CGHC010311572026 2026:CGHC:38226-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 473 of 2026

1 - Dr. Rahul Agrawal S/o Shri S.B. Agrawal Aged About 53 Years R/o 53, Friends Colony East, New Friends Colony, New Delhi- 110065

2 - M/s Pacifica Hotels India Private Limited A Company Incorporated Under The Provisions Of The Companies Act, 2013, Having Its Registered Office At Plot No.- 1A, Block-I, Sector 27, Noida, 201301, Uttar Pradesh, India, Through Its Authorized Representative, Shri Bhanu Verma Son of Gulshan Verma Aged About 35 Years, R/o House No. 244/9 Shiv Puri Gurgaon Haryana (C.G.).

--- **Petitioner(s)**

versus

1 - Union of India Through The Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi- 110001

2 - Directorate of Enforcement Through Its Deputy Director, Raipur Zonal Office, 6th Floor, Magneto The Mall, Labhandi, G.E. Road, Raipur- 492001, Chhattisgarh

--- **Respondent(s)**

For Petitioner(s)	:	Mr. Abhimanyu Bhandari and Mr. Rajeev Shrivastava, Senior Advocates assisted by Mr. Gautam Khazanchi, Mr. Saif Ali, Mr. Pranav Menon, Mr. Arjit Tiwari, Mr. Harshmander Rastogi, Mr. Kaif Ali Rizvi and Ms. Richa Patel, Advocates.
For Respondent No. 1	:	Ms. Annapurna Tiwari, Advocate.
For Respondent No. 2	:	Mr. Zoheb Hossain (through Video Conferencing), Special Counsel and Dr. Saurabh Kumar Pande, Special Public Prosecutor

<u>Hon'ble Mr. Ramesh Sinha, Chief Justice</u>
<u>Hon'ble Mr. Ravindra Kumar Agrawal, Judge</u>

<u>Order on Board</u>

<u>Per Ramesh Sinha, Chief Justice</u>
25/08/2026

1. Heard Mr. Abhimanyu Bhandari and Mr. Rajeev Shrivastava, Senior Advocates assisted by Mr. Gautam Khazanchi, Mr. Saif Ali, Mr. Pranav Menon, Mr. Arjit Tiwari, Mr. Harshmander Rastogi, Mr. Kaif Ali Rizvi and Ms. Richa Patel, learned counsel for the petitioners. Also heard Ms. Annapurna Tiwari, learned counsel for the respondent No. 1/Union of India as well as Mr. Zoheb Hossain (through Video Conferencing), Special Counsel and Dr.Saurabh Kumar Pande, Special Public Prosecutor for the respondent No. 2/Enforcement Directorate (*for short, the ED*).

2. By this petition under Article 226 of the Constitution of India, the petitioner(s) seek for the following relief(s):

> *"10.1 Issue a writ, order or direction under Article 226 of the Constitution of India, calling for the records and proceedings culminating in the Provisional Attachment Order dated 28.05.2026 passed by the Respondent under Section 5(1) of the Prevention of Money Laundering Act, 2002 in ECIR/RPZO/04/2024, for the kind perusal of this Hon'ble Court; and*
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> *10.2 Upon examining the records so called for, issue an appropriate writ or any other appropriate writ, order or direction, quashing and setting aside the Provisional Attachment Order dated 28.05.2026 passed by the Respondent under Section 5(1) of the Prevention of Money Laundering Act, 2002 in ECIR/RPZO/04/2024 and consequential proceedings arising thereof; and*
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> *10.3 Any other relief which this Hon'ble Court deems fit*

and proper may also kindly be granted to the Petitioner, in the interest of justice."

3. Facts of the case, as projected by the petitioners are that in 2017 the Government of Chhattisgarh amended the State Excise Policy and established the Chhattisgarh State Marketing Corporation Limited (*for short, the CSMCL*) with the mandate of operating Government-run liquor retail outlets across the State. As per the respondent-ED, the CSMCL was misused into generating proceeds of crime (*for short, the PoC*) which forms subject matter of the ECIR registered by it. In the month of March, 2019, one Mr. Vijay Kumar Agrawal, the paternal uncle of petitioner No.1, resigned from the Directorship of the petitioner No.2 Company (*for short, the Pacifica*). The impugned order dated 28.05.2026 (Annexure P/19) alleges that petitioner Nos. 1 and 2 acquired the Hotel Westin in Goa by utilizing the PoC received from Vijay Agrawal. On 01.05.2019, a memorandum of family settlement was executed where Vijay Agrawal stepped away from Pacifica and some other businesses run by petitioner No.1, the latter being a Director and shareholder in Pacifica and a partner in M/s Brandavan Food Products (*for short, the BFP*) (*collectively, the RK Group*). Pertinently, with respect to the petitioner No. 2 Company, vide the memorandum of family settlement dated 01.05.2019, under clause 3.3. it was agreed that petitioner No. 2 company shall be owned, controlled, and managed by the Sharan Bihari Agrawal family group only and the Vijay Kumar Agrawal family group shall have no right, claim or ownership in the petitioner No. 2 Company. On 10.10.2019, a search was conducted under Section 132, Income Tax Act (*for short, the IT Act*) where an alleged unaccounted cash payment of Rs.60 Crores was found to be made by petitioner No.1 led entities to one M/s Sir Biotech India Ltd. (*for *short, the SBIL*) for acquisition of the Westin Hotel, Goa (*hereinafter referred to as 'the Hotel'*) and an Income Tax Department Appraisal Report was prepared. Consequently, on 28.09.2021, an assessment order under Section 153A read with Section 143(3) of the IT Act was passed by the ACIT, Raipur holding that the source of payment of Rs.60 Crores cash was not recorded in the tally data/books of accounts and was thus unaccounted income. It was directed that the amount of Rs.60 Crores would be treated as unaccounted business income in the hands of RKA (Rs.33 Crores), BFP (Rs.7 Crores) & Rahul Agrawal (Rs.20 Crores) and be charged to tax accordingly. The aforesaid assessment order dated 28.09.2021 was challenged by the petitioner No.1 and R.K.Group entities before the CIT(A), and vide order dated 22.12.2022, passed under Section 250 of the IT Act, the explanation offered by the assessees qua lack of entry in books of accounts and the source of the Rs.60 Crores cash was accepted, thereby allowing the appeal and deleting the addition of Rs. 60 Crores to the incomes of the RK Group entities. The Pr. CIT (Central) Bhopal, exercising powers under Section 263 of the IT Act, vide order dated 17.08.2023, subjected the aforesaid assessment order dated 28.09.2021 to revision and set it aside to the Assessment Officer on specific issues regarding expenses claimed by RK Group in respect of the acquisition of the Hotel from SBIL. The said remand did not pertain to the alleged Rs.60 Crores unaccounted cash. Consequently, an assessment order dated 08.01.2024 came to be issued under Section 143 read with 263 IT Act wherein the explanations given by the RK Group in relation to the total expenses incurred on the acquisition of the Hotel were verified and found considerable. Accordingly, no adverse inference was drawn.

4. On 17.01.2024, FIR bearing Crime No. 04/2024 (hereinafter referred to as ‘the FIR’) under Sections 420, 467, 471 & 120B, IPC & 7 & 12 of the Prevention of Corruption Act, 1988 was registered at EOW/ACB, Raipur on allegations of corruption and illicit liquor sales from February 2019 to June 2022 on the basis of information shared by the ED under Section 66 of the Prevention of Money Laundering Act, 2002 (*for short, the PMLA*) vide intimation dated 11.07.2023. None of the petitioners are named therein. Basis the aforesaid FIR, the subject ECIR, bearing No. ECIR/RPZO/04/2024 was registered by the ED on 11.04.2024. None of the petitioners are named therein. On 19.06.2024, basis the ECIR, a prosecution complaint was filed before the Special Court (PMLA), Raipur, wherein it has been alleged that the accused persons formed a criminal syndicate to generate proceeds of crime by way of the following mechanism:-

- Part A: Illegal commission extracted from liquor manufacturers on the accounted sale of country liquor by artificially increasing the procurement price paid by CSMCL.
- Part B: Unaccounted country liquor was clandestinely manufactured using duplicate holograms and sold through CSMCL run retail outlets by passing statutory controls and State warehouses.
- Part C: Annual cartel commission was collected from distillers in exchange for allocation of market share and continuation of licenses.

5. Supplementary prosecution complaints were filed on 30.08.2024, 05.10.2024, 12.03.2025, 15.09.2025, 26.12.2025 and 29.05.2026 before the Hon’ble Special Court (PMLA), Raipur. In none of the prosecution complaints have the petitioners been arrayed as accused persons. Only in the prosecution complaint dated 29.05.2026, the impugned PAO is mentioned as evidence collected during investigation.

On 29.06.2024, a charge-sheet was filed by the EOW/ACB, Raipur, before the Hon'ble Special (P.C. Act) Court, Raipur. Supplementary charge-sheets were subsequently filed on 26.09.2024, 17.11.2024, 27.06.2024, 17.11.2024, 27.06.2025, 30.06.2025, 24.08.2025, 24.11.2025, 07.04.2026. The petitioners have not been arrayed as accused in these charge-sheets. In the meantime, the aforesaid order of CIT(A) dated 12.12.2022 regarding the alleged unaccounted cash of Rs.60 Crores, was challenged before the Income Tax Appellate Tribunal, Raipur (*for short, the ITAT*) whereby, the order of the CIT(A) dated 12.12.2022 was upheld and the appeals filed by the IT Department were dismissed. On 02.07.2025, Laxmi Narayan Bansal @ Pappu Bansal, who is one of the accused in the FIR/ECIR, stated in his statement under Section 50 of the PMLA, recorded by the respondent Department that he had paid Rs.40,00,00,000/- in cash to Vijay Agrawal in 2019 out of the PoC generated through the liquor scam. He also stated that a further amount of Rs. 70,00,00,000/- was supplied to Vijay Agrawal by him, through one Probir Sharma at the instance of one Chaitanya Baghel (another accused in the FIR/ECIR), thereby bringing the total to Rs.110,00,00,000/- all of which was allegedly given by Vijay Agrawal to his nephew – the petitioner No.1 – for purchase of some hotel in Goa, as told to him by Chaitanya Baghel. On 15.07.2025, the ED conducted search proceedings at various locations including the petitioner No.1 which led to recovery of digital devices and documents. The statements of Vijay Kumar Agrawal were recorded under Section 17 of PMLA on 15.07.2025 and under Section 50 of the PMLA on 16.07.2025, 21.07.2025, 24.07.2025, 28.07.2025 and 01.08.2025 by the respondent Department. Simultaneously, statement under Section 17 of PMLA was recorded on 15.07.2025 and under Section 50 of

PMLA of petitioner No. 1 on 16.07.2025, 21.07.2025, 23.07.2025, 29.07.2025 and 30.07.2025 by the respondent Department.

