IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:087378-DB

Civil Writ Petition No. 7715 of 2025 (O&M)
Reserved on : 27.05.2025
Pronounced on : 17.07.2025

M/s Darsh Minerals Pvt. Ltd. and another …..Petitioners

versus

Union of India and others …..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL, JUDGE

Present : Mr. Vikram Chaudhri, Senior Advocate (Arguing counsel) with
Ms. Hargun Sandhu, Advocate,
Mr. Rahul Bhargava, Advocate,
Ms. Diya Bhagwan, Advocate,
Ms. Alisha Sharda, Advocate, for the petitioner(s).

Mr. Satya Pal Jain, Addl. Solicitor General of India (Arguing counsel) with Mr. Shobit Phutela, Senior Panel Counsel for respondent-Union of India.

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SHEEL NAGU, CHIEF JUSTICE

This petition has been filed invoking writ as well as supervisory jurisdiction of this Court under Articles 226 read with 227 of the Constitution of India essentially assailing freezing of the account of the petitioner-company on 08.03.2025 during a raid conducted by the officers of the Enforcement Directorate at the residence of Mohit Goyal, one of the Directors of the petitioner-company, who is alleged to have been paid approximately Rs.45.52 crores as part of sale proceeds of mining material extracted illegally from the mining site situated at village Ratewala, District Panchkula, owned and operated by M/s Tirupati Roadways (proprietor Shri Gurpreet Singh Sabharwal), against which an FIR No. 9 dated 25.08.2022 was registered by

State Vigilance Bureau, Panchkula, Haryana, under Sections 379, 414, 420 of the Indian Penal Code read with Sections 4 and 21 of Mines and Minerals (Regulation of Development) Act, 1957 and under sections 13(1)(a) and 13(2) of the Prevention of Corruption Act, 1988.

2. Learned counsel for the rival parties are heard on the question of admission so also final disposal.

3. Learned senior counsel for the petitioner has restricted the challenge to aforesaid freezing of account to the ground of absence of any order passed by the officer authorized under Section 17(1-A) of the Prevention of Money Laundering Act, 2002 (for brevity 'PMLA').

3.1 Learned counsel for the petitioner contends by referring to e-mails cumulatively annexed as Annexure R-1 to the affidavit of respondents No.2 and 3 sworn by Ankur Tiwari, Deputy Director, Directorate of Enforcement, Government of India, Chandigarh Zonal Office-II, Chandigarh dated 21.05.2024 that apart from the aforesaid e-mails intimating on the very date of search and seizure made by the officer aforesaid, the E.D. did not pass any order under Section 17(1-A) of the PMLA by recording it's satisfaction that it was not practicable to seize the property under Section 17(1) of PMLA and therefore, it is necessary to direct for freezing of the alleged tainted property.

3.2 Thus, substance of the contention of learned senior counsel for the petitioner is that in the absence of any express order having been passed about the absence of practicability to physically seize the record/property, the extra ordinary power under Section 17(1-A) of PMLA cannot be exercised. Since there is no such order communicated to the petitioner or passed by the Enforcement Directorate, the entire act of freezing of entire record of the petitioners is *nonest* in the eyes of law.

3.3 Learned senior counsel for the petitioners has relied upon various decisions including decision of the Apex Court in ***Opto Circuit India Ltd. vs. Axis Bank and others (2021) 6 Supreme Court Cases 707;*** an order dated 10.08.2022 passed by a Single Bench of Calcutta High Court in WPA No. 17454 of 2022 (***M/s Rashmi Metaliks Ltd. and another vs. Enforcement Directorate and others***); and order dated 07.03.2023 passed by a Single Bench of Andhra Pradesh High Court in Writ Petition No. 36939 of 2022.

