

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 5237 OF 2025

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Ocean Deity Investment Holdings
Limited, PCC

.. Petitioner

Vs.

Directorate of Enforcement & Ors.

.. Respondents

...

Mr. Aditya Mehta a/w Shashwat Rai and Mr. Aditya Shete i/by
Keystone Partners for the Petitioner.

Mr. Sanjay Jain a/w Mr. Nakul Jain a/w Mr. Harsh L. Behany a/w
Ms. Saloni Manjrekar i/by HN Legal, Advocates for Respondent No.4.

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**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 14th OCTOBER 2025.

Per, Shree Chandrashekhhar, CJ :

With several amendments in the pleadings, this writ petition comes up with the following prayers: -

- “(a) *Issue a writ in the nature of mandamus or any other appropriate writ or order or direction to the Directorate of Enforcement for the identification and attachment of all sums collected from Mack Star Marketing Private Limited, whether as principal, interest, fees, charges or otherwise, towards servicing of the loans illegally sanctioned by Yes Bank Limited in the name of Mack Star Marketing Private Limited as proceeds of crime in respect of ECIR/MBZO-I/39/2020;*
- “(b) *Issue a writ in the nature of mandamus or any other appropriate writ or order or direction to the Directorate of Enforcement for the identification and attachment of the loan of amount of INR 202.1 crores illegally sanctioned by Yes Bank Limited in the name of Mack Star Marketing Private Limited as proceeds of crime in respect of ECIR/MBZO-I/39/2020;*
- “(c) *Issue a writ in the nature of mandamus or any other appropriate writ to the Directorate of Enforcement with appropriate directions for proper identification of the proceeds of crime in respect of ECIR/MBZO-I/39/2020 and for the attachment of the proceeds of*

crime in respect of ECIR/MBZO-I/39/2020;

(d1) Pending hearing and final disposal of the captioned Writ Petition, direct the Directorate of Enforcement to provisionally attach the sum of INR 202.1 crores already identified as the proceeds of crime by the Directorate of Enforcement in respect of ECIR/MBZO-I/39/2020;

(d2) Pending hearing and final disposal of the captioned Writ Petition, direct the Directorate of Enforcement to provisionally attach all sums collected from Mack Star Marketing Private Limited towards principal, interest, fees, charges, or otherwise, towards servicing of the illegal loans sanctioned by Yes Bank Limited in the name of Mack Star Marketing Private Limited;

(e) Award the cost of the proceedings; and

(f) Pass any other order(s) as this Hon'ble Court may deem fit."

2. The petitioner-Ocean Deity Investment Holdings Limited, PCC is an investment Company formed under the Mauritius laws and the Mack Star Marketing Private Limited is its subsidiary company which was incorporated under the Companies Act 1956 having its office at Andheri (E), Mumbai. According to the petitioner-company, the shareholders of the Mack Star Marketing Private Limited approached it and a joint venture agreement was executed for investing 250 million dollars in the Mack Star Marketing Private Limited and the petitioner-company subscribed 83.36% of the share capital of the Mack Star Marketing Private Limited. The petitioner-company claims that it made investments of more than One billion US dollars in securities issued by the Indian companies. The petitioner-company states that the Suraksha Asset Reconstruction Limited which is a company incorporated under the Companies Act, 2013 acquired four loans extended by the Yes Bank in the name of the Mack Star Marketing Private Limited for which an Assignment agreement was signed between the parties. In this writ petition, the petitioner-company outlines the previous management of the Mack Star Marketing Private Limited by the Wadhawans and the alleged loan orchestrated by the Yes Bank. This is stated that the Central Bureau

of Investigation registered a First Information Report on 23rd September 2020 under sections 409, 420 and read with section 120B of the Indian Penal Code against unknown officials of the Yes Bank, Wadhawans and its Directors for cheating the Mack Star Marketing Private Limited. Later on, the Directorate of Enforcement (for short, "ED") registered ECIE/MBZO-I/39/2020 under the Prevention of Money Laundering Act, 2002 (for short, "PMLA") and a prosecution complaint was filed on 19th March 2021. There is a reference of three provisional attachment orders for attaching the properties of the Mack Star Marketing Private Limited which were fraudulently sold by the Wadhawans through the Housing Development and Infrastructure Limited (HDIL) group. The petitioner-company states that the ED should have attached the amount of Rs.100 crores which were collected by the Yes Bank and Suraksha and the security receipts held by the Yes Bank and Suraksha under the PMLA Act as proceeds of crime but nothing so far has been done by the ED in this regard. The reasons why the petitioner-company has approached this Court are specifically stated in paragraph nos.53 and 54 which read as under:-

"53. Aggrieved by ED's failure to attach the proceeds of crime obtained by Yes Bank "a result of criminal activity relating to" the scheduled offence of cheating under Section 420 of the IPC committed by officials of Yes Bank to which the ECIR relates, the Petitioner's advocates wrote the letter dated 4 March 2022 to the ED requesting it to attach the proceeds of crime before further prejudice was caused to the Petitioner and Mack Star. A copy of this letter from the Petitioner's advocates to the ED is annexed herewith as Exhibit Q.