6. Mr Abhimanyu Bhandari, learned Senior Advocate appearing for the petitioners submit that the petitioner No. 1, in his statement dated 15.07.2025, had deposed before the ED that the ITD had absolved him from allegation of use of cash of Rs. 60 Crores for acquisition of property, holding that the same was accounted money. Further, on the same date, petitioner No. 1 had explained to the ED the source of cash to the tune of Rs. 60 Crores being the cash in hand in his Firms/Companies and himself. Furthermore, petitioner No. 1 in his statement dated 16.07.2025 confirmed to the ED, that the case regarding cash to the tune of Rs. 60 Crores had been closed by the ITD after paying tax on the same. The cash component of Rs. 60 Crores utilised towards the acquisition of the Hotel did not originate from any alleged proceeds of crime. The said amount represented cash generated through the regular business operations of the legitimate business entities of petitioner No.1 and the RK Group, including cash available in hand with the respective entities in the ordinary course of their business. The said position was specifically disclosed before the ITD during the assessment proceedings and was accepted by the CIT (Appeals), whose findings were thereafter affirmed by the ITAT. Thus, the source, nature and availability of the said cash stood duly explained and judicially accepted much prior to the impugned attachment proceedings. Similarly, on 15.07.2025, statement of Vishal Saxena was recorded under Section 17 of PMLA by the respondent Department. In the aforesaid statement, Vishal Saxena had confirmed that a payment of Rs.50 Crores was paid through banking channels towards the acquisition of subject land and the partially constructed building on it and additional payment of Rs.60 Crores in cash towards the same by petitioner No. 1. On 17.07.2025, the petitioner No.1 delivered various documents to the ED, including various orders passed by the IT authorities such as the Assessment Officer, CIT(A) and ITAT, in respect of FY 2019-20. As per the impugned order, one Sameer Biyani's statement dated 23.07.2025, recorded under Section 50 PMLA, which allegedly corroborates the utilization of proceeds of crime amounting to Rs.110 Crores for the purchase of the Hotel. Sameer Biyani specifically claimed that he and one Vishal Saxena collected Rs.60 Crores from petitioner No.1 – as directed by one Jayprakash Agrawal of M/s SBIL.

7. On 12.08.2025, an Original Application No. 234/2025 was filed by the ED before the Adjudicating Authority (*for short, the AA*) for retention of devices, documents and cash seized vide search conducted on 15.07.2025. As per the impugned order, one Probir Kumar Sharma stated in his statement under Section 50, PMLA that he had personally handed Rs.70 Crores in cash to Vijay Agrawal from Laxmi Narayan Bansal on the personal instructions of Chaitanya Baghel. On 24.12.2025, the aforestated OA No. 234/2025 filed by the ED was allowed by the learned AA._On 28.05.2026, the impugned order dated 28.05.2026 was issued by the respondent/ED, attaching the Hotel treating it as proceeds of crime as defined under Section 2(1)(u) of PMLA, comprising direct proceeds of crime of Rs.60 Crores and value thereof of Rs.50 Crores.

8. Mr. Bhandari further submits that the ED's conclusions are primarily based on the statement of Laxmi Narayan Bansal dated 02.07.2025, alleging that PoC of Rs.110 Crores was handed over to Vijay Kumar Agrawal for acquisition of a hotel in Goa by petitioner No.1, Rahul

Agrawal; the fact that Vijay Kumar Agrawal was a Director of Pacifica, which acquired the hotel, till 2019 and is the uncle of petitioner No.1; the alleged admission by petitioner No.1 regarding payment of Rs.60 Crores in cash for acquisition of the hotel, which is stated to be corroborated by the Income Tax Appraisal Report dated 10.10.2019 and the assessment order dated 28.09.2021, as well as the statement of Sameer Biyani dated 23.07.2025 regarding collection of the said amount in 8–10 installments; the subsequent appointment of Vishal Saxena, who allegedly facilitated receipt of the Rs.60 Crores in cash on behalf of M/s SBIL in October 2019, as a Director of Pacifica on 21.11.2023; and the alleged temporal coincidence between the payment of Rs.60 Crores in October 2019 and the peak period of cash distribution during 2019–20 in the alleged Chhattisgarh liquor scam.

9. Based on above conclusions, the ED, vide the impugned order (Annexure P/19), for the purpose of the subject attachment, has restricted the scope to the alleged purchase amount of Rs.110 Crores, comprising cash (i) sale consideration for the Hotel of Rs.60 Crores – on the ground that it is directly traceable to PoC received by Vijay Kumar Agrawal from the liquor scam; and (ii) registered sale consideration of Rs.50 Crores – which has been attached as "value thereof" because the "defendants are in possession of the remaining Rs. 50,00,00,000/- cash out of the total Rs.110,00,00,000/- cash proceeds of crime received by Shri Vijay Kumar Agrawal." It is further submitted by Mr. Bhandari that on 09.07.2026, the ED filed its Complaint bearing Original Complaint No. 472 of 2026 under Section 5(5) of the Act before the Hon'ble AA, New Delhi, under PMLA.

10. Mr. Bhandari submits that impugned order deserves to be set aside being rife with non-application of mind, mis-appreciation of facts, appreciation of incorrect facts, conjectures and surmises, rendering it bad in law and arbitrary. The impugned order fails to establish any nexus, direct or indirect, between the PoC of Rs.110 Crores given by Laxmi Narayan Bansal to Vijay Agrawal and the purchase consideration paid for purchasing the Hotel by the petitioners. The petitioners have never had any relation to the liquor business either in the State of Chhattisgarh or in any other part of India in the past or present, whatsoever. Therefore, there is no chance of any nexus of the petitioners with the subject scam in any manner. The respondent-ED has fundamentally ignored the undisputed fact that the cash component of Rs.60 Crores utilised towards acquisition of the subject property was generated from the legitimate business operations of the petitioner's business entities and constituted cash available with such entities in the ordinary course of business. The explanation regarding the availability and source of the said cash was accepted by the CIT(A) and subsequently affirmed by the ITAT. Once the competent statutory authorities have accepted that the cash emanated from legitimate business operations and available business cash, the respondent-ED could not disregard those findings and proceed on the assumption that the very same cash represented proceeds of crime, without first establishing, through cogent evidence and a demonstrable money trail, that the legitimate cash accepted by the Income Tax authorities was in fact substituted or replaced by alleged tainted funds. Further, the statement of Laxmi Narayan Bansal dated 02.07.2025 only establishes the flow of PoC from him to Vijay Kumar Agrawal. There is no evidence establishing the flow of PoC from Vijay Kumar Agrawal to Rahul Agrawal. The statement that the PoC was given to Vijay Kumar Agrawal for the purpose of acquisition of '*some hotel*' in Goa is, not just hearsay but, merely a statement about the intended use of the PoC and not a proof of delivery of the PoC by Vijay Kumar Agrawal to Rahul Agrawal or the utilisation thereof for the acquisition of the Hotel. This demonstrates the lack of application of mind by the ED. Pertinently, the ED has on a mere assumption that Vijay Kumar Agrawal and the petitioner are a part of the same family, tried to connect the trail of proceeds of crime to petitioner No.1. The ED has neither presented any witness, nor produced any document to showcase linking the trail of proceeds of crime/cash from Vijay Kumar Agrawal to petitioner No. 1. Hence, the ED has failed to prima facie establish that petitioner No. 1 was ever in possession of the tainted money generated through the scheduled offence, whatsoever. The respondent-ED did not confront Vijay Agrawal with Laxmi Narayan Bansal's statement dated 02.07.2025 wherein the latter alleged that Rs.110 Crores was given to Vijay Kumar Agrawal for acquisition of the Hotel by the petitioner No.1. Notably, the respondent Department made no further attempt to establish the trace/flow of the alleged cash of Rs.110 Crores for the alleged purpose of acquisition of the Hotel. The reason to believe in the impugned order erroneously regards Vijay Kumar Agrawal as a serving Director of Pacifica, which is contradicted by the resignation of Vijay Kumar Agrawal from the Directorship in 2019, thereby further demonstrating lack of application of mind by the ED. Pertinently, with respect to the petitioner No. 2 Company, vide the memorandum of family settlement dated 01.05.2019, qua clause 3.3. it was agreed that petitioner No. 2 Company shall be owned, controlled, and managed by the Sharan Bihari Agrawal family group only and the Vijay Kumar Agrawal family group shall have no right, claim or ownership in the petitioner No. 2 company. The admission by petitioner No.1 of cash payment of Rs.60 Crores for acquisition of the Hotel, the Income Tax Appraisal Report dated 10.10.2019 and statements of Sameer Biyani and Vishal Saxena, lends no credit to the case of the ED, when considered in light of the fact that the order dated 12.12.2022 of CIT (A) under Section 250 of the IT Act reversed the finding made in the assessment order dated 28.09.2021, deleting the addition of Rs. 60 Crores and thereby accepting the explanation for the cash amounting to Rs. 60 Crores i.e. necessary entries in the books of accounts were yet to be made on the date of the search proceedings and adequate cash in hand was available in the books of RK Associates and Hoteliers Pvt. Ltd., Brandavan Food Products Pvt. Ltd., Satyam Caterers Pvt. Ltd. and petitioner No. 1, which through an MoU was agreed to be invested in the attached property via cash payment to Sir Biotech India Ltd. In view of the above, the source of cash amounting to Rs. 60 Crores stood explained and the order dated 04.07.2024 passed by the ITAT, which upheld the aforesaid order of CIT(A) which has become final.

11. Mr. Bhandari submits that to consider a property as PoC, it must be derived or obtained directly or indirectly as a result of criminal activity relating to a scheduled offence. In support of his contentions, he places reliance on the decision of the High Court of Madras in ***K. Govindaraj & Ors. v. Union of India*** {2024 SCC OnLine Mad 3500}***.*** The ED cannot take a contrary view regarding the source of cash amounting to Rs. 60 Crore, once the Income Tax Department has accepted the explanation of Rs. 60 Crores so upheld by the Hon'ble ITAT. In this regard, it is stated that ED has relied upon the Income Tax Department's appraisal report regarding undisclosed cash component of Rs. 60 Crores in the hands of petitioner No. 1. However, in the proceedings arising out of

Income Tax Department's appraisal report, the Hon'ble ITAT has, vide its order dated 04.07.2024, upheld the deletion of Rs.60 Crores addition so made initially by the assessing officer. Therefore, by no stretch of imagination, can the cash amounting to Rs.60 Crores paid to Sir Biotech India Ltd. for acquisition of the attached property be said to be sourced to the proceeds of crime generated from the commission of the scheduled offence. In view of the above, two departments of the Union of India cannot be allowed to speak in contradictory voices. In this regard, he places reliance on the decision of the Hon'ble Supreme Court in ***Central Warehousing Corporation v. Adani Ports and Special Economic Zone Ltd. (APSEZL) & Ors.*** {2022 SCC OnLine 1398}.

