RESERVED ON : 27.07.2026
PRONOUNCED ON : 05.08.2026

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 05TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION NO. 18285 OF 2026 (GM - RES)

BETWEEN:

1. M/S GAMESKRAFT TECHNOLOGIES PVT. LTD.,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013,
REPRESENTED THROUGH ITS
AUTHORIZED REPRESENTATIVE
MR. RAHUL TRIPATHI,
HAVING ITS REGISTERED OFFICE AT 4TH FLOOR,
URBAN VAULT #1086, 18TH CROSS ROAD,
SECTOR 4, HSR LAYOUT, BANGALORE,
KARNATAKA 560102.

2. M/S. RUMMYTIME TECHNOLOGIES PVT. LTD.,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013,
REPRESENTED THROUGH ITS
AUTHORIZED REPRESENTATIVE
MR. RAHUL TRIPATHI,
HAVING ITS REGISTERED OFFICE AT
4TH FLOOR, URBAN VAULT, #1086,
18TH CROSS ROAD, SECTOR 4, HSR LAYOUT,
BANGALORE, KARNATAKA 560102, INDIA.

3 . M/S. K.N. SUPPORT SERVICES PVT. LTD.
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 2013,
REPRESENTED THROUGH ITS
AUTHORIZED REPRESENTATIVE,
MR. NITIN NAHATA,]
HAVING ITS OFFICE AT 2803C, 28TH FLOOR,
TOWER 1, M3M INTERNATIONAL FINANCIAL
CENTRE, SECTOR 66, GURUGRAM,
HARYANA – 122001.

4 . M/S KWORKS TECHNOLOGIES PVT. LTD.,
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT 2013,
REPRESENTED THROUGH ITS
AUTHORIZED REPRESENTATIVE,
MR. NITIN NAHATA,
HAVING ITS REGISTERED OFFICE AT 2803C,
28TH FLOOR, TOWER 1, M3M INTERNATIONAL
FINANCIAL CENTRE, SECTOR 66, GURUGRAM,
HARYANA 122001, INDIA.

5 . M/S. WIMO TECHNOLOGIES PVT. LTD.,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013,
REPRESENTED THROUGH ITS
AUTHORIZED REPRESENTATIVE,
MR. NITIN NAHATA,
HAVING ITS REGISTERED OFFICE AT 2803C,
8TH FLOOR, TOWER 1, M3M INTERNATIONAL
FINANCIAL CENTRE, SECTOR 66, GURUGRAM,
HARYANA 122001, INDIA.

6 . M/S. RUMMYCULTURE TECHNOLOGIES PVT. LTD.,
A COMPANY INCORPORATED
UNDER THE COMPANIES ACT, 2013,
REPRESENTED THROUGH ITS
AUTHORIZED REPRESENTATIVE,

MR. NITIN NAHATA,
HAVING ITS OFFICES AT LEVEL 10, PLOT NO. 18-20,
HT HOUSE, KASTURBA GANDHI MARG,
DELHI, CENTRAL DELHI 110001, INDIA.

...PETITIONERS

(BY DR.S.MURALIDHAR, SR.ADVOCATE
MR.VIKRAM CHAUDHARY, SR.ADVOCATE
MR.SAJAN POOVAYYA, SR.ADVOCATE
MR.SANDESH J.CHOUTA, SR.ADVOCATE
MR. SUHAAN MUKERJI, MS.ARSHIYA GHOSE
MR.NITHIN N.PATIL, MR.HARSHAVARDHAN MUDHOLE
MS.AISHWARYA M.,
MR.SANKALP A.SHARMA, MS.DIYA BHAGWAN
MS.VARUNI AGGARWAL AND
MR.PALASH MAHESHWARI, ADVOCATES)

AND

DIRECTORATE OF ENFORCEMENT,
THROUGH ITS ASSISTANT DIRECTOR,
HMT LIMITED COMPOUND,
BANGALORE COMPLEX JALAHALLI,
BENGALURU-560013.