54. No response to the letter dated 4 March 2022 from the Petitioner's advocates has been received from the ED till the date of filing of the present Writ Petition. Therefore, the Petitioner has been constrained to approach this Hon'ble Court for issuing a writ of mandamus and any other reliefs it may consider granting on the following grounds."

3. To fortify the claim of the petitioner-company to seek a direction to the ED for the identification of all sums collected from the Mack

Star Marketing Private Limited whether as principal, interest, fees, charges or otherwise towards servicing of the loans illegally sanctioned by the Yes Bank Limited as proceeds of crime in connection to ECIR/MBZO-I/39/2020, Mr. Aditya Mehta, the learned counsel for the petitioner-company referred to the provisions under section 5 and sub-sections (5) and (8) of section 8 of the PMLA and submits that the petitioner-company would suffer irreparable loss and injury if a direction is not issued to the ED to attach the aforementioned properties. This submission is made by Mr. Aditya Mehta, the learned counsel for the petitioner-company referring to the provisions under sub-section (8) of section 8 of the PMLA. The learned counsel for the petitioner-company submits that the Central Government in exercise of the powers under sub-section (5) of section 8 can confiscate a property which is the proceeds of crime and was duly attached by the ED in course of the investigation or an inquiry under the PMLA. However, if the property which is said to be the proceeds of crime is not under attachment in terms of the provisions under the PMLA, the same cannot be confiscated and handed over to its rightful owner. The learned counsel for the petitioner-company therefore submits that Rs.202.1 crores which was illegally disbursed by the Yes Bank officials in the name of the Mack Star Marketing Private Limited and diverted to the HDIL and all other sums fraudulently transacted by the Yes Bank and the HDIL must be attached to safeguard the interests of the petitioner-company. The provisions under sub-sections (5) and (8) to section 8 of Prevention of Money-Laundering Act, 2002 read as under:

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

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

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

(Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such a manner as may be prescribed)."

4. As the prayer made at clause (a) goes on, the petitioner-company seeks a direction to the ED to "identify" and "attach" all sums collected from the Mack Star Marketing Private Limited. This prayer seeking identification of all sums of money collected from the Mack Star Marketing Private Limited cannot be granted for several reasons. The wordings under the prayer clause (a) are vague and so expansive that a roving inquiry in the matter would have to be started by the ED. For this reason, the writ petition must be held not entertainable while exercising the powers under Article 226 of the Constitution of India. The High Court in exercise of its powers under Article 226 of the Constitution of India cannot substitute itself and assume the role of a fact finding body. The High Court cannot also exercise its writ jurisdiction to conduct a roving enquiry to gather "some facts" which are not pleaded in the petition and only a vague suggestion thereof has been made by the petitioner-company. The exercise of powers under Article 226 of the Constitution of India must be based on indisputable facts and not otherwise. Secondly, the emphasis laid by the learned counsel for the petitioner-company to sub-section (8) of section 8 of the PMLA seems to be, least to say, a speculative argument. The provisions under sub-section (8) of section 8 of the PMLA comes into play only after the judgment of conviction is

recorded by the Special Court. Quite apparently, the petitioner-company cannot speculate whether the accused would be convicted or acquitted in the trial conducted by the ED pursuant to the prosecution complaint filed by it. In the writ petition, the petitioner-company states that it has filed suits in relation to illegal transfer of units in Kaledonia by the Wadhawans to the HDIL group's creditors. It is further stated that in the Commercial Suit No. 298 of 2020 filed by the petitioner-company and the Mack Star Marketing Private Limited (being the plaintiff no.2) a written statement has been filed by the defendant no.7 which supports the stand taken by the petitioner-company. There is also a mention of a writ petition filed by the Mack Star Marketing Private Limited, a pending civil suit and a section 7 petition filed against the Mack Star Marketing Private Limited before National Company Law Tribunal at Mumbai under the Insolvency and Bankruptcy Code, 2016. This is also stated that an appeal was filed by the petitioner-company and a former Director of the Mack Star Marketing Private Limited before the National Company Law Appellate Tribunal against the order dated 27th February 2021 passed by the NCLT.

5. The prayers made by the petitioner-company in this writ petition touches upon the Commercial Suit No. 298 of 2020 filed by the petitioner-company. Not only the writ petition cannot be entertained with such prayers in view of the different proceedings pending before different Forums/Tribunals/Courts, the petitioner-company has no right in law flowing from sub-section (5) of section 8 of the PMLA.

6. For the aforesaid reasons, Writ Petition No. 5237 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]