12. Mr. Bhandari submits that the contradiction is not merely with respect to the accounting treatment of the cash, but strikes at the very source of the funds. While the IT authorities have accepted that Rs. 60 Crores represented cash generated from the legitimate business operations of the petitioner's entities and duly available with them, the respondent, without any independent evidence, seeks to characterize the same cash as proceeds of crime. Such diametrically opposite findings by two departments of the Union of India are legally impermissible. The findings recorded in the reasons to believe in para 4(10) of the impugned order do not satisfy the legal requirement as mandated under the second proviso to Section 5(1) of the PMLA Act. The reason to believe for attachment is mere mechanical copy paste of statutory language carried out by the ED as no conclusive and unambiguous reason has been advanced by the ED for passing the Impugned Order. In this regard, the Hon'ble Supreme Court in ***Vijay Madanlal Chaudhary v. Union of India*** {(2023) 12 SCC 1} has held that the authorized officer while passing the PAO has to record satisfaction and reason on the basis of material in his possession and therefore such provisional attachment cannot be a mechanical exercise. He also places reliance on the judgment rendered by the Karnataka High Court in ***Smt. Jayamma v. The Directorate of Enforcement*** {Writ Petition No. 28108 of 2025 (GM-RES)} and the Hon'ble High Court of Gujarat in ***Bhanuben & Anr. v. State of Gujarat & Ors.*** {2017 SCC OnLine Guj 2517}. The respondent ED, in view of the facts and circumstances of the case at hand, has failed to demonstrate any reason to believe or regard the subject property as one obtained, directly or indirectly, through proceeds of crime – as defined under Section 2(u) of the PMLA. Therefore, the respondent ED lacked the foundational facts to exercise power under Section 5(1) to attach the subject property. In this regard reference may be had to the judgment passed by the Hon'ble High Court of Delhi in ***Himachal EMTA Power Ltd. v. Union of India***, (2018 SCC OnLine Del 11078).

13. The respondent ED has failed to record any independent or objective satisfaction demonstrating that immediate attachment of the subject property alone was necessary to prevent frustration of proceedings under the Act. The satisfaction recorded in this regard is couched in broad, stereotyped and omnibus expressions applicable to every attachment proceeding under the Act, without reference to any specific conduct attributable to the petitioners indicating any intention to alienate, encumber or otherwise defeat the proceedings. The second proviso to Section 5(1) mandates the existence of objective reasons founded upon material available with the authority demonstrating that non-attachment would frustrate proceedings under the Act. Such satisfaction cannot be reduced to reproduction of statutory phraseology or general apprehensions unconnected with the facts of the particular case. The subject property is an operational hospitality asset, openly owned, continuously managed and incapable of clandestine disappearance. In the absence of any material suggesting imminent alienation or dissipation thereof, invocation of the extraordinary power under the second proviso to Section 5(1) is wholly without jurisdiction. The impugned order proceeds upon an erroneous assumption that coincidence of timing and similarity of monetary figures are capable of establishing legal identity between the alleged proceeds of crime and the consideration utilised for acquisition of the subject property. The attempt to correlate the alleged proceeds of crime of Rs.110 Crores with the alleged consideration of Rs.110 Crores (Rs. 50 Cr. Registered sale consideration and Rs 60 Cr. Cash component) proceeds entirely upon numerical coincidence rather than legal evidence. Such coincidence, howsoever attractive at first impression, cannot relieve the respondent of its statutory obligation to establish actual movement of funds by reliable evidence. Jurisdiction under the PMLA cannot be sustained on mathematical symmetry unsupported by demonstrable financial tracing. The petitioners have demonstrated that there is no nexus whatsoever which can trace the Rs.60 Crores cash payment made for purchase of the Hotel back to the PoC delivered to Vijay Kumar Agrawal. The ED is adopting illusory tactics by attempting to dovetail the PoC amount of Rs.110 Crores with the Hotel's *"total"* purchase consideration which is stated to be Rs.110 Crores (para CC of impugned order), whereas, total project value/sale consideration of the Hotel is variedly recorded as:-

- Rs.214 Crores with unaccounted cash component of Rs.118.25 Crores as per the Income Tax Department Appraisal Report dated 10.10.2019; [description of RUD-15 and reason to believe no. 9 of the impugned order]

- Rs. 198 Crores comprising Rs.80 Crores through banking channels (Rs.50 Crores sale deed + Rs.30 Crores SBTIL plant and machinery substantiated through bills) and Rs.118 Crores (Rs.60 Crores purchase cash + Rs.58 Crores though through banking transaction for furniture and fixtures) as per statement of Sameer Biyani [description of RUD-20 in the impugned order];

- Rs.140 Crores as per the MoU dated 12.07.2019 executed between entities of RK Group and balance Rs.52 Crores through banking transaction for furniture and fixtures thereby making the total project cost was reduced to Rs. 192 Crores .

14. Mr. Bhandari further places reliance on the judgment passed by the Hon'ble High Court of Andhra Pradesh in ***B. Rama Raju & Ors. v. Union of India; 2011 SCC OnLine AP 152*** wherein it has categorically held that the presumption enjoined by Section 23 of PMLA, 2002 is clearly a rebuttable presumption. He further submits that the Hon'ble AA is suffering from *coram non judice*, as the record reveals, the present member of the Hon'ble AA is a Single member from outside the field of law and is also holding the office of "Acting Chairperson". The pertinent question which looms large is whether a single member can validly be termed as an AA under the PMLA, 2002 as in terms of Section 2(1)(a) read with Section 6(1) and 6(2) of PMLA, the AA must necessarily consist of a Chairperson and two other members. Each member shall be a person having experience in the field of law, administration, finance or accountancy. The entire impugned proceedings are rendered illegal and unconstitutional being hit by the vice of *coram non-judice*. As is evident, a Single Member (who is not from the field of law) is alone conducting the proceedings within the nomenclature of AA which cannot be sustained. As is evident from a bare perusal of Sections 5, 6 and 8 of PMLA, the term "money-laundering" has not been defined separately and the determination to be carried out by the AA is regarding the offence of money-laundering. It is axiomatic that such an adjudication can effectively take place only by a person of legal background and as per the qualifications prescribed under Section 6. The requirement of one of the members in the AA being from the field of law is essential. It is no longer *res integra* that a person from the field of law may well carry out such complex adjudication of legal issues. It is undisputed that as of today, the AA comprises of a Single Member who is from the field of finance. Such a composition of AA could never have been countenanced by the legislature. From a bare perusal of Section 6(2) that the AA consists of a Chairperson and two other members, and by virtue of Section 6(5)(a) and (b) thereof, the jurisdiction of AA can be exercised only by a Bench comprising of the Chairperson with one or two members. Therefore, the proceedings conducted by the Chairperson alone, without any member, would tantamount to *coram non-judice* rendering the entire proceedings null and void *ab initio.* In terms of Section 6(15) of PMLA, AA has been vested with the power to regulate its own procedure. In terms of the said provision, the "Adjudicating Authority (Procedure) Regulations, 2013" have been published in the Official Gazette on 18.03.2013. Regulation 2(1)(c) and Regulation 26 thereof read as under:

> "*Regulation 2(1)(c)-*
>
> *Bench means a Bench of the Adjudicating Authority constituted by the Chairperson of the Adjudicating Authority;"*
>
> *"Regulation 26-*
>
> *Issue of Order –*

> *(1) The order supported by reasons recorded shall be pronounced in open Court and on the date fixed in that behalf.*
>
> *(2) Every sheet of the order shall bear the signature of the Chairperson and Members constituting the Bench*."

15. Mr. Bhandari submits that a bare perusal of these Rules would leave no manner of doubt that the proceedings before AA cannot be conducted by a single Member/Chairperson alone. Any interpretation to the contrary accorded by the respondents is untenable. Section 6(2) clearly employs use of the expression "shall" and contemplates that AA shall consist of a Chairperson and two other Members. Section 6(5) provides that, subject to the provisions of the Act, the jurisdiction of AA may be exercised by Benches thereof. The Chairperson of AA may constitute a Bench, which shall consist of either one or two members along with the Chairperson. In terms of Section 6(10), if for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or any other member, then the Central Government is to appoint another person to fill the vacancy and the proceedings may continue from the stage at which the vacancy is filled. In terms of Section 6(13), in the event of occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the senior-most Member is to act as the Chairperson of AA until the date on which a new Chairperson, appointed in accordance with the provisions of the Act, enters upon his office. Sub-section (14) of Section 6 provides that when the Chairperson of AA is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member is to discharge the functions of the Chairperson of AA until the date on which the Chairperson resumes his duties. None of these contingencies authorise a single member from outside the field of law to function as the entire AA. Section 27 of PMLA relating to the composition of the Appellate Tribunal (prior to repeal by Finance Act, 2016) employed the exact same language as Section 6, and all matters were conducted by benches comprising the Chairperson with at least one member. The legislature could not have contemplated that different consequences should emerge from the same language used in the statute at different places. Section 6(5) must be read harmoniously with Section 27(5) (prior to repeal) and matters must be decided by Benches comprising the Chairperson with at least one Member. Since the Chairperson/Member alone, as a Single Member, is conducting the proceedings, the mandatory provisions of Section 6 stand totally violated. It is well-settled that if the person who made the order did not have the authority to do so, then such an order would not only be a nullity but, in such cases, the principles of estoppel, waiver, acquiescence and even res judicata would have absolutely no application. This analogy finds support in the judgment of the Hon'ble Supreme Court ***in Hasham Abbas Sayyad v. Usman Abbas Sayyad & Ors., AIR 2007 SC 1077***. In the matters before the AA, the ED is a contesting party/complainant and the ED is under the direct control of the Department of Revenue, Ministry of Finance. However, all administrative assistance to the AA also comes from the Ministry of Finance, which is in itself a litigant before the AA. This violates the basic principle that no man can be a judge in his own cause. The impugned PAO which has been passed in such a casual manner has resulted in the denting the reputation and goodwill of the petitioners in the hospitality industry and has succeeded to create an atmosphere of fear and uncertainty among the employees, guests and anyone in relation thereto. In such circumstances, the business of the petitioners is under distress, which in turn is a direct and unjustified violation of the petitioners' fundamental right to carry on business and trade under Article 19(1)(g) of the Constitution of India. The impugned PAO, will not only have an adverse impact on the petitioners' business and good will, (as the petitioner No.2 is actively considering the launch of an Initial Public Offering for listing on a stock exchange.), but also consequently cascade into a direct wider impact onto petitioner No. 1 and his other group concerns which have approximately 50 thousand employees engaged across different sectors. It is worthwhile to mention that the subject hotel is a leading name in the hospitality industry in North Goa, having international recognition among foreign tourists, thereby facilitating the culture and hospitality of Goa to have a global outreach. Therefore, it is humbly submitted that in the case having such far reaching ramifications, respondent No. 2 ought not to have passed the impugned PAO in such a casual and lackluster manner which could lead the petitioner No.2 company to a civil death.

16. Mr. Bhandari further submits that even if there is an alternate remedy available to the petitioner, this Hon'ble Court can exercise its writ jurisdiction when the order under challenge has been passed wholly without jurisdiction as has been held by the Apex Court in ***Whirlpool Corpn. v. Registrar of Trade Marks*** {(1998) 8 SCC 1}.

17. Mr. Bhandari submits that the ***Vijay Madanlal Choudhary*** (supra) is a seminal case with respect to PMLA cases. He refers to paragraph 164 of the judgment wherein the Apex Court has observed that before the expiry of the statutory period relating to the provisional attachment order, the Director or any other officer not below the rank of Deputy Director immediately after attachment under sub-section (1) is obliged to forward a copy of the PAO to the three-member adjudicating authority (appointed under Section 6(1) of the PMLA Act, headed by amongst other persons qualified for appointment as District Judge in a sealed envelope under Section 5(2) which is required to be retained by the AA for the period as prescribed under the rules framed in that regard. This ensures the fairness in the action as also accountability of the authority passing provisional attachment order. He further places reliance on paragraph 193 of the said judgment wherein the Apex Court has observed that the reasons recorded alongwith the material is required to be forwarded to the three-member AA (appointed under Section 6 of the Act headed by a person qualified for appointment as District Judge) in a sealed cover to be preserved for specified period, thus guaranteeing fairness, transparency and accountability regarding the entire process of search and seizure. This is unlike the provision in the Cr.P.C. where any police officer including the Head Constable can proceed to search and seize records or property merely on the basis of allegations or suspicion of commission of a scheduled offence. Further placing reliance on the decision of the Apex Court in ***Madras Bar Assn. v. Union of India*** {(2026) 2 SCC 1}, he submits that the Apex Court has observed ata paragraphs 34, 35 and 8 that a quasi judicial authority must be prescribed by a judicial member and inclusion of Technical Members are only justified when specialised expertise is essential.