...RESPONDENT

(BY MR.ZOHEB HOSSAIN, SR.ADVOCATE A/W
MR.MADHU N.RAO, SPL.PP AND
MS.ANUPARNA BORDOLOI, CGC)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE INDIAN CONSTITUTION READ WITH SECTION 528 BNSS PRAYING TO A. CALL FOR THE ENTIRE RECORDS RELATING TO ECIR/BGZO/29/2025 DATED 11.11.2025 WITH RESPECT TO THE ENTIRE ACTION OF THE RESPONDENT UNDERTAKEN IN PURPORTED EXERCISE OF POWERS U/S 17(1-A) OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 THEREBY

FREEZING THE BANK ACCOUNTS OF THE PETITIONERS INCLUDING THE REASONS TO BELIEVE FOR SUCH ACTION; B. CALL FOR THE ENTIRE RECORDS RELATING TO ECIR/BGZO/07/2026 DATED 23.02.2026 WITH RESPECT TO THE ENTIRE ACTION OF THE RESPONDENT UNDERTAKEN IN PURPORTED EXERCISE OF POWERS U/S 17(1-A) OF THE PREVENTION OF MONEY LAUNDERING ACT, 2002 THEREBY FREEZING THE BANK ACCOUNTS OF THE PETITIONERS INCLUDING THE REASONS TO BELIEVE FOR SUCH ACTION; C. DECLARATION THAT THE SEARCH AND SEIZURE OPERATION CONDUCTED BY THE RESPONDENT AT THE PETITIONER'S OFFICE BETWEEN 07.05.2026 TO 13.05.2026 WAS ILLEGAL PRODUCED AT ANNEXURE A AND CARRIED OUT IN A MANNER CONTRARY TO LAW;D. SET ASIDE AND QUASH THE FREEZING ORDER DATED 13.5.2026 F.NO.ECIR/BG20/07/2026 ANNEXURE-A ISSUED BY RESPONDENT NO.1 UNDER SECTION 17(1A) OF PMLA FOR FREEZING THE PETITIONER'S BANK ACCOUNTS, ESCROW ACCOUNTS, AND OTHER FINANCIAL ASSETS:E. DECLARATION THAT ALL STATEMENTS RECORDED DURING THE COURSE OF SUCH SEARCH AND SEIZURE WERE ILLEGALLY RECORDED AND ALL MOVABLE ASSETS SEIZED BE RETURNED TO THE PETITIONER/UNFROZEN. F. QUASH AND SET ASIDE ALL ACTIONS TAKEN CONSEQUENT TO AND IN FURTHERANCE OF THE IMPUGNED SEARCH AND SEIZURE CONDUCTED BY THE RESPONDENT AT THE PETITIONER'S OFFICE BETWEEN 13.05.2006 AND ALL PROCEEDINGS EMANATING THEREFROM;

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 27.07.2026 - MAINTAIABLITY OF THE PETITON, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

ON MAINTAINABILITY OF THE PETITION

The petitioners are six in number out of whom petitioner Nos.1 and 2 are companies engaged in the business of hosting online money games and petitioner Nos.3 to 6 are the subsidiaries of the 1st petitioner. They are before the Court calling in question seizure proceedings initiated under Section 17 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the PMLA' for short).

2. Shorn of unnecessary details, facts germane are as follows:-

On 05-12-2024, a complaint comes to be registered by one Mr. Nishant Srivastava before the Central CEN Crime Police Station which is registered as Crime No.722 of 2024 for offences punishable under Section 318(2) of the BNS and Section 66 of the Information Technology Act, 2000. The crime is registered against both these petitioners alleging that they are engaging in fraudulent online gaming activities and the loss caused to Nishant Srivastava was ₹3/- crores. The Police conduct investigation and file a 'B' report in Crime No.722 of 2024. The 'B' report is accepted by the concerned Court after hearing the complainant. The acceptance of 'B' report attains finality. Nothing happens for six months. After six months, on the basis of the crime in Crime No.722 of 2024, an Enforcement Case Information Report (for short 'the ECIR') comes to be registered for investigation into the offence under the PMLA. Pursuant to registration of ECIR, search and seizure proceedings happen between 18-11-2025 and 22-11-2025. On 12-12-2025, the Directorate of Enforcement files an Original Application ('O.A') before the Adjudicating Authority as obtaining under sub-section (4) of Section 17 of the PMLA in O.A.No.370 of 2025 seeking retention of the property and records seized during the search proceedings under the PMLA. On 22-12-2025, show cause notices were issued to the petitioners under Section 8 of the PMLA directing the petitioners to submit their reply to the show cause notices. On 22-01-2026, this Court grants an interim order of stay *qua* the petition challenging the ECIR on the score that predicate offence was closed prior to registration of ECIR. The Directorate of Enforcement registers an addendum to the ECIR or a new ECIR on the basis of predicate offences in other States. The Directorate of Enforcement then conducts search and seizure proceedings under Section 17 of the PMLA in the premises of the petitioners from 07.05.2026 to 14.05.2026. The present petition calls in question the search proceedings and the consequential proceedings arising therefrom.

