direct proceeds of crime derived from criminal activity relating to scheduled offences.

23. Ld. Counsel for the Respondent further submitted that the investigation has revealed that the Appellant was part of the larger criminal conspiracy wherein fraudsters lured victims through various apps/websites including unregistered gaming and betting apps for generation of proceeds of crime. The Appellant facilitated payments for illegal betting websites like

india24bet.com, 24betting.com and king567.com which were integral part of the larger criminal conspiracy thereby directly dealing with proceeds of crime derived from criminal activity relating to scheduled offence. In fact, name of a payment merchant ID i.e., BEST WINNING GAME (bwgapp@yesbank) shows that the funds were being collected from different merchants via the HPZ token app and the funds were collected by merchants associated with gaming related activities.

24. Ld. Counsel for the Respondent also argued that the contention of the Appellant that there is a no link between the scheduled offence and the Appellant is factually incorrect. The investigation by the Directorate has revealed a larger criminal conspiracy wherein fraudsters lured the victims through various applications and websites including those for unregistered gaming and betting, which are intrinsically linked to the generation of proceeds of crime. In fact, the HPZ token scam itself was part of a broader network of such illicit activities and the Appellant became part of this larger conspiracy as it directly dealt with the proceeds of crime and its platform facilitated payments for illegal betting websites.

25. Ld. Counsel for the Respondent submitted that the predicate offence involved cheating and criminal conspiracy and the funds generated from illegal betting, facilitated by the Appellant constituted proceeds of crime derived from such criminal activity, irrespective of whether they directly originated from the HPZ token app itself. Ld. Counsel for the Respondent

relied upon paragraphs 251 and 253 of the judgment in the case of ***Vijay Madanlal Choudhary* v. *Union of India*** reported in (2023) 12 SCC 1 in support of the submission.

26. Ld. Counsel for the Respondent also submitted that the contentions regarding lack of direct nexus with the HPZ token scams, borrowed satisfaction or the alleged commercial dispute with M/s PayU Payments Pvt. Ltd. are misconceived and legally untenable given the offence of money-laundering is an independent offence and the proceeds of crime are not limited to the specific predicate offence but extend to any criminal activity related to the scheduled offences as held in the case of ***Vijay Madanlal Choudhary*** (supra).

27. Ld. Counsel for the Respondent argued that the Appellant as a payment aggregator handled a massive volume of transactions and had a heightened duty of due diligence, however, the Appellant failed to undertake such due diligence. Also, the Appellant failed to segregate or demonstrate the legitimate source of specific funds of the attached amounts, despite opportunity being provided by the Adjudicating Authority.

28. Ld. Counsel for the Respondent further submitted that the PAO was issued as a necessary and lawful measure to prevent the concealment and dissipation of the proceeds of crime and the subsequent confirmation of the PAO by the Adjudicating Authority is correct. Additionally, the burden of proving the legitimate sources of the attached funds lies squarely on the

Appellant under Section 24 of the Act of 2002 which the Appellant has failed to discharge.

29. Ld. Counsel for the Respondent contested all the grounds raised by the Ld. Counsel for the Appellant. Elaborate arguments were made on each and every issue raised by the Ld. Counsel for the Appellant and would be referred while recording finding to the arguments raised by the Ld. Counsel for the Appellant. It is to avoid repetition of facts and for the sake of brevity.

Analysis & Findings

30. I have considered the rival submissions of the parties and perused the records carefully. The brief facts pertaining to the present appeal has been given in the opening paras which indicates that the accused persons collected approximately Rs. 100 Crores by defrauding and cheating the public through the mobile application HPZ token in collusion and conspiracy with each other by promising substantial returns on investments made in mining machines for bitcoin and cryptocurrencies. The Appellant remained recipient of the part of the proceeds of crime as it received payment from the public on behalf of several illegal betting websites and accordingly provisional attachment of the balance amounts was caused.