18. Mr. Bhandari next submits that the Hon'ble Supreme Court has stayed orders where the Hon'ble High Courts have refused to interfere with the show cause notice issued by a Single Member of the AA. In ***Tushar Bansal & Others v. Adjudicating Authority and others*** {SLP (C) 5066/2026}, the Apex Court has stayed the order of the Delhi High Court in ***Naresh Bansal v. Adjudicating Authority*** {WP(C) No. 11361/2015} wherein the High Court had refused to interfere with the show cause notice issued by a Single Member of the AA. Similarly, in ***Samridh Surekha & Others v. Union of India*** {SLP(C) No. 5308/2026}, the Apex Court has stayed the order passed by the Calcutta High Court in ***Samridh Surekha & Others v. Union of India*** {WPA No. 1387/2026}, wherein also the Calcutta High Court refused to interfere with the show cause notice issued by the Single Member of the AA. Mr. Bhandari further submits that pursuant to the orders of the Hon'ble Apex Court, various High Courts have followed the suit with reference to the issue of *coram non judice*. Recently, the Calcutta High Court, vide order dated 29.06.2026, in ***Jaya Damani & Others v. Union of India & Others*** {WPA No. 13739/2026}, has directed the AA to maintain status quo in view of the order of the Apex Court. It is also submitted that the respondent/ED itself concedes that the recorurse taken by the Apex Court in the matter of ***Samridh Surekha*** (supra) is the correct course, as would be evident from their reply at paragraph 71. As such, this petition deserves to be allowed.

19. Ms. Annapurna Tiwari, learned counsel for the respondent/Union of India submits that in the present petition, the respondent No. 2/ED would be the contesting party and as such she has no say in this matter.

20. On the other hand, Mr. Zoheb Hossain, learned counsel for the respondent-ED submits that the writ petition is wholly misconceived, premature and not maintainable. It seeks to bypass a complete statutory adjudication which the PMLA has expressly provided, and it invites this Hon'ble Court to decide, in summary writ jurisdiction and on affidavit, the very questions of fact which Parliament has entrusted to the AA under Section 8 and, thereafter, to the Appellate Tribunal under Section 26 and to this Hon'ble Court on appeal under Section 42. He submits that firstly, this petition is not maintainable before this Hon'ble Court in view of the law laid down by the Apex court in ***Asama Mohammed Farooq & Another v. Union of India & Others*** {SLP(C) No. 32941/2018} wherein the Apex Court agreed with the judgment passed by the Delhi High Court in ***WPC No. 12494/2018*** on 05.12.2018 which is in respect to *forum conveniens* and the petitioner therein was directed to approach the High Court of Bombay. According to Mr. Hossain, the petitioners herein ought to have approached the Delhi High Court.

21. According to Mr. Hossain, FIR No. 04/2024 dated 17.01.2024 was registered at EOW/ACB, Raipur under Sections 120B, 420, 467, 468 and 471 of the IPC and Sections 7 and 12 of the PC Act. Those are offences specified in paragraphs 1 and 8 of Part A of the Schedule to the PMLA and are therefore scheduled offences within Section 2(1)(y). ECIR No. RPZO/04/2024 was accordingly recorded on 11.04.2024. The predicate agency has filed its charge sheet dated 29.06.2024 and supplementary charge sheets dated 26.09.2024, 17.11.2024, 27.06.2025, 30.06.2025, 24.08.2025, 24.11.2025 and 07.04.2026. This Directorate has filed prosecution complaints dated 19.06.2024, 30.08.2024, 05.10.2024, 12.03.2025, 15.09.2025, 26.12.2025 and 29.05.2026 before the Hon'ble Special Court (PMLA), Raipur, of which cognizance has not been taken yet. The criminal syndicate led by Anwar Dhebar and Anil Tuteja, operating through Arun Pati Tripathi as Managing Director of CSMCL, generated proceeds of crime quantified by the predicate agency at Rs. 2883,19,99,622/- through four mechanisms. Part A, being illegal commission on the accounted sale of country liquor by artificially inflating CSMCL's procurement price, yielded Rs.319,32,67,275/-. Part B, being the clandestine manufacture and sale of unaccounted country liquor through State run outlets using duplicate holograms, yielded Rs. 2174,67,36,000/-. Part C, being annual cartel commission from distillers, yielded Rs. 52,00,00,000/-. The FL-10A mechanism yielded Rs. 88,69,25,305/- and Rs. 248,50,71,042/-. Laxmi Narayan Bansal @ Pappu Bansal was the principal cash handler and distributor of the political share of the proceeds, receiving cash from Anwar Dhebar through Dipen Chawda and redistributing it as directed by Chaitanya Baghel. In his statements under Section 50 dated 06.06.2025, 07.06.2025, 08.06.2025, 02.07.2025 and 16.07.2025 he admitted having handled in excess of Rs.1000 Crores of liquor scam cash, and verified himself as the “Pappu Ji” appearing in the records recovered from Anwar Dhebar’s mobile phone, acknowledging receipt of Rs.136 Crores reflected therein. This is not a solitary uncorroborated statement. It is supported by contemporaneous digital evidence: the handwritten calculation sheet photographed on 03.10.2019 at 5:54:03 and stored as “20191003_155404.jpg” in the Samsung Galaxy S10 (IMEI 357227160385439) of Anwar Dhebar, seized in Income Tax search proceedings, which records for the single month of September 2019 a total collection of Rs. 46,41,73,600/- (Part B Rs. 24,93,69,600/- plus Part A Rs. 11,16,04,000/- plus carried forward balance and other collections) and, in the outgoings, a payment to “PAPPU JI”. The identity of “Pappu Ji” as Laxmi Narayan Bansal has been independently confirmed by Nitesh Purohit (statement dated 30.03.2023) and the distribution mechanism by Arvind Singh (statement dated 29.04.2023). The record so recovered attracts the presumption under Section 22 of the Act. In his statement dated 02.07.2025 Laxmi Narayan Bansal specifically disclosed that he personally paid Rs. 40,00,00,000/- in cash during 2019, out of liquor scam proceeds, to Vijay Kumar Agrawal of 70G, Deepak Nagar, Durg. He further disclosed knowledge of a further

Rs. 70,00,00,000/- having been delivered to the same recipient through a close confidant of Chaitanya Baghel, and that the funds were being utilised for the purchase of a hotel property in Goa by the family of Vijay Agrawal. The second channel has since been established by direct, independent, eyewitness evidence. Probir Kumar Sharma, a resident of Bhilai-3, Durg and a childhood friend of Chaitanya Baghel, stated under Section 50 on 10.12.2025 that at the personal direction of Chaitanya Baghel he personally carried Rs. 70,00,00,000/- in cash from Pappu Bansal to Vijay Kumar Agrawal in multiple trips, transporting 8 to 10 bags of cash per trip, that Vijay Kumar Agrawal used to arrive at the delivery point in a black car, and, significantly, that he also carried interest payments back from Vijay Kumar Agrawal to Pappu Bansal on 2 to 3 occasions. The last of these facts is of considerable importance: it demonstrates not an isolated or accidental receipt but a continuing, serviced financial arrangement in respect of the very corpus, which the recipient was deploying and upon which he was paying a return. The total proceeds of crime shown to have been received by Vijay Kumar Agrawal is thus Rs.110,00,00,000/-. On 15.07.2025 search proceedings under Section 17 were conducted at the residential premises of Vijay Kumar Agrawal at Durg and cash of Rs.66,11,000/- was seized. His claim, recorded the same day, that the cash represented daily sales of his Hotel Sagar International was falsified on that very day by the statement of his own Manager, Vijay Swain, who deposed that the monthly income of that hotel is approximately Rs. 20 lakh, of which only about Rs. 1 lakh is received in cash and even that is deposited into bank accounts. In his subsequent statements dated 16.07.2025, 21.07.2025, 24.07.2025, 28.07.2025 and 01.08.2025 he furnished no credible explanation of the source of that cash or of his capacity to be associated with an asset of the scale in question.

22. Hotel Westin Goa, standing on land bearing Survey No. 204/1, Village Anjuna, Taluka Bardez, District North Goa, was acquired by M/s Pacifica Hotels (Ahmedabad Project) Private Limited *(now M/s Pacifica Hotels India Private Limited, CIN: U45101DL2006PTC424760*) from M/s Sir Biotech India Ltd., through its Director Yuvraj Dalmia, by a sale deed registered in October 2019 before the Sub-Registrar of Assurances, North Goa, for a documented consideration of Rs.50 Crores. In his statement recorded under Section 50 on 29.07.2025, petitioner No.1 categorically and unambiguously admitted that he personally delivered Rs.60 Crores in cash, in multiple tranches, at his residence at House No. 53, Friends Colony East, New Delhi, to persons deputed by M/s Sir Biotech India Ltd. at the direction of Yuvraj Dalmia. That admission is corroborated from three independent directions: namely (i) Sameer Biyani (statement under Section 50 dated 23.07.2025) deposed that he and Vishal Saxena collected Rs. 60 Crores in cash from petitioner No. 1 at New Friends Colony, Delhi, in 8 to 10 installments, as directed by Yuvraj Dalmia. His account matches the payer, the payees, the place, the quantum and the mode. (ii) Vishal Saxena (statement under Section 17 dated 15.07.2025) confirmed payment of Rs.50 Crores through banking channels and an additional Rs.60 Crores in cash by petitioner No. 1. (iii) The Income Tax Department Appraisal Report dated 10.10.2019, which records that the total project value was Rs.214 Crores, that the cash component was Rs.118.25 Crores, and that Rs. 60 Crores of it was admitted by *both* parties to the transaction, the total unaccounted income detected being Rs. 2,41,60,80,931/-. The payment of Rs. 60 crore in cash is therefore not in dispute at all. petitioner No. 1 does not deny it; he cannot deny it.

The whole of his case is directed to the source of that cash. That being so, the repeated assertion that the impugned order rests upon “conjecture”, “surmise” and “no material whatsoever” is untenable on the face of the record. Vishal Saxena, the very person who physically received the tainted cash on behalf of the vendor in 2019, was subsequently inducted as a Director of the purchaser company, M/s Pacifica Hotels India Private Limited, on 21.11.2023. That is a classic marker of the third stage of money laundering, namely integration, as explained by the Hon’ble Supreme Court in ***Vijay Madanlal Choudhary*** (supra).