3. Heard Dr. S.Muralidhar, Sri Vikram Chaudhary, Sri Sajan Poovayya, Sri Sandesh J Chouta, learned senior counsel appearing for the petitioners and Sri Zoheb Hossain learned senior counsel along with Ms. Anuparna Bordoloi, learned counsel appearing for the respondent / Directorate of Enforcement.

CONTENTIONS:

DIRECTORATE OF ENFORCEMENT:

4. At the very threshold, before the Court could embark upon an examination of the merits of the controversy, the learned Senior Counsel **Sri Zoheb Hossain**, appearing on behalf of the Directorate

of Enforcement, raises what he describes as a jurisdictional embargo. According to the learned Senior Counsel, the very maintainability of the present proceedings falls for consideration before any further step can be taken in the matter. It is contended that the impugned proceedings arise out of the exercise of powers under **Section 17 of the PMLA**, namely search, seizure and freezing of properties. Such proceedings, according to him, partake the character of **civil proceedings** and not criminal proceedings. The powers under Section 17, though exercised by an investigating agency constituted under a penal statute, ultimately culminate in proceedings concerning attachment, retention and confiscation of property before the Adjudicating Authority. Those proceedings, it is urged, stand on a plane entirely different from investigation into the offence of money laundering.

4.1 The submission, therefore, is that every challenge to a seizure order or a freezing order must necessarily travel before a Bench exercising **civil writ jurisdiction** under Article 226 of the Constitution of India and not before a Bench assigned criminal roster merely because the proceedings owe their origin to an ECIR.

According to the learned Senior Counsel, the distinction between the criminal prosecution on one hand and the civil consequences concerning attachment of property on the other is too well entrenched in the statutory framework of the PMLA to be ignored. It is thus urged that this Court ought first to determine whether the petition is maintainable before the criminal roster and only upon answering the said question in the affirmative can the Court proceed to examine the legality or otherwise of the impugned seizure proceedings.

CONTRA-CONTENTIONS:

PETITIONERS:

5. *Per contra,* **Dr. S. Muralidhar**, learned Senior Counsel appearing for the petitioners, would, with equal vehemence, submit that the objection projected by the Directorate of Enforcement is more attractive in form than sound in substance. The learned Senior Counsel would contend that proceedings under Section 17 of the PMLA cannot be viewed in splendid isolation, detached from the source from which they derive their very existence. Search, seizure, freezing, retention and eventual adjudication do not arise in a legal

vacuum. They are but successive links in one continuous statutory chain, the first link of which is the **ECIR**. If the fountainhead itself is under challenge before this Court, every consequential action flowing therefrom necessarily travels with it. To compartmentalise the challenge and compel a litigant to assail the ECIR before one Bench and every consequential seizure before another Bench would, according to the learned Senior Counsel, amount to fragmenting one indivisible cause of action into artificial compartments unknown to law.

5.1 It is further contended that proceedings before the Adjudicating Authority are undoubtedly civil in complexion; yet, they are not independent civil proceedings in the ordinary sense of the expression. They are proceedings undertaken **in aid of the criminal prosecution** contemplated under the PMLA. Attachment of property is not the end in itself; it is but one of the statutory mechanisms devised to preserve the proceeds of crime pending culmination of proceedings under the PMLA. Therefore, to divorce such proceedings from the criminal investigation that gives birth to them would be to overlook the very architecture of the PMLA.

5.2 The learned Senior Counsel would further submit that the present petition has been instituted under **Article 226 of the Constitution of India read with Section 482 of the Cr.P.C.** The extraordinary jurisdiction of this Court cannot be curtailed merely because one of the consequential orders happens to concern seizure of property. The width of the constitutional jurisdiction is not to be constricted by an over-technical interpretation of roster allocation.

5.3 He would, therefore, submit that the objection of the Directorate of Enforcement is founded upon an excessively technical approach, one which seeks to divide judicial forums on the basis of individual reliefs instead of examining the substance of the *lis*. Such an interpretation, if accepted, would result in conflicting proceedings before different Benches concerning one and the same cause of action, a consequence which the law neither contemplates nor encourages.