3.4 It is further contended by learned senior counsel for the petitioners that the constitutional validity of PMLA was upheld by the Apex Court in ***Vijay Madan Lal Choudhary and others vs. Union of India and others 2022 SCC Online SC 929***. The upholding was inter-alia for the reason that there are enough procedural safeguards provided in PMLA to prevent misuse of power especially that of search and seizure. As such it is contended that following of fair procedure, particularly provided under Section 17(1-A) of PMLA, needs to be adhered to in stricto sensu failing which entire action of freezing becomes vitiated in law. Relying upon decisions of Apex Court in ***Opto Circuit India Ltd. vs. Axis Bank and others (supra)*** as well as of Calcutta High Court and Andhra Pradesh High Court (supra), it is contended that the action of freezing initiated by Enforcement Directorate under Section 17(1-A) of PMLA was not followed. In this regard, further reliance is placed by the learned counsel for petitioners upon the decision rendered in ***Chandra Kishore Jha vs. Mahavir Prasad (1999) 8 SCC 266,*** to emphasize that when statute provides for a thing to be done in a particular manner, then the same has to be done in that manner alone and in no other manner.

3.5 In conspectus of above contentions, learned senior counsel for the petitioners prays for quashing the act of freezing of the accounts of the petitioner-company.

4. Per contra, learned counsel for Enforcement Directorate despite various queries raised by this Court on different occasions during pendency of this petition, failed to satisfy this Court that any express order was passed in respect of absence of practicability to seize record/property of the petitioners under Section 17(1) of PMLA to enable the ED to enforce the extra ordinary power of freezing under Section 17(1-A) of PMLA. The ED has further failed in their affidavit to satisfy this Court that any such order was made and a copy of the same was served upon the petitioner company or its representative.

5. Since it is not denied by the ED that no such order was passed under Section 17(1)(A) of the PMLA and neither the same was communicated to the petitioner company, the procedural pre-requisites for invoking Section 17(1-A) of PMLA were not satisfied by ED while directing impugned action of freezing of the bank accounts/documents of petitioner company on 08.03.2025.

6. This Court thus has no hesitation to hold that the impugned action of freezing of the bank account and records of the petitioner company is vitiated and thus is held to be unlawful on the anvil of Section 17(1-A) of PMLA.

7. The next question that arises is as to the relief that can be afforded to the petitioners in aforesaid facts and circumstances.

8. The ED has demonstrated in its return that large number of payments made by the original accused in FIR No. 09 dated 25.08.2022 registered at SVB, Panchkula, Haryana, were paid to one of the Directors of the petitioner company Mohit Goel, which was used by said Mohit Goel to launder money with the help of accommodation entries in the guise of unsecured loans taken from family members and unrelated individuals. It appears that matter is now pending before the adjudicating authority.

8.1 Money laundering is a specialized crime. To deal with the menace of money laundering, Prevention of Money Laundering Act, 2002 was enacted which was founded upon a resolution of the special session of United Nation General Assembly dated 08.06.1998, which called upon the members of the State (including India) to adopt National Money Laundering Legislation and Programme. To deal with this malady of money laundering, special statute was required to be promulgated which was brought into effect in India from 01.07.2005 as Prevention of Money Laundering (Amendment) Act, 2005. Constitutional validity of majority of the provisions of PMLA has already been upheld in ***Vijay Madan Lal Choudhary and others vs. Union of India and others (supra)*** whereafter certain amendments in PMLA were brought out to iron out certain creases in PMLA as pointed out by Apex Court in *Vijay Madan Lal case (supra).*

9. In the backdrop of the aforesaid pressing need for the malady to be dealt with with iron hand, it would be appropriate in the fitness of things and in the interest of public at large and to maintain the spirit and object of Article 39(b) of the Constitution, which obliges the State to ensure that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good and lastly that the impugned action of freezing of bank accounts/records is found vitiated merely on procedural lapse, this Court refrains from directing release of bank accounts/documents belonging to the petitioner company which were frozen by ED on 08.03.2025.

10. Consequently, this petition stands disposed of in