23. The declared annual income of petitioner No. 1 is approximately Rs.2.06 crore. The admitted cash component of Rs.60 Crores alone represents roughly thirty years, and the total consideration of Rs.110 Crores roughly fifty five years, of his entire declared income before tax and living expenses. The group entities are audited by Grant Thornton, are subject to a transaction audit by Deloitte and operate on an SAP platform with inbuilt controls over revenue, expenses, cash and banking. No mechanism has been identified, and none exists, by which Rs. 60 Crores of off-book cash could have been accumulated within those systems without detection. The attachment is precisely quantified and limited by the Directorate itself. Of the Rs.110,00,00,000/- of PoC shown to have been delivered to Vijay Kumar Agrawal, Rs.60,00,00,000/- has been traced into the subject property as the undisclosed cash component of the purchase consideration and is attached as direct proceeds of crime under the first limb of Section 2(1)(u). The balance Rs. 50,00,00,000/- of proceeds of crime has not been found, despite investigation and search, in any identifiable or separately attachable form in the hands of the recipient or his family; the registered component of Rs. 50,00,00,000/- of the same purchase consideration has accordingly been attached under the second limb of Section 2(1)(u), namely "*the value of any such property*". Hotel Westin Goa being a single, physically indivisible asset, the property has been attached in its entirety, the attachment being expressly confined in value to Rs.110,00,00,000/-. It is significant that the Directorate has deliberately restricted the scope of the attachment to the purchase consideration of Rs. 110 Crores, and has not sought to attach on the higher figures of Rs. 214 Crores (project value) or Rs. 118.25 Crores (total cash component) recorded by the Income Tax Department, or the Rs. 241.60 Crores of unaccounted income detected. That restraint is the answer to the petitioners' complaint of overreach, not evidence of it. The competence of the ED to attach property of equivalent value where the proceeds of crime *per se* are untraceable or unavailable is settled in the judgments viz. ***Deputy Director, Directorate of Enforcement, Delhi v. Axis Bank***, {2019 SCC OnLine Del 7854} (Division Bench), and ***B. Rama Raju v. Union of India*** {2011 SCC OnLine AP 152}, the latter being a decision on which the petitioners themselves rely.

24. Mr. Hossain further submits that the impugned PAO No. 15 of 2026 dated 28.05.2026 is, by the very terms of Section 5(1) of the Act, a provisional measure operating for a period not exceeding 180 days unless confirmed. The Act then provides a complete and graded machinery for testing every single contention urged before this Hon'ble Court. (i) Section 5(5) requires that the attaching officer must, within thirty days, file a complaint before the Adjudicating Authority. This has been done: Original Complaint No. 472 of 2026. (ii) Section 8(1) requires the Adjudicating Authority to issue a show cause notice calling upon the noticee to indicate the sources of his income, earning or assets out of which he has acquired the property attached. The petitioners have received that notice. (iii) Section 8(2) requires the Adjudicating Authority to consider the reply, hear the aggrieved person, take into account all relevant materials placed on record, and only then record a finding. That is a full adjudication upon evidence: the petitioners are entitled to file documents, lead evidence and be heard. (iv) Section 8(3) provides that the attachment lapses unless confirmed by a reasoned order; if the Authority is not satisfied, the property stands released. (v) Section 26 provides a full statutory appeal to the Appellate Tribunal on facts and law, and Section 42 provides an appeal to this Hon'ble Court.

25. Mr. Hossain submits that every ground urged in the petition is a ground which the AA is statutorily bound to consider under Section 8(2) upon evidence. That is true of the alleged absence of proceeds of crime, of the alleged absence of a money trail, of the effect of the income tax orders, of the alleged inadequacy of the reasons to believe, of the Memorandum of Family Settlement, of the resignation of Vijay Kumar Agrawal, and of the discharge of the burden under Sections 23 and 24. Not one of them requires, or is capable of, summary determination under Article 226. It is respectfully submitted that where a statute creates a complete machinery for obtaining relief, the writ jurisdiction ought not to be exercised so as to bypass it. In ***Vijay Madanlal Choudhary*** *(supra)* the Hon'ble Supreme Court upheld Sections 5, 8, 17, 18, 19, 23 and 24 precisely on the footing that the Act contains adequate inbuilt safeguards and a graded remedial structure. The petition is premature and as such, no irreversible civil consequence has visited the petitioners. An order under Section 5 neither divests title, nor transfers ownership, nor dispossesses. Possession of attached immovable property may be taken only after confirmation under Section 8(3), and even then, as held in ***Vijay Madanlal Choudhary*** (supra), the taking of possession under Section 8(4) "should be an exception and not a rule", to be considered case to case. It is a matter of record that Hotel Westin Goa continues to be operated, occupied, staffed and commercially exploited by petitioner No. 2 under its operational and management arrangement. Not a single room has been closed, not a single employee has been displaced, and not one rupee of revenue has been diverted to respondent No. 2. The pleas of "civil death", of injury to 50,000 employees and two lakh dependents, and of prejudice to a contemplated Initial Public Offering are therefore rhetorical and, in law, irrelevant to whether the property answers the description in Section 2(1)(u). It is well settled that the writ jurisdiction is not ordinarily exercised at the stage of a show cause notice or a provisional order which is itself the subject of a pending statutory adjudication. In suport of his contentions, he places reliance on the judgments rendered in ***Union of India v. Kunisetty Satyanarayana***, {(2006) 12 SCC 28}; ***Special Director v. Mohd. Ghulam Ghouse***, {(2004) 3 SCC 440}; ***Union of India v. Vicco Laboratories***, {(2007) 13 SCC 270}; ***and Malladi Drugs & Pharmaceuticals Ltd. v. Union of India***, {(2020) 12 SCC 808}. On merits, ***Whirlpool*** (supra) recognises three exceptions to the rule of alternative remedy. They are the enforcement of fundamental rights, the violation of the principles of natural justice, and an order wholly without jurisdiction or a challenge to the vires of a statute. None is attracted here. There is no violation of natural justice: the whole of Section 8 is a hearing, and the petitioners stand noticed. There is no challenge to vires. And the impugned order is not "wholly without jurisdiction": it has been passed by an officer duly authorised under Section 5(1) read with the authorisation dated 07.02.2007, in an ECIR validly recorded on

11.04.2024, in relation to offences squarely falling within Paragraphs 1 and 8 of Part A of the Schedule, after the condition in the first proviso stood satisfied by the charge sheet dated 07.04.2026, and upon reasons recorded in writing in the body of the order itself. The petitioners mischaracterise a question of merits as a “jurisdictional fact”.

26. The entire architecture of the petition rests on the proposition that the existence of PoC is a jurisdictional fact whose objective existence a writ court must itself determine. That proposition misreads Section 5(1). The provision does not condition the power upon the prior proof of proceeds of crime; it conditions it upon the authorised officer having “reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession”. The jurisdictional fact is therefore the existence of relevant material bearing a live and rational link to the belief recorded. Whether that material ultimately establishes that the property is proceeds of crime is the very issue remitted by Parliament to the Adjudicating Authority. It is settled that while the existence of the circumstances forming the basis of a statutory satisfaction is justiciable, the *sufficiency or adequacy* of those circumstances is not: ***Barium Chemicals Ltd. v. Company Law Board,*** {AIR 1967 SC 295}; ***Rohtas Industries Ltd. v. S.D. Agarwal***, {(1969) 1 SCC 325}; and ***Income Tax Officer v. Lakhmani Mewal Das,*** {(1976) 3 SCC 757}, which is the very decision on which the petitioners themselves rely through ***Bhanuben*** *(supra)*. In the present case, the enquiry ends before it begins, because petitioner No. 1 has himself admitted, in his statement recorded under Section 50 on 29.07.2025, that he personally handed over Rs. 60,00,00,000/- in cash in 8 to 10 installments at his residence. In the face of that admission, it is simply not open to contend that there was “no material whatsoever” before the authorised officer. Further, this petition raises disputed questions of fact requiring evidence, documents and testing: whether Rs.60 Crores in cash came from the petitioners' railway catering receipts or from liquor scam proceeds delivered to Vijay Kumar Agrawal; whether the Memorandum of Family Settlement dated 01.05.2019 was genuine and was acted upon; whether the deletion of an income tax addition speaks at all to the criminal origin of funds; and whether the petitioners have discharged the burden cast by Section 24. Article 226 is not the forum for their trial.

27. Mr. Hossain submits that the grievance regarding the constitution of the AA cannot be agitated against respondent No. 2. The composition of the AA is determined by the Central Government in exercise of the power conferred by Section 6. Respondent No. 2 is a litigant before that authority; it is neither the appointing authority nor competent to answer a grievance about its constitution. That grievance is, moreover, entirely severable: even if it were to succeed, it could at the highest affect the further conduct of the Section 8 proceedings; it could not retrospectively invalidate the executive act of provisional attachment performed by an authorised officer under Section 5(1), which is anterior to and wholly independent of the Authority's composition. The petitioners have not approached this Hon'ble Court with clean hands. The petitioners have annexed their statements as Annexure P/13, yet have failed to disclose in the body of the petition their admission dated 29.07.2025 regarding personal delivery of Rs.60 crore in cash in 8 to 10 installments. Such selective disclosure of a material admission amounts to suppression of a relevant fact. The petitioners have deliberately chosen not to annex the prosecution complaints and charge-sheets on the ground of "bulkiness", while simultaneously relying extensively upon the contents, omissions and alleged deficiencies of those very documents. The petitioners cannot rely upon documents selectively while withholding the documents themselves from the record. Petitioner No. 1 sought to explain the Rs.60 Crores in cash as having been generated from his railway catering business. This explanation, however, stands contradicted by his own depositions dated 16.07.2025 and 30.07.2025, wherein he stated that cash generated from the mail/express catering business is collected by Axis Bank CNA agencies from the respective yards and directly credited into the companies' current accounts through the Cash Management System, while the revenue from Rajdhani, Shatabdi and Duronto services is embedded in the ticket fare and received entirely through banking channels. Thus, on his own showing, the business generates no unaccounted or off-book cash. Having advanced an explanation which is directly inconsistent with his own sworn statements, petitioner No. 1 cannot seek discretionary relief under Article 226 of the Constitution.

28. Mr. Hossain further submits that the petitioners' principal submission that there is no banking trail, documentary record or recovery evidencing the movement of funds from Vijay Kumar Agrawal to petitioner No. 1 proceeds on a fallacy. The allegation is of cash movement, physically in bags and outside the banking system. Absence of a banking trail is therefore inherent in the very manner of the alleged transaction. In any event, the impugned order rests not on numerical coincidence but on a chain of admissions and independently corroborated circumstances: (i) generation of proceeds of crime quantified at Rs. 2883.20 Crores; (ii) Laxmi Narayan Bansal's admission of handling over Rs.1000 Crores, corroborated by digital records from Anwar Dhebar's phone and statements of Nitesh Purohit and Arvind Singh; (iii) his disclosure of Rs.40 Crores paid to a named recipient at a specified address and time; (iv) Probir Kumar Sharma's eyewitness account of further Rs. 70 Crores being transported in bags on multiple occasions, including reverse carriage of interest payments; (v) seizure of Rs. 66,11,000/- in cash from the recipient and falsity of his explanation; (vi) disclosure that the funds were intended for purchase of a hotel in Goa; (vii) petitioner No. 1's admitted payment of Rs. 60 Crores in cash for such a hotel in the same year; (viii) corroboration by the cash recipients and the ITD; and (ix) subsequent induction of the vendor's cash collector onto the purchaser's board. Thus, the identity of quantum, period and counter parties constitutes corroborative circumstances forming part of the evidentiary chain, and not the sole basis of the finding. In money-laundering cases, direct evidence is rarely available; the offence, being committed clandestinely and with deliberate design, is ordinarily established through a chain of circumstances.