5.4 Supplementing the aforesaid submissions, **Sri Vikram Chaudhary**, learned Senior Counsel, would draw sustenance from the decision of the Apex Court in **OPTO CIRCUIT INDIA LIMITED**

v. AXIS BANK reported in **(2021) 6 SCC 707**. The learned Senior Counsel would submit that the freezing order questioned therein was itself subjected to challenge before a coordinate Bench of this Court in the proceedings exercising criminal jurisdiction. The matter thereafter travelled to the Apex Court without any objection as to the forum. According to him, judicial practice itself furnishes a complete answer to the objection now projected by the Directorate of Enforcement. He would submit that the reliance upon **OPTO CIRCUIT INDIA LIMITED** *supra* is not by way of an independent proposition but only to reinforce the submissions already canvassed by Dr. S. Muralidhar, namely, that proceedings which are consequential to an ECIR have consistently been examined by Courts exercising criminal jurisdiction.

ANALYSIS AND CONSIDERATION:

6. In the backdrop of the rival submissions, the controversy narrows itself into a singular, yet significant, question. The issue does not concern the legality of the search or the validity of the freezing order at this stage. The issue lies at a stage anterior thereto. It is one of **jurisdiction**. The question that therefore falls for consideration is:

<u>THE QUESTION</u> :

> ***Whether proceedings initiated under Section 17 of the PMLA are required to be assailed only before a Bench exercising civil writ jurisdiction under Article 226 of the Constitution of India, or whether such proceedings, being inseparably connected with the ECIR and the predicate offence, can equally be questioned in proceedings under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C.?***

To answer the aforesaid issue, it becomes necessary to traverse the factual backdrop in a little greater detail before embarking upon an examination of the judicial landscape governing the field.

<u>ECHOING OF FACTS</u>:

7. Before embarking upon an examination of the judicial precedents cited at the Bar, it becomes imperative to notice, in a little greater detail, the factual canvas upon which the present controversy is projected. A complaint came to be registered on **05-12-2024** for offences punishable under **Section 318(2) of the BNS** and **Section 66 of the Information Technology Act, 2000** which culminated in registration of **Crime No.722 of 2024**. Investigation into the said crime, however, did not reveal material warranting prosecution. The investigating agency consequently submitted a **'B' report** on **27-05-2025**. The jurisdictional Court, after affording opportunity to the complainant, accepted the closure report on **05.07.2025**. The order accepting the 'B' report remained unchallenged. Neither the investigating agency nor the complainant sought to question the said order before any superior forum. The inevitable consequence was that the predicate offence reached its legal culmination and attained finality. In the eye of law, the criminal proceedings stood concluded. Ordinarily, that ought to have marked the end of the matter. It did not. What had

apparently reached its legal repose was sought to be resurrected after the passage of several months. The Directorate of Enforcement, resting its action upon proceedings that had already been judicially closed, generated an **ECIR**. The ECIR did not emerge contemporaneously with the predicate offence; it surfaced nearly **four months after** the acceptance of the 'B' report. It is this circumstance that lends significance to the controversy before the Court.

7.1 The generation of the ECIR was immediately followed by investigative measures. Search proceedings were undertaken between **18-11-2025 and 22-11-2025** in the business premises of the petitioners as also the residences of their Directors. Eight bank accounts belonging to the petitioners were frozen. Thereafter, invoking **Section 17(4) of the PMLA**, the Directorate of Enforcement approached the Adjudicating Authority in **O.A. No.370 of 2025** seeking retention of the articles and records seized during the course of search. Consequential show cause notices came to be issued.

7.2 The matter did not rest there. This Court, while examining the challenge to the ECIR, granted an interim order of stay on **22-01-2026**, *prima facie* noticing that on the date of registration of the ECIR, there existed no surviving predicate offence capable of sustaining proceedings under the PMLA. Although the present proceedings are not directly concerned with the correctness of the ECIR, the genesis of every subsequent action unmistakably traces itself to that very ECIR. Thereafter, between **07-05-2026 and 14-05-2026**, yet another round of search and seizure operations was carried out. Several electronic devices, mobile phones, hard disks and other articles came to be seized. More significantly, by an order dated **13-05-2026**, as many as **106 bank accounts** belonging to the petitioners and associated persons were directed to be frozen.