31. Ld. Counsel for the Appellant submitted that the Provisional Attachment Order was passed without jurisdiction as the Respondent improved the predicate offence to sustain its act of attachment of properties of Appellant which is beyond the

jurisdiction of the Directorate as it only has the power to investigate the offence of money-laundering and not the scheduled offence. The argument aforesaid is not tenable in view of the fact that the ED has only investigated the offence of money-laundering to trace the proceeds of crime generated from criminal activity relating to scheduled offence to cause provisional attachment of such proceeds of crime in the hands of the accused persons including the Appellant to prevent its concealment and dissipation. Even otherwise, the scheduled offence in the present case is of cheating and conspiracy and not of bitcoin and cryptocurrency.

32. Ld. Counsel for the Appellant further submitted that there is no live link between the alleged offences and the Appellant and its monies. Also, neither the Appellant nor its directors were named in the FIRs or the chargesheets filed in the predicate offence nor were they summoned by the investigating agencies in the predicate offence. In fact, the Appellant has nothing to do with any bitcoin mining, cryptocurrency or HPZ token scam. The said submission was opposed by the Respondent and submitted that the predicate offence involved cheating and criminal conspiracy, and the funds generated from illegal betting were facilitated by the Appellant which constituted proceeds of crime derived from such criminal activity, irrespective of whether they directly originated from the HPZ token app itself.

33. I have considered the rival submissions of the parties and find the requirement for attachment of proceeds of crime under

the Act of 2002 is that the proceeds of crime are generated as a result of criminal activity relating or relatable to scheduled offence and whether the Appellant/accused is in possession of proceeds of crime and not whether the Appellant/accused and its properties are linked with the scheduled offence. Thus, the requirement for provisional attachment under Section 5 of the Act of 2002 is that the person must be in possession of proceeds of crime which is satisfied in the present case as the Appellant Company was in possession of the proceeds of crime generated from the criminal activity relating to the scheduled offence and the same was provisionally attached by the ED and subsequently confirmed by the Adjudicating Authority. Also, the argument that the Appellant and its directors are not accused in the scheduled offence is untenable in view of the settled position of law that in order for a person's property to be attached/seized/frozen under the Act of 2002, it is not an essential requirement that the owner/holder of the property is accused in the scheduled offence case. The Hon'ble Supreme Court in ***Vijay Madanlal Choudhary*** (Supra) has categorically held that the sweep of Section 5(1) of the Act of 2002 is not limited to the accused named in the criminal activity relating to a scheduled offence. It would apply to any person if he is involved in any process or activity connected with the proceeds of crime. The Hon'ble Supreme Court, in the said judgment, further observed that the objective of the Act of 2002 is the attachment and confiscation of proceeds of crime in whosoever's

name they are kept or by whosoever they are held. In light of the factual as well as legal position discussed above, there is no merit in this contention of the Appellant either.

34. Ld. Counsel for the Appellant further argued that there was no concrete material at the time of passing of the Provisional Attachment Order or the Impugned Order as the investigation was at a nascent stage and Supplementary Prosecution Complaint was filed only on 12.01.2026 i.e., after almost two years of the PAO dated 08.08.2024. The aforesaid contention is irrelevant for adjudication of the present Appeal as delay in concluding investigation is a matter of trial. Even otherwise, documentary evidence in the form of account statements, emails and communication letters were available at the time of passing of PAO and the Impugned Order by the Adjudicating Authority which indicates involvement of the Appellant Company in proceeds of crime and the same material has been filed as RUDs before the Special Court along with the Supplementary Prosecution Complaint.

35. Ld. Counsel for the Appellant argued that the finding that Appellant was involved in scheduled offences and money-laundering as it was involved in operating and collecting money from the gullible public through unregistered gaming/betting website/apps is incorrect because the FIRs do not record any allegation of 'unregistered gaming/betting'. The aforesaid argument is unacceptable in light of the fact that the proceeds of crime in the present case were generated from various criminal

activities relating to scheduled offences of cheating and conspiracy and not merely gaming, betting and bitcoin. Even otherwise, it is a settled position of law that FIR is not an encyclopedia of allegations of commission of offence, therefore, sole reliance on FIRs in the scheduled offences cases to contend non-involvement of the Appellant in the criminal activities is untenable and especially in view of the subsequent investigation in the offence of money-laundering.