29. Both sides accept that Rs. 60 crore was paid. The CIT(A) and ITAT only held that the assessees had sufficient cash balances in their books to explain the investment for income-tax purposes. They did not determine whether the particular cash paid was derived from criminal activity or related to a scheduled offence. The enquiry under Sections 68, 69 and 69C of the IT Act concerns whether an investment or expenditure is unexplained. A sufficient book balance satisfies that fiscal test; it does not establish the identity or lawful provenance of the actual cash paid. As the petitioners themselves raise the possibility of substitution of legitimate cash by tainted funds, the burden under Section 24 of the PMLA lies upon them to disprove such substitution before the AA. The issue of criminal provenance was never before the income-tax authorities. The CIT(A) decided the matter on 22.12.2022, whereas the FIR and ECIR were registered only in 2024 and the material statements relied upon by the Directorate were recorded in 2025. The income-tax findings therefore could not have adjudicated material that did not then exist. The ITA and the PMLA operate in different fields and apply different tests. An income-tax finding that cash is adequately explained for taxation purposes does not establish that the same cash is not proceeds of crime. Section 71 of the PMLA gives the Act overriding effect. There is no *res judicata* or issue estoppel. The ED was neither a party to the income-tax proceedings nor heard therein, and had no opportunity to place the subsequently gathered material. The parties, causes of action, statutory requirements and reliefs are distinct.

30. The income tax orders cannot secure the release of the subject property, even if they are accepted in their entirety and at their highest. They speak, at most, to the character of the Rs. 60,00,00,000/- cash component, which is attached as *direct* proceeds of crime. They say nothing whatever about the Rs. 110,00,00,000/- of proceeds of crime which was delivered to Vijay Kumar Agrawal in that very year through two independently established channels, and of which Rs.50,00,00,000/- remains untraced. That corpus was unknown to the income tax authorities, was not before them, and was incapable of being adjudicated by them. So long as it remains untraced and unavailable, the subject property is liable to attachment under the “value of any such property” limb of Section 2(1)(u) irrespective of the source of the cash component. The attachment therefore stands upon an independent footing which the orders relied upon do not touch.

31. So far as the submission with regard to *coram non judice* raised by the petitioners, Mr. Hossain submits that the statutory scheme itself contemplates the exercise of jurisdiction by a Bench of fewer than three members. Section 6(5)(b) provides that a Bench may be constituted by the Chairperson "with one or two Members", and Sections 6(13) and 6(14) provide for the senior most Member to act as Chairperson upon a vacancy or upon the Chairperson's inability to act. The petitioners' reading, which would require the physical presence of a Chairperson and two Members for every act, would render the Authority incapable of functioning upon any vacancy. That is a construction Parliament cannot have intended. A Division Bench of the Hon'ble Delhi High Court in ***J. Sekar v. Union of India***, {2018 SCC OnLine Del 6523}, upheld the functioning of the AA through a Single Member Bench, and the petitioners themselves concede that holding. Further, this Hon'ble Court, in ***Mr. Sourabh v. Directorate of Enforcement*** and other connected matters, {MA No. 34 of 2025, decided on 23.07.2025} and ***Tushar Sahu v. The Deputy Director Directorate of Enforcement*** and other connected matters {MA No. 21 of 2026, decided on 22.04.2026} placing reliance on the decision of the Madras High Court, in ***G.Gopalakrishnan v. Deputy Director*** {W.P.(MD) Nos. 11454} has in unequivocal terms held that even a single member Bench of the AA could adjudicate the disputes under PMLA. The Hon'ble Madras High Court has also clearly held that it is not mandatory that such Single Member Benches should comprise of Judicial members and even administrative members constituting Single Member Benches of the Tribunal would amount to sufficient compliance of the law. In ***Naresh Bansal*** (*supra*), the Hon'ble Delhi High Court, by its order dated 24.11.2025, refused to interfere with the notice issued by a Single Member. In ***Samridh Surekha & Others*** (*supra*) the Hon'ble Calcutta High Court, by its judgment dated 28.01.2026, likewise refused to interfere. Those are the only two considered decisions upon the point placed before this Hon'ble Court, and both are against the petitioners.

What the Hon'ble Supreme Court has done, by its orders dated 09.02.2026 and 09.03.2026, is to stay those judgments pending consideration. It is settled that an order staying the operation of a judgment does not efface it, does not amount to its reversal, and certainly does not convert a dismissal into an allowance: ***Shree Chamundi Mopeds Ltd. v. Church of South India Trust Association*** {(1992) 3 SCC 1}. For the same reason, the petitioners' assertion that ***J. Sekar*** (supra) "has been stayed", even if correct, leaves the reasoning of that Division Bench standing and creates no contrary declaration of law in the petitioners' favour. The order of the Hon'ble Supreme Court dated 09.03.2026 in ***Samridh Surekha & Ors v. Union of India;*** {SLP(C)/5308/2026} extracted by the petitioners themselves, in fact demonstrates the correct course. That order preserved the position by (i) requiring the petitioners therein to furnish an undertaking not to alienate the subject properties or create third party rights therein without the prior permission of the Court, and (ii) directing that status quo be maintained in respect of further proceedings before the AA. In other words, the Hon'ble Supreme Court kept the property secured while holding the adjudication in abeyance. It did not release the property, and it did not quash any attachment. At the very highest, therefore, the grievance now urged can support a deferral of the Section 8 proceedings; it cannot support the quashing of a provisional attachment order or a stay of its operation.

32. In ***Tushar Bansal*** (supra), the Hon'ble Apex Court has passed an *ex-parte* interim order merely staying the order passed by the Hon'ble Delhi High Court. It does not lay down any law at present. The interim orders of the Hon'ble Punjab and Haryana High Court in ***M/s TDI Infrastructure Ltd. and Anr. v. Union of India & Ors.;*** *CWP –*

17659-2026, CWP-19976-2025 and CWP-13294-2024 are, as the petitioners themselves state, orders restraining the AA from passing final orders. They are interim, they bind the Authority and not the Directorate, and they do not touch the validity of any provisional attachment order. The grievance is, in any event, wholly severable from the impugned order. The power under Section 5(1) is exercised by an authorised officer of the Directorate. Its valid exercise depends upon the authorisation, upon the recording of reasons and upon the existence of material. It does not depend in any manner upon the composition of the Authority before which the resulting complaint is subsequently laid. Even upon the petitioners' own case at its highest, the consequence would be that the Section 8 proceedings await a properly constituted Bench, and not that the attachment is void *ab initio*. The contention of the petitioners that the AA receives administrative assistance from the Ministry of Finance and that this offends the rule against a person being a judge in his own cause, is in substance a challenge to the constitutional validity of the statutory scheme itself. No such challenge has been pleaded, no relief in that behalf has been claimed, and the vires of Section 6 has already been considered and upheld. Mr. Hossain further submits that no interim relief could be granted in a petition which itself is not maintainable. In support of his contentions, he places reliance on the decision of the Apex Court in ***Bharat Coking Coal Ltd. v. Indian Newspaper Society*** {(2011) 14 SCC 140} and ***Directorate of Enforcement v. M/s. ZO Pvt. Ltd.*** {order dated 15.05.2026, SLP(C) No. 12671/2026} and further that any interim order which does not finally and conclusively decide an issue cannot be a precedent. In support thereof, he places reliance on the decision of the Apex Court in ***State of Assam v. Barak Upatyaka D.U.Karmachari Sanstha*** {(2009) 5 SCC

694}. So far as the nature of the proceedings before the AA is concerned, Mr. Hossain submits that they are civil in nature and do not decide on the criminality of the offence and it does not have any power to levy penalty or impose punishment. He places reliance on the decision of the Apex Court in ***Pareena Swarup v. Union of India*** {(2008) 14 SC 107}.

33. It is next contended that the attachment powers under Section 5 read with Section 8 of the PMLA are emergency measures to preserve the PoC and prevent frustration of proceedings. In this regard, he places reliance on the decision rendered in ***Vijay Madanlal*** (supra). So far as the contention of the petitioners that in absence of full strength of the AA, the proceedings are vitiated, Mr. Hossain submits that the High Courts across the country have held that for the purpose whether the PAO should be confirmed or not, even a Single Member of the AA without a judicial member is competent to pass an order of confirmation. In this regard, he places reliance on the judgment rendered by the Calcutta High Court in ***R.P.Infosystems Ltd. v. ED {(2023) 1 HCC (Cal) 153},*** judgment rendered by the Telangana High Court in ***ED v. Karvy India Realty Ltd. {2024 SCC OnLine TS 18}***, judgment of the Madras High Court in ***Pay Perform India Pvt. Ltd. v. Union of India & Others*** {WP No. 12925/2023, decided on 31.01.2024}, judgment of the Karnataka High Court in ***Dyani Antony Paul v. Union of India*** {2020 SCC OnLine Kar 4995}, judgments of Delhi High Court in ***Gold Croft Properties Pvt. Ltd. v. Directorate of Enforcement {2023 SCC OnLine Del 5900}, Alaknanda Reltors Pvt. Ltd. & Others v. Deputy Director, Directorate of Enforcement*** {2022 SCC OnLine Del 5014} and ***Poonam Gupta v. Union of India & Others*** {WPC 552/2026}. Lastly, Mr. Hossain submits that even if the petitioners have made declaration in the income tax return and paid taxes as per law, it does not extricate him from disclosing the source of its receipt. No provision in the taxation laws grants immunity to the appellant from prosecution for an offence of money laundering. In this regard, he places reliance on the decisions of the Apex Court in ***Rohit Tandon v. Directorate of Enforcement*** {(2018) 11 SCC 46}, ***Puneet Sabharwal v. CBI*** (2024) 20 SCC 269 and a judgment of the Gujarat High Court in ***Maheshdan Prabhudan Langa v. State of Gujarat*** {Criminal Misc. Application 7538/2025}.

34. Mr. Bhandari, in response to the argument with regard to *forum non conveniens,* submits that the Delhi High Court, in ***Aasma Mohammed Farooq & Another*** (supra), vide its order dated 05.12.2018 itself has, at paragraph 12, agreed with the conclusion of the learned Single Judge in the case of ***Rashmi Cement Ltd. v. ED*** {WP(Crl.) No. 2170/2017, dated 30.08.2017} and the judgment in ***Rashmi Cement Ltd. (supra),*** takes note of a Five Judge decision in ***Sterling Agro Industries Ltd. v. Union of India*** {ILR (2011 VI Delhi 729}. He next submits that Section 42 of the PMLA is in respect of appeal against the order passed by the Appellate Tribunal. In ***Rashmi Cement***, the FIR and the case registered by the ED against the petitioner therein was in Calcutta and as such, the Delhi High Court asked the petitioner to approach the Calcutta High Court. In the present case, the trial of the ED is in the jurisdiction of the Chhattisgarh High Court and as such, this petition is maintainable before this Court, though the property which has been sought to be attached, is located in Goa. The predicate offence is alleged to have been committed in Chhattisgarh.