8. It is this freezing order, together with the consequential proceedings for retention under Sections **20 and 21** of the PMLA and the show cause notices issued by the Adjudicating Authority, that now forms the subject matter of challenge before this Court. It is in the backdrop of these facts that the preliminary objection

touching maintainability assumes significance. This Court must therefore survey the judicial landscape governing the field before recording its conclusions.

JUDICIAL LANDSCAPE:

9. Sri Zoheb Hossain, learned Senior Counsel appearing for the Directorate of Enforcement, would anchor his preliminary objection principally upon the judgment of the three Judge Bench of the Apex Court in the case of **VIJAY MADANLAL CHOUDHARY v. UNION OF INDIA**[1]**,** wherein it is held as follows:

"…. …. ….

> **224.** It is, thus, clear that this special provision regarding burden of proof in any proceeding relating to proceeds of crime under this Act would apply to stated proceeding before the adjudicating authority and not limited to the proceeding before the Special Court. That is evident from the plain language, indicative of applicability of the provision to "any" proceeding before the "authority" or the "court". **The expression "authority" occurring in this provision must be given its proper meaning indicative of the adjudicating authority appointed under Section 6 of the 2002 Act to adjudicate on matters concerning confirmation of provisional attachment order and eventual confiscation and vesting of the property, if the fact situation so warrant. It is an**

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[1] **2022 SCC OnLine SC 929**

independent body, free from the control of the executive [*Pareena Swarup* v. *Union of India*, (2008) 14 SCC 107] . It is ordained to deal with civil aspects of the action of attachment and confiscation of the proceeds of crime and not about the criminality of the offence under Section 3 of the 2002 Act. When this provision is made applicable to the proceeding before the authority, it would not be necessary to follow the strict principle of standard of proof beyond reasonable doubt, as applicable in criminal trials. That principle will have no bearing on the proceeding before the authority. However, when the same evidence and provision is relied upon in the proceeding before the Special Court regarding trial of offence of money laundering under Section 3 of the 2002 Act, it would have a different connotation in the context of a criminal trial.

... ...

369. Suffice it to observe that being a special legislation providing for special mechanism regarding inquiry/investigation of offence of money laundering, analogy cannot be drawn from the provisions of the 1973 Code, in regard to registration of offence of money laundering and more so being a complaint procedure prescribed under the 2002 Act. Further, the authorities referred to in Section 48 of the 2002 Act alone are competent to file such complaint. **It is a different matter that the materials/evidence collected by the same authorities for the purpose of civil action of attachment of proceeds of crime and confiscation thereof may be used to prosecute the person involved in the process or activity connected with the proceeds of crime for offence of money laundering. Considering the mechanism of inquiry/investigation for proceeding against the property (being proceeds of crime) under this Act by way of civil action (attachment and confiscation), there is no need to formally register an ECIR, unlike registration of an FIR by the jurisdictional police in respect of cognizable offence under the ordinary law.**

... ...

> **376.** It is true that the ED Manual may be an internal document for departmental use and in the nature of set of administrative orders. It is equally true that the accused or for that matter common public may not be entitled to have access to such administrative instructions being highly confidential and dealing with complex issues concerning mode and manner of investigation, for internal guidance of officers of ED. It is also correct to say that there is no such requirement under the 2002 Act or for that matter, that there is nothing like investigation of a crime of money laundering as per the scheme of the 2002 Act. **The investigation, however, is to track the property being proceeds of crime and to attach the same for being dealt with under the 2002 Act. Stricto sensu, it is in the nature of an inquiry in respect of civil action of attachment. Nevertheless, since the inquiry in due course ends in identifying the offender who is involved in the process or activity connected with the proceeds of crime and then to prosecute him, it is possible for the department to outline the situations in which that course could be adopted in reference to specific provisions of the 2002 Act or the Rules framed thereunder; and in which event, what are the options available to such person before the authority or the Special Court, as the case may be.** Such document may come handy and disseminate information to all concerned. At least the feasibility of placing such document on the official website of ED may be explored."

The Three Judge Bench, while delineating the statutory architecture of the PMLA, draws a clear distinction between the **criminal prosecution** for the offence of money laundering under Section 3 and the **civil consequences** relating to attachment, adjudication and eventual confiscation of the proceeds of crime. The learned Senior Counsel would submit that these observations unmistakably demonstrate that proceedings under Section 17 are civil in character and, therefore, any challenge thereto must necessarily be instituted before a Bench exercising civil writ jurisdiction.