36. Ld. Counsel for the Appellant also argued that the case of the ED against the Appellant is based on a borrowed satisfaction which fails to satisfy the test of 'reason to believe' required under law. The said argument has no merits as the Directorate found during the course of investigation that the Appellant was involved in illegal activities and received payments on behalf of several illegal betting websites, gaming apps and pornography etc. The Directorate passed the PAO which was subsequently confirmed by the Adjudicating Authority on the basis of documentary evidence in the form of emails and communication letters. Even otherwise, the Appellant failed to indicate the source of its income especially the amounts under attachment before the Adjudicating Authority.

37. Ld. Counsel for the Appellant further argued that the ED has failed to establish the money trail connecting the Appellant to the HPZ token crypto-mining fraud. It was also argued that there was no material in the possession of the ED to form 'reason to believe' that the Appellant was involved in HPZ token

scam, bitcoin or cryptocurrency as the RUDs only dealt with transactions of betting and gaming, which is not the predicate offence in the present case. The aforesaid contention was opposed by the Respondent and it was submitted that the Appellant was part of the larger conspiracy in which fraudsters lured victims through various apps/websites including gaming and betting apps to invest through the HPZ token app.

38. I have considered the above submissions and find that the Appellant was involved in the activities of betting and gaming which formed part of the larger conspiracy of cheating to fraud the public in investing their monies through HPZ token app for higher returns. The Appellant also received monies from the public through betting and gaming apps which has not been denied by the Appellant. Thus, the Appellant was in possession of the proceeds of crime and even otherwise, the Appellant has failed to show the sources of income for the amounts under attachment.

39. Ld. Counsel for the Appellant further submitted that the Appellant operates as a payment aggregator providing digital payment infrastructure to merchants and there is nothing on record to demonstrate that the Appellant had actual knowledge that the funds received by it were proceeds of crime. The argument aforesaid has been raised in ignorance of Section 3 of the Act of 2002 which is quoted hereunder for ready reference:

> "***3. Offence of money-laundering***.—*Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved*

in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

Explanation.—For the removal of doubts, it is hereby clarified that,—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—

(a) concealment; or
(b) possession; or
(c) acquisition; or
(d) use; or
(e) projecting as untainted property; or
(f) claiming as untainted property,

in any manner whatsoever;

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever."

40. Section 3 of the Act of 2002, quoted above, makes it clear that a person who directly or indirectly attempts to indulge or knowingly is a party or is actually involved in the process or activity connected with proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property would be guilty of money laundering. The explanation to the definition has been added which provides that a person would be guilty of offence of money laundering, if he is found involved in concealment or possession of the proceeds of crime. A detailed reference of the fact has

been given by the Respondent of which no contest has been made by the Ld. Counsel for the Appellant.

41. Ld. Counsel for the Appellant also argued that the Respondent has placed on record the Supplementary Prosecution Complaint in order to fill the lacuna in the case of the ED against the Appellant. However, the said Supplementary Prosecution Complaint cannot be taken into consideration while examining the Impugned Order as the same must stand on the reasons contained therein as per the settled position of law. The aforesaid argument is untenable in view of the fact that new materials seized during the course of further investigation can only be brought on record subsequently. Nevertheless, there is no improvement in the case of the ED as the RUDs filed with the Supplementary Prosecution Complaint consists of the same material relied upon by the ED for passing the PAO and by the Adjudicating Authority to confirm the PAO. Even otherwise, the Appellant has failed to indicate the improvements made by the ED in its case to contest the present Appeal.

42. Ld. Counsel for the Appellant further submitted that the Respondent Directorate failed to discharge its burden to demonstrate that the attached funds of the Appellant were derived or obtained as a result of criminal activity. The said contention of the Appellant is rejected in view of detailed submissions of the Respondent which indicates that the Appellant was recipient of proceeds of crime and was part of the larger criminal conspiracy.