35. At the outset, it would be appropriate to notice the nature and scope of the present proceedings. The petitioners have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for quashing the PAO dated 28.05.2026 passed by the authorised officer of the ED under Section 5(1) of the PMLA. The impugned order has attached Hotel Westin, Goa, treating the same as property involved in money-laundering, to the extent of Rs.110 Crores, comprising Rs.60 Crores as the alleged direct PoC and Rs.50 Crores as the value of the remaining proceeds of crime.

36. The first and foremost question which arises for consideration is as to whether the present petition ought to be entertained at this stage, when a complete statutory mechanism for adjudication of the provisional attachment has already been set in motion. Section 5(1) of the PMLA enables the authorised officer, where he has reason to believe, on the basis of material in his possession and for reasons recorded in writing, that a person is in possession of proceeds of crime and that such proceeds are likely to be concealed, transferred or dealt with in a manner which may frustrate proceedings relating to confiscation, to provisionally attach such property. The attachment is, by its very nature, provisional and is subject to the statutory adjudicatory process under Section 8 of the PMLA. The scheme of the Act thereafter requires the authorised officer to file a complaint before the AA within the prescribed period. Upon receipt of such complaint, the AA is required to issue notice under Section 8(1), afford an opportunity to the person concerned to indicate the sources of income, earnings or assets out of which the property was acquired and thereafter, after considering the reply and hearing the concerned persons, determine whether the property is involved in money-laundering. An order of confirmation is itself appealable before the Appellate Tribunal under Section 26 and thereafter, before the High Court under Section 42. According to the respondent/ED and further the record discloses that Original Complaint No.472 of 2026 has already been filed before the AA under Section 5(5) of the PMLA. Thus, the statutory adjudicatory process has commenced.

37. It is trite that existence of an alternative statutory remedy is not an absolute bar to the exercise of jurisdiction under Article 226. However, it is equally well settled that where a statute provides an efficacious and comprehensive mechanism for adjudication of the very questions sought to be raised in a writ petition, the High Court ordinarily ought not to short-circuit such statutory proceedings, particularly when the challenge involves disputed questions of fact requiring appreciation of evidence. The exceptions recognised in ***Whirlpool Corporation*** *(supra)* namely, enforcement of fundamental rights, violation of principles of natural justice, proceedings wholly without jurisdiction, or challenge to the vires of a statute, do not appear to be attracted in the present case. There is no allegation that the petitioners have been denied an opportunity of hearing before the AA. There is no challenge to the vires of any provision of the PMLA. The impugned order has been passed by the authorised officer under Section 5(1) in an ECIR registered pursuant to a scheduled offence and after the statutory condition contemplated under the Act had arisen. What is essentially challenged is the sufficiency, correctness and probative value of the material relied upon by the authorised officer. Such a challenge cannot, in the facts of the present case, be equated with a challenge to the jurisdiction of the authority.

38. The submission of learned Senior Counsel for the petitioners that the very existence of proceeds of crime constitutes a “jurisdictional fact” which this Court must itself conclusively determine at the stage of

Section 5(1) proceedings, cannot be accepted in the broad form in which it has been urged. The statutory requirement under Section 5(1) is that the authorised officer must have “reason to believe”, such reason being based upon material in his possession and recorded in writing. The validity of such satisfaction is certainly amenable to judicial review. The Court can examine whether there was relevant material before the authorised officer, whether the statutory conditions were considered, and whether the reasons recorded have a rational nexus with the material relied upon. But the Court, while exercising writ jurisdiction, is not required to undertake a mini-trial for determining whether the material would ultimately establish the allegation of money-laundering.

39. The distinction between existence of relevant material and sufficiency of such material is well recognised. Judicial review examines the legality of the decision-making process and not the sufficiency of evidence as if the Court were sitting in appeal over the provisional attachment order. In the present case, it cannot possibly be said that there was no material whatsoever before the authorised officer. The impugned order refers, inter alia, to the statements of Laxmi Narayan Bansal, Probir Kumar Sharma, Sameer Biyani and Vishal Saxena; the IT Department's appraisal material; the admitted payment of Rs.60 Crores in cash towards acquisition of the Hotel; the registered consideration of Rs.50 Crores; the alleged delivery of Rs.110 Crores to Vijay Kumar Agrawal; the circumstances surrounding the acquisition of the Hotel; and other material collected during investigation. Most significantly, the respondent/ED has placed before this Court the statement of petitioner No.1 recorded under Section 50 of the PMLA on 29.07.2025, wherein, according to the respondent, petitioner No.1 admitted having personally delivered Rs.60 Crores in cash in multiple instalments at his residence to persons deputed by the vendor. The respondent has further relied upon the statement of Sameer Biyani dated 23.07.2025, stating that he and Vishal Saxena collected Rs.60 Crores in cash from petitioner No.1 in eight to ten instalments. The statement of Vishal Saxena is also relied upon to corroborate payment of Rs.50 Crores through banking channels and Rs.60 Crores in cash. Whether these statements are truthful, whether they are corroborated sufficiently, whether they are capable of being relied upon, and what evidentiary value they ultimately possess are matters which fall within the domain of the statutory adjudication. At this stage, their existence as material before the authorised officer cannot be disputed.

40. The contention of the petitioners that the impugned order rests merely upon the numerical coincidence between the alleged Rs.110 Crores of proceeds of crime and the Rs.110 Crores comprising the registered consideration and cash component of the Hotel, also cannot be accepted at this stage. The respondent's case, as projected before us, is not founded upon numerical coincidence alone. It is founded upon a chain of circumstances. According to the respondent, Laxmi Narayan Bansal disclosed payment of Rs.40 Crores to Vijay Kumar Agrawal and further disclosed another Rs.70 Crores having been delivered through Probir Kumar Sharma. The latter, in his statement under Section 50, allegedly gave an account of physically transporting the cash in several trips to Vijay Kumar Agrawal. The respondent has further relied upon the subsequent evidence relating to the acquisition of the Hotel and the admitted payment of Rs.60 Crores in cash by petitioner No.1. Whether this chain ultimately establishes the requisite nexus between the proceeds of crime and the property is a matter for adjudication under Section 8. But it cannot be said that the reasons recorded are based on mathematical coincidence alone.

41. The petitioners have placed considerable reliance upon the orders passed by the Income Tax authorities. The petitioners contend that the initial assessment order dated 28.09.2021 treated Rs.60 Crores as unaccounted business income, but the CIT(A), by order dated 22.12.2022, deleted the addition, and the said finding was subsequently upheld by the ITAT. According to the petitioners, once the Income Tax authorities have accepted the source of the cash, the Enforcement Directorate cannot subsequently treat the same amount as proceeds of crime. We are unable to accept the proposition in the absolute terms in which it has been advanced. The Income Tax proceedings and proceedings under the PMLA operate in different statutory fields. The question before the Income Tax authorities was whether the investment/expenditure or cash component was liable to be treated as unexplained for the purposes of the Income Tax Act. The issue before the authorities under the PMLA is whether the property is derived or obtained, directly or indirectly, from criminal activity relating to a scheduled offence and whether the statutory conditions for attachment are satisfied. The fact that a particular amount has been accepted for income-tax purposes does not, by itself, create an immunity against an inquiry under the PMLA concerning the criminal provenance of the property. The statutory tests, causes of action, material and consequences under the two enactments are materially different. The subsequent material relied upon by the ED, including statements recorded during 2025, was admittedly not before the Income Tax authorities when the relevant orders were passed. Therefore, the Income Tax orders cannot operate as an adjudication of the subsequent allegations concerning proceeds of crime. There is, therefore, no question of the ED being bound by an adjudication which never examined whether the cash in question represented proceeds of crime arising from a scheduled offence. The argument that no money trail has been established from Vijay Kumar Agrawal to petitioner No.1 also cannot be accepted as a ground for quashing the provisional attachment at this stage. The alleged transaction is stated to have been carried out in cash. Consequently, the absence of a banking trail cannot, by itself, conclusively negate the allegation. The respondent relies upon oral statements, the circumstances of the payment, the admitted cash component, the alleged physical transportation of cash and the circumstances surrounding the acquisition of the Hotel.

42. The petitioners, on the other hand, rely upon the family settlement dated 01.05.2019, the resignation of Vijay Kumar Agrawal from the Directorship of petitioner No.2 and their assertion that the cash was generated from legitimate business operations. These are matters which require evidentiary examination. The Court exercising jurisdiction under Article 226 cannot undertake an exercise of weighing these competing versions and determine which one is more probable. We also find substance in the submission of learned counsel for the ED that the nature of the alleged transaction itself explains why a conventional banking trail may not be available. The respondent's case is specifically that the proceeds were distributed in cash and physically transported. The question whether such evidence is sufficient to establish the alleged chain is not for us to determine finally at this stage. The petitioners will have full opportunity before the AA to place the Income Tax orders, the memorandum of family settlement, books of account, audited records, business records and all other material relied upon by them, and to demonstrate the legitimate source of the cash.

43. The petitioners have also relied upon the fact that neither petitioners have been arrayed as an accused in the FIR, the charge-sheets or the prosecution complaints filed before the Special Court. The submission, however, overlooks the distinction between the criminal prosecution for the scheduled offence and the proceedings concerning property under the PMLA. The impugned order is not an order of prosecution of the petitioners for the scheduled offence. The question at this stage is whether the property sought to be attached falls within the statutory definition of property involved in money-laundering. The absence of the petitioners from the array of accused persons in the predicate offence, though a circumstance which may be urged before the AA, does not by itself render the provisional attachment without jurisdiction.

44. The submission that the petitioners have never been associated with the liquor business and therefore there could be no nexus between them and the alleged proceeds of crime is also essentially a matter of defence on facts. The statutory scheme does not make attachment dependent upon the property being held by a person who is himself an accused in the scheduled offence. The statutory definition of "proceeds of crime" encompasses property derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence. The Supreme Court has explained in ***Vijay Madanlal*** *(supra)* that the offence of money-laundering is concerned with the process or activity connected with proceeds of crime and that the adjudicatory mechanism under the Act is intended to determine the character of the property on the basis of the material collected. The petitioners' assertion that they are strangers to the scheduled offence is therefore a matter to be examined on the evidence and cannot, without more, nullify the provisional attachment.

45. Another significant submission concerns the invocation of the power under Section 5(1) and the requirement of recording reasons to believe. The impugned order, as placed before us, does not merely reproduce the statutory language. It refers to the scheduled offence, the ECIR, the material collected during investigation, the statements of persons alleged to be involved in the distribution of proceeds of crime, the alleged payment of Rs.110 Crores to Vijay Kumar Agrawal, the acquisition of the Hotel, the admitted cash payment of Rs.60 Crores, and the circumstances connecting the transaction. The authorised officer has recorded reasons for treating the subject property as liable to attachment. Whether those reasons ultimately withstand the scrutiny of the AA is a different matter. At this stage, it cannot be held that the statutory requirement of recording reasons to believe was wholly absent.

46. The second proviso to Section 5(1), including the requirement concerning the likelihood of frustration of proceedings, cannot be examined in isolation from the nature of provisional attachment contemplated by the Act. The power is intended to preserve property so that the ultimate proceedings concerning confiscation are not rendered infructuous. The Supreme Court in ***Vijay Madanlal Choudhary*** *(supra)* has recognised the provisional character of the attachment and the subsequent adjudicatory safeguards under Section 8. At this stage, it would be inappropriate for this Court to substitute its own assessment of the apprehension recorded by the authorised officer for that of the statutory authority, particularly when the attachment is provisional and the property remains subject to adjudication.