10. To fortify the submission, reliance is also placed upon the judgment of the Apex Court in **PAREENA SWARUP V. UNION OF INDIA**[2], wherein the constitutional validity of the institutional framework under the PMLA, including the constitution of the Adjudicating Authority and the Appellate Tribunal, came to be examined. The said judgment, according to the learned Senior Counsel, reinforces the independent civil character of proceedings before the Adjudicating Authority. The Apex Court has held as follows:

"…. …. ….

Sl. No.	Issues	Amended / Proposed provision	Remarks
7	The qualifications for legal member of the Adjudicating Authority should exclude "those who are	Xxxx **3. In exercise of powers conferred by clause (*s*) of sub-section (2) of Section 73 read with Section 30 of the Prevention of Money-**	xxxxx

[2] **(2008) 14 SCC 107**

	qualified to be District Judge" and only serving or retired District Judges should be appointed. The Chairperson of the Adjudicating Authority should be the legal member.	**Laundering Act, 2002 (15 of 2003), the Central Government framed rules regulating the appointment and conditions of service of persons appointed as Chairperson and members of the Appellate Tribunal. These rules are the Prevention of Money-Laundering (Appointment and Conditions of Service of Chairperson and Members of Appellate Tribunal) Rules, 2007. The Central Government has also framed rules called the Prevention of Money-Laundering (Appointment and Conditions of Service of Chairperson and Members of Adjudicating Authorities) Rules, 2007.**	

10.1. The Apex Court in the case of **STATE OF WEST BENGAL v. SUJIT KUMAR RANA**[3] has held as follows:

"…. …. ….

33. From a bare perusal of the aforementioned provision, it would be evident that the inherent power of the High Court is saved only in a case where an order has been passed by the criminal court which is required to be

[3] (2004) 4 SCC 129

set aside to secure the ends of justice or where the proceeding pending before a court amounts to abuse of the process of court. It is, therefore, evident that power under Section 482 of the Code can be exercised by the High Court in relation to a matter pending before a court; which in the context of the Code of Criminal Procedure would mean "a criminal court" or whence a power is exercised by the court under the Code of Criminal Procedure. Once it is held that the criminal court had no power to deal with the property seized under the Act, the question of the High Court exercising its jurisdiction under Section 482 of the Code of Criminal Procedure would not arise.

…. …. ….

46. The upshot of our aforementioned discussion is that once a confiscation proceeding is initiated, the jurisdiction of the criminal court in terms of Section 59-G of the Act being barred, the High Court also cannot exercise its jurisdiction under Section 482 of the Code of Criminal Procedure for interim release of the property. The High Court can exercise such a power only in exercise of its power of judicial review."

It is, therefore, his emphatic submission that the challenge in the present proceedings, being directed against search, seizure and freezing of property under Section 17 of the PMLA, ought not to be entertained by a Bench exercising criminal jurisdiction.

11. The petitioners, however, invite the Court to look at the issue from an entirely different perspective. Dr. S. Muralidhar and Sri Vikram Chaudhary, learned Senior Counsel appearing for the

petitioners, would submit that the issue is no longer *res integra*. In **BERMACO ENERGY SYSTEMS LIMITED v. DIRECTORATE OF ENFORCEMENT**[4] the High Court of Bombay has held as follows:

"…. …. ….

> **"12.** In *Vijay Madanlal Choudhary* v. *Union of India*[1], the Supreme Court has pertinently observed thus : (SCC pp. 300-301, paras 369 and 370)
>
> > "*369.* Suffice it to observe that being a special legislation providing for special mechanism regarding inquiry/investigation of offence of money laundering, analogy cannot be drawn from the provisions of 1973 Code, in regard to registration of offence of money laundering and more so being a complaint procedure prescribed under the 2002 Act. Further, the authorities referred to in Section 48 of the 2002 Act alone are competent to file such complaint. It is a different matter that the materials/evidence collected by the same authorities for the purpose of civil action of attachment of proceeds of crime and confiscation thereof may be used to prosecute the person involved in the process or activity connected with the proceeds of crime for offence of money laundering. Considering the mechanism of inquiry/investigation for proceeding against the property (being proceeds of crime) under this Act by way of civil action (attachment and confiscation), there is no need to formally register an ECIR, unlike registration of an FIR by the jurisdictional police in respect of cognizable offence under the ordinary law.
> >
> > *370.* There is force in the stand taken by the ED that ECIR is an internal document created by the Department before initiating penal action or prosecution against the person involved with process or activity connected with proceeds of crime. Thus, ECIR is not a statutory document, nor there is any provision in the 2002 Act requiring authority referred to in Section 48 to record ECIR or to furnish copy thereof to the accused unlike Section 154 of the 1973 Code. The fact that such