43. Ld. Counsel for the Appellant pointed out that no material existed before the Respondent or the Adjudicating Authority to form reason to believe required under Sections 5 and 8 of the Act of 2002 *qua* the Appellant. The said argument is untenable in light of the fact that the RUDs containing emails and communication letters were seized by the ED before passing the PAO and were placed on record before the Adjudicating Authority, which were even referred in the said orders and relied upon by the Appellant also.

44. Ld. Counsel for the Appellant argued that the ED has failed to show even a scintilla of probable cause connecting HPZ token victim monies to the Appellant's MID account with M/s PayU Payments Pvt. Ltd., thus, there is no probable cause at all in the present case. Ld. Counsel for the Appellant also submitted that the Respondent has sought to shift the burden of proof on the Appellant under Section 24 of the Act of 2002 without establishing the foundational facts. The Respondent opposed the said contention and submitted that the burden of proving the legitimate sources of the attached funds lies squarely on the Appellant under Section 24 of the Act of 2002.

45. Ld. Counsel for the Appellant further submitted that the provisional attachment of the properties has been caused going beyond the jurisdiction of the Enforcement Directorate. It could not have investigated the matter for which no scheduled offence was disclosed in the FIR. It was for bitcoin and cryptocurrencies and not for gaming and betting apps. The allegation against the

Appellant is for receipt of funds out of the betting apps through M/s PayU Payments Pvt. Ltd. The Respondent could not have changed the tenor of the allegation while causing provisional attachment and sending original complaint to the Adjudicating Authority. In view of the above also, the Impugned Order deserves to be set aside.

46. The argument aforesaid has been contested by the Ld. Counsel for the Respondent. It was submitted that after registration of the FIRs at the instance of the victims cheated by investing in the HPZ token application. Initially the funds were refunded but the application was subsequently blocked. While investigating the matter, it was revealed that the Appellant Company was also involved in receiving payments out of fraudulent activities and misuse of salt and key for processing payments related to pornographic, gaming and betting apps. It has already been clarified that the FIRs are not to be considered as encyclopedia but to create a basis to investigate the matter. The investigation revealed an e-mail of M/s PayU Payments Pvt. Ltd. for withholding of Rs.33,14,50,433/- due to the Appellant in fraudulent activities. The Respondent took cause to save the public funds. It is not necessary to restrict the investigation to the allegations in the FIRs while keeping in mind that the investigation cannot be caused to make out altogether a new case. In the instant case, the Appellant was found involved along with others to cheat the public and accordingly the provisional attachment of the money otherwise withheld by M/s

PayU Payments Pvt. Ltd., finding Appellant's involvement in fraudulent activities was caused. It is more so when the Appellant has not denied the fact that the amount of Rs.33,14,50,433/- was withheld by M/s PayU Payments Pvt. Ltd. due to fraudulent activities of the Appellant. The Appellant is otherwise said to be the payment aggregator, receiving payments on behalf of those who were involved in cheating the public. Thus, the money so withheld does not belong to the Appellant, rather it was to be passed on to the company which had cheated the public and accordingly the money by way of provisional attachment is to protect the public funds and, therefore, it cannot be said to be a case for causing the PAO on borrowed satisfaction.

47. At this stage, it would be necessary to deal with the judgments cited by the Appellant to support its arguments. The reference of the judgment of Hon'ble High Court of Madras in the case of ***R. K. M. Powergen (P) Ltd.*** (supra) has been given. The bare perusal of the judgment shows distinguishing facts and, therefore, would not be applicable. It is more so when the Appellant failed to deny the allegation of transferring of proceeds of crime being a payment aggregator. The Appellant Company is not a payment gateway but payment aggregator which received and further transferred the amount for the benefit of those who were involved in the commission of crime and cheated the public at large. The judgment in the case of ***R. K. M. Powergen (P) Ltd.*** (supra) would not apply to the facts of the case.