47. The argument that Hotel Westin is an operational hospitality asset and therefore incapable of clandestine disappearance does not furnish a ground to quash the attachment. The purpose of attachment is not confined to preventing physical disappearance of an immovable property. The statutory concern extends to transfer, alienation, encumbrance or other dealings which may frustrate the eventual confiscatory proceedings. Further, the fact that the Hotel continues to operate does not invalidate the attachment. The petitioners have not demonstrated that the provisional attachment, by itself, has resulted in dispossession or cessation of the business.

48. So far as the issue of *coram non judice* is concerned, the petitioners contend that the AA must necessarily consist of a Chairperson and two Members and that a Single Member, particularly one not having a legal background, cannot validly conduct the proceedings. It is submitted that the proceedings before such authority would be *coram non judice*. We are unable to accept the contention as a ground for quashing the impugned provisional attachment. Firstly, the impugned order has not been passed by the AA. It has been passed by the authorised officer under Section 5(1). The Section 8 proceedings are subsequent proceedings before a separate statutory authority. Consequently, even assuming that any question arises regarding the constitution or composition of the AA, such question cannot retrospectively invalidate an otherwise independent order of provisional attachment passed by the authorised officer. Secondly, the issue concerning the composition of the AA is severable from the validity of the provisional attachment. At the highest, if the constitution of the Bench is found legally defective in the appropriate proceedings, the consequence would concern the conduct of the adjudication under Section 8. It would not follow that the prior provisional attachment was void *ab initio.*

49. This Court, in ***Mr. Sourabh v. Directorate of Enforcement*** {MA No. 34 of 2025, decided on 23.07.2025) while dealing with the issue of *coram non judice*, observed as under:

> *"107. With regard to the issue of quorum of learned AA, the said issue is no longer res integra. The Madras High Court in G.Gopalakrishnan v. Deputy Director W.P.(MD) Nos. 11454 of 2018, has in unequivocal terms held that even a single member Bench of the Adjudicating Authority could adjudicate the disputes under PMLA. In fact, in the decision of the Delhi High Court in "J. Sekar (supra) it was held that less than three Member Adjudicating Authority is permissible under PMLA. The Hon'ble Madras High Court has also clearly held that it is not mandatory that such Single Member Benches should comprise of Judicial members and even administrative members constituting single member benches of the Tribunal would amount to sufficient compliance of the law.*

50. Similar view was reiterated by this Court its order dated 22.04.2026 in MA No. 21 of 2026 & other connected matters, titled ***Tushar Sahu v. The Deputy Director Directorate of Enforcement.***

51. The contention of learned counsel for the petitioner that the Hon'ble Supreme Court has stayed orders where the Hon'ble High Courts have refused to interfere with the show cause notice issued by a Single Member of the AA, is noticed to be rejected as the orders placed on record, are merely interim orders and those matters are yet to be decided finally by the Apex Court.

52. The statutory scheme contained in Section 6(5), under which the jurisdiction of the Adjudicating Authority may be exercised by Benches constituted by the Chairperson with one or two Members, as well as judicial pronouncements which have considered the competence of a Single Member Bench. The petitioners rely upon certain contrary or pending proceedings. We need not undertake an exhaustive examination of the entire controversy because, for purposes of the present petition, the issue is not determinative. The validity of the PAO under Section 5(1) of the PMLA does not depend upon the subsequent composition of the Adjudicating Authority. Moreover, the present petition is not a challenge to the appointment or constitution of the AA, we, therefore, decline to invalidate the PAO on this ground.

53. The argument founded upon the principle *nemo judex in causa sua*, on the ground that administrative assistance to the AA is provided by the Ministry of Finance while the ED functions under the same Ministry, is equally incapable of furnishing a ground for quashing the impugned PAO. Such a contention, if pressed as a challenge to the institutional constitution of the statutory authority, would essentially amount to a challenge to the statutory scheme itself. No such challenge to the vires of the relevant provisions has been laid before us.

54. The reliance placed upon ***B. Rama Raju*** *(supra)* does not assist the petitioners in the present proceedings. The petitioners are correct in contending that the statutory presumptions are rebuttable. But that very proposition reinforces the necessity of permitting the statutory adjudicatory mechanism to operate. The petitioners will have an opportunity to rebut the allegations and explain the source and acquisition of the property before the AA. Likewise, the decisions concerning the scope of judicial review where an order is wholly without jurisdiction do not assist the petitioners because, as already noticed, the present case is not one where the Authorised Officer lacked statutory authority to pass the order. The petitioners have also placed emphasis upon the fact that petitioner No.1 disclosed the source of Rs.60 Crores to the ED and explained that the amount represented cash generated through legitimate business operations. The respondent, however, disputes this explanation and relies upon statements made by petitioner No.1 himself concerning the manner in which cash generated from his business was ordinarily collected and deposited through banking channels. Thus, there are two competing factual narratives. Whether the explanation offered by petitioner No.1 is genuine, whether the books contained sufficient cash balances, whether such balances could actually have been deployed in the manner asserted, and whether the cash ultimately paid to the vendor was the same legitimate cash or tainted money are questions requiring factual adjudication. The writ jurisdiction is not an appropriate forum for resolving such disputed factual issues. The petitioners' reliance upon the fact that the alleged Rs.110 Crores was said to have been received by Vijay Kumar Agrawal, whereas the Hotel was purchased by petitioner No.2, also does not establish absence of jurisdiction. The alleged indirect flow of proceeds is itself the subject matter of the investigation and adjudication. The statutory definition expressly recognises direct as well as indirect derivation or obtaining of property. The question whether the alleged indirect nexus is ultimately established cannot be decided merely by looking at the registered ownership of the Hotel.

55. The contention regarding the different figures reflected in the Income Tax Appraisal Report, the statements of Sameer Biyani and the memorandum of understanding, namely Rs.214 Crores, Rs.198 Crores, Rs.192 Crores and Rs.110 Crores, also concerns appreciation of evidence. The respondent No. 2 has explained that the attachment was deliberately restricted to Rs.110 Crores, notwithstanding the higher figures appearing in some of the materials. Whether such quantification is legally and factually sustainable is a matter which can appropriately be raised before the AA. At the writ stage, such discrepancies do not establish that the authorised officer acted without jurisdiction.

56. We are also not persuaded by the submission that the petitioners' fundamental right under Article 19(1)(g) has been infringed merely because the property has been provisionally attached. A provisional attachment under Section 5(1) does not, by itself, transfer title in the property to the State. Nor does it amount to confiscation. The PMLA contains a separate adjudicatory process before any final consequence follows. The petitioners continue to have the opportunity to establish their legitimate interest and the lawful source of acquisition before the competent statutory authority. The alleged impact upon the goodwill of the Hotel, the proposed IPO, employees of the group or other commercial consequences, however serious they may be, cannot by themselves render a statutory provisional attachment without jurisdiction.

57. We are conscious that the petitioners have relied upon ***Whirlpool Corporation*** (supra) to contend that availability of an alternative remedy does not bar the jurisdiction of this Court where the order is wholly without jurisdiction. There can be no quarrel with the said proposition. However, the principle cannot be invoked merely by labelling every error of fact, appreciation of evidence or insufficiency of material as a jurisdictional defect. In the present case, the authorised officer was vested with jurisdiction under Section 5(1). An ECIR had been registered in respect of scheduled offences. The predicate agency had filed charge-sheet(s). The respondent No. 2 had collected material during investigation. The authorised officer recorded reasons and passed the provisional attachment order. The jurisdictional foundation is therefore not absent. The petitioners' challenge is essentially directed against the correctness of the conclusion drawn from the material. Such a challenge is qualitatively different from absence of jurisdiction.

58. It is equally significant that the petitioners have an efficacious statutory remedy which has already been activated. The respondent has filed Original Complaint No.472 of 2026 before the AA. The petitioners can place before the said Authority every document and every contention raised before us, including the orders of the Income Tax authorities, the memorandum of family settlement, the resignation of Vijay Kumar Agrawal, the books of account, audited records, statements and all other material relied upon by them. Section 8(2) expressly requires the AA to consider the reply, hear the aggrieved person and take into account all relevant materials placed on record before determining whether the property is involved in money-laundering. Thus, the statutory remedy is not illusory. It is precisely designed to adjudicate the questions which the petitioners seek to have determined in the present writ petition.

59. We may also observe that the Supreme Court in ***Vijay Madanlal Choudhary*** *(supra)* has recognised the statutory scheme of provisional attachment and adjudication under the PMLA. The material collected during inquiry is to be placed before the AA for determining whether the provisional attachment deserves confirmation. The present petition, if entertained on merits at this stage, would effectively require this Court to undertake the very adjudicatory exercise which the statute has entrusted in the first instance to the AA. The submission of the petitioners that the impugned order is vitiated by non-application of mind because it allegedly proceeds on the erroneous assumption that Vijay Kumar

Agrawal was a serving Director of petitioner No.2 also does not warrant interference at this stage. Even assuming that there is an error in describing his position, the question is whether such error is fundamental so as to destroy the entire basis of the satisfaction recorded. Having regard to the substantial other material referred to in the impugned order, such an inference cannot be drawn in writ jurisdiction. A stray factual error, even if established, cannot by itself nullify the entire provisional attachment when the order rests upon several other pieces of material.

60. Similarly, the allegation that the ED failed to confront Vijay Kumar Agrawal with the statement of Laxmi Narayan Bansal or failed to undertake further investigation in the manner suggested by the petitioners concerns the adequacy and manner of investigation. This Court, while exercising jurisdiction under Article 226, does not ordinarily direct the investigating agency as to what particular evidence it must collect before forming the statutory satisfaction, unless the action is shown to be manifestly arbitrary, mala fide or without jurisdiction. No such case has been established before us.

61. The contention that the petitioners have not been named in the prosecution complaints and charge-sheets also cannot, by itself, lead to the conclusion that the attached property is outside the scope of the PMLA. The property-oriented nature of the proceedings under Sections 5 and 8 is distinct from the question whether a particular individual is ultimately liable to criminal prosecution. At this stage, therefore, we express no opinion on the culpability or otherwise of either petitioner.

62. We also deem it appropriate to clarify that our observations herein are confined to the question whether the PAO warrants interference in exercise of writ jurisdiction at this stage. We have not undertaken a final adjudication on the provenance of the Rs.60 Crores, the alleged receipt of Rs.110 Crores by Vijay Kumar Agrawal, the alleged connection between the said amount and the acquisition of the Hotel, or the ultimate applicability of Sections 2(1)(u), 3, 5, 8, 23 and 24 of the PMLA. All such questions remain open to be considered by the competent statutory authorities in accordance with law.

63. In view of the foregoing discussion, we find no ground to exercise the extraordinary jurisdiction of this Court under Article 226 of the Constitution for quashing the PAO dated 28.05.2026. The writ petition is accordingly **dismissed**. Pending applications, if any, also stand disposed of.

64. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

Amit

AMIT KUMAR DUBEY
Digitally signed by AMIT KUMAR DUBEY
Date: 2026.08.27 20:11:32 +0530