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[4] **2024 SCC OnLine Bom.3833**

> ECIR has not been recorded, does not come in the way of the authorities referred to in Section 48 of the 2002 Act to commence inquiry/investigation for initiating civil action of attachment of property being proceeds of crime by following prescribed procedure in that regard."
>
> **Therefore, we are of the clear view that since the proceedings for attachment and its adjudication by the adjudicating authority, are in aid of the trial of the offence, an appeal being preferred against an order passed by the authority before the Appellate Tribunal, is definitely liable to be entertained on the criminal side."**
>
> (Emphasis supplied at each instance)

The Division Bench of the High Court of Bombay in the case of **BERMACO ENERGY SYSTEMS LIMITED** *supra*, after an exhaustive consideration of the very judgments now relied upon by the Directorate of Enforcement, has held that proceedings before the Adjudicating Authority, though civil in complexion, are nonetheless **in aid of the criminal prosecution** contemplated under the PMLA. Consequently, proceedings arising therefrom are liable to be entertained on the criminal side. The High Court of Bombay while interpreting the observations in **VIJAY MADANLAL CHOUDHARY**, unmistakably concludes that attachment proceedings cannot be viewed as islands unto themselves, disconnected from the prosecution under the PMLA. They constitute one continuous statutory mechanism designed to ensure that the proceeds of crime remain available for eventual adjudication and prosecution. It is for this reason that appeals arising from such proceedings are entertained before the criminal side of that Court.

12. Equally significant, according to the learned Senior Counsel, is the decision of the Apex Court in **OPTO CIRCUIT INDIA LIMITED** *supra*. The challenge in that case also arose out of a freezing order and travelled through proceedings instituted under Section 482 of the Cr.P.C. The fact that the issue was entertained both by this Court and by the Apex Court, without any demur as to jurisdiction, itself furnishes a significant indicator of the legal position.

13. Thus stands the judicial landscape—one stream of authority emphasising the civil complexion of attachment proceedings and another recognising that such proceedings are inseparably interwoven with the criminal process under the PMLA. It is this apparent divergence that now falls for reconciliation.

RECONCILIATION AND ANSWER:

14. Having bestowed anxious consideration to the judgments cited at the Bar by both the learned Senior Counsel appearing for the petitioners and the learned Senior Counsel representing the Directorate of Enforcement, this Court finds itself unable to accede to the preliminary objection as to maintainability. The cumulative effect of the judicial pronouncements noticed hereinabove unmistakably points in one direction—that the present petition is maintainable, more particularly in the peculiar factual matrix obtaining in the case at hand.

15. **The proceedings impugned before this Court have not sprung into existence in a legal vacuum. They are neither independent nor self-sustaining proceedings capable of existing de hors the statutory framework that gave birth to them**. Every action undertaken by the Directorate of Enforcement under Section 17 of the PMLA must necessarily trace its lineage to an **ECIR**. In the case at hand, the immediate foundation is the fresh **ECIR No. ECIR/BGZO/07/2026 dated 23-02-2026**. The said ECIR, in turn, has not emerged in isolation.

It owes its existence to **FIR Nos.97 of 2026, 330 of 2026 and 10 of 2026**, all registered before the jurisdictional police at Hyderabad and **FIR No.29 of 2026** before the jurisdictional police at Lucknow. Those FIRs, as the record unmistakably discloses, themselves find their genesis in **Crime No.722 of 2024**. The chain is thus complete, each link deriving its strength from the one preceding it. The search, seizure and freezing proceedings are but the final manifestations of a process that commenced with the registration of the predicate offence.

16. It is now too well entrenched a principle of law to admit of any debate that an **ECIR cannot exist in splendid isolation**. It is not an autonomous instrument capable of independent existence. It derives both its legitimacy and jurisdictional competence from the existence of a **predicate offence**. The predicate offence may be one under the BNS or any other penal enactment notified in the Schedule to the PMLA; yet, without such foundational offence, the ECIR cannot find its existence. **The predicate offence is the juridical bedrock upon which the entire edifice of proceedings under the PMLA is erected**.

17. **One may aptly borrow from the metaphor that naturally emerges from the statutory scheme itself. The predicate offence is the skeleton; the ECIR is the flesh and blood that envelopes it. A skeleton without flesh may remain incomplete; but flesh and blood without a skeleton is an anatomical impossibility. To hold that proceedings under the PMLA can survive independent of the predicate offence would be to breathe life into a body devoid of its skeletal frame.** Such an interpretation would be contrary to the statutory architecture of the PMLA. Such a construction finds no approval, either express or implied, even in the three Judge Bench decision of the Apex Court in the case of **VIJAY MADANLAL CHOUDHARY**, which consistently recognises the inseparable nexus between the offence of money laundering and the existence of a scheduled offence.

18. If the statutory chain is viewed in its entirety, the conclusion becomes inevitable. Proceedings under **Section 17** do not arise spontaneously. They are consequential to the registration of an ECIR. The ECIR itself is consequential to the existence of a

predicate offence. **The search, seizure, freezing and retention of property are therefore not isolated civil actions divorced from criminal proceedings; they constitute successive statutory steps flowing from the very registration of the predicate offence**. To sever one link from the other would be to dismantle the legislative scheme itself.

19. **Above all, one cannot lose sight of the object with which the Directorate of Enforcement has been constituted. The PMLA is not designed merely to regulate property. It is enacted to identify, trace, preserve and ultimately confiscate** proceeds of crime **generated from criminal activity. The jurisdiction of the Directorate of Enforcement is thus inextricably intertwined with criminality**. Attachment of property is merely an instrumentality employed in aid of prosecuting the offence of money laundering. It cannot, therefore, be artificially divorced from the criminal proceedings that give it life.

20. Viewed thus, this Court has no hesitation in holding that where proceedings under **Section 17 of the PMLA** emanate directly from an ECIR, and the ECIR itself owes its existence to a

predicate offence, a challenge thereto is unquestionably maintainable either in a petition under **Section 482 of the Cr.P.C.** or in a writ petition under **Article 226 of the Constitution of India read with Section 482 of the Cr.P.C.** The objection as to maintainability, therefore, deserves rejection.

21. The learned Senior Counsel appearing for the Directorate of Enforcement, however, places considerable reliance upon the decision of the Apex Court in **PAREENA SWARUP** *supra*, **projecting it as the sheet anchor of the preliminary objection**. The reliance, though attractive at first blush, dissolves upon a closer scrutiny of the judgment. **PAREENA SWARUP** was concerned with an altogether different issue. The Apex Court was examining the constitutional validity of the institutional framework under the PMLA, particularly the constitution of the Adjudicating Authority and the Appellate Tribunal. The judgment neither considered nor answered the question that arises for consideration in the present proceedings, namely, **whether a challenge to search and seizure proceedings under Section 17, being consequential to an ECIR, must necessarily be entertained**

only by a Bench exercising civil writ jurisdiction or whether such challenge is maintainable before a Bench exercising criminal jurisdiction. The judgment is, therefore, clearly distinguishable and cannot be pressed into service to answer an issue that never arose before the Apex Court.

22. The fallacy in the submission of the Directorate of Enforcement lies in its attempt to compartmentalise one continuous statutory process into watertight compartments. Once an ECIR is questioned before a Bench exercising criminal jurisdiction, every consequential action flowing therefrom necessarily follows the same stream. It would indeed be anomalous if the legality of the ECIR were to be examined by one Bench, while the legality of the search undertaken pursuant to that very ECIR were to be relegated to another Bench exercising an altogether different roster. Such a course would inevitably invite conflicting opinions upon the same foundational facts and fracture what is otherwise one indivisible cause of action.

23. A search undertaken under Section 17 of the PMLA is not an independent civil exercise; it is a **consequence** of the ECIR, a **continuation** of the investigative process and is a statutory measure adopted to secure the proceeds of crime during the pendency of investigation into the offence of money laundering. Once viewed in that perspective, the argument that the search retains an exclusively civil character loses all force. This Court, therefore, holds that a petition invoking **Article 226 of the Constitution of India read with Section 482 of the Cr.P.C.**, challenging search and seizure proceedings that emanate from an ECIR, is perfectly maintainable. The preliminary objection consequently fails.

24. The issue is answered accordingly.

25. Let the matter now proceed to be considered on its merit.

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ
CT:BR