48. Ld. Counsel for the Appellant further referred to the judgment of the Hon'ble High Court of Karnataka in the case of ***Razorpay Software Private Limited*** (supra). The perusal of the judgment would show quashing of the cognizance and summoning order mainly on the ground that the company therein was a payment gateway and, therefore, had no knowledge that it is facilitating the proceeds of crime. In the present case, the Appellant has not acted as a payment gateway but payment aggregator and that too for and on behalf of the accused cheated the public. It is a further fact that the Appellant was under an obligation to find out whether the payment received by it, for and on behalf of the company is not illicit money. That obligation remains for the reason that the company cannot facilitate the proceeds of crime and was required to conduct due diligence. It can be illustrated by giving reference that if money is to be transferred in similar manner of which no legitimate source is given or it is found to be illicit money to involve terrorists activities, the payment aggregator and for that even the payment gateway company may be held responsible, thus to block the proceeds by causing provisional attachment.

49. It is a fact that even the Appellant has admitted that it failed to undertake due diligence before acceptance of payment. This failure itself proves the conduct of the Appellant to facilitate the proceeds of crime involving entities, which were found with involvement of persons of Chinese origin along with Indians. It

was thus submitted by the Ld. Counsel for the Respondent that the activities of the nature involved in this matter refer to the involvement of Chinese individuals. Huge Indian currency has been routed. The facts on record show involvement of the Chinese persons for investments in bitcoins, cryptocurrencies and gaming activities to extract money by cheating the public. Thus, the judgment of the Hon'ble High Court of Karnataka in the case of ***Razorpay Software Private Limited*** (supra) would not apply to the present case.

50. So far as the judgment of the Apex Court in the case of ***Mohinder Singh Gill*** (supra) is concerned, the facts available on record are to be analyzed. It is not a case to improvise the case by the Respondent, rather the documents referred by the Appellant were part of the proceedings and Original Complaint before the Adjudicating Authority referred to in the PAO so as the order passed by the Adjudicating Authority. Thus, the said judgment is not of any help to the Appellant.

51. I may now refer to the judgment of the Hon'ble High Court of Delhi in the case of ***J. Sekar*** (supra). The judgment has been cited to press on the arguments about the absence of recording of reason to believe independently. At the outset, it may be clarified that the judgment in the case of ***J. Sekar*** (supra) is pending consideration in the SLP before the Apex Court where even an interim order has been passed to the effect of making operation of the judgment in abeyance and otherwise I find that reason to believe has been recorded independently while causing

the PAO under Section 5 of the Act of 2002 and subsequently while issuing Notice under Section 8 of the Act of 2002.

52. I may now refer to the judgment of the Apex Court in the case of ***Adnan Nisar*** (supra). The judgment has been referred in reference to Section 24 of the Act of 2002. It is to be clarified that the legislature envisaged the reverse burden on the accused to prove its case. I am cautious of the fact that before invoking Section 24 of the Act of 2002, the Respondent remains under an obligation to lay foundational facts to make out a case of money laundering. The perusal of the record would reveal that the Respondent remained successful to bring foundational facts and surprisingly that has not been refuted by the Appellant, rather as per the admission of the Appellant themselves, they failed to evolve and conduct due diligence before acting as a payment aggregator. The fact aforesaid has been explained in the preceding paras with an illustration that if the Appellant is pardoned for their negligence, then they may even receive the money for use of terrorists activities and even then seek excuses about knowledge from where the money is coming. Such an excuse is not acceptable and, therefore, even the judgment of the Apex Court in the case of ***Adnan Nisar*** (supra) would not provide any assistance to the Appellant.

53. I have considered the rival submissions and find that the Appellant has not disclosed the sources of income of the amounts under attachment and has vaguely stated that the amount of Rs. 33,14,50,433/- in the account maintained with

M/s PayU Payments Pvt. Ltd. is the pooled funds of various legitimate business. Even otherwise, no disclosure of income has been made qua the amounts outstanding in accounts maintained with Axis Bank. In view of the above, I am unable to accept even the last argument raised by the Ld. Counsel for the Appellant.

54. In the light of the discussions made above, I don't find any reason to cause interference in the Impugned Order. Accordingly, appeal fails and is dismissed.

(Justice Munishwar Nath Bhandari)
Chairman

New Delhi,
04.11.2026
'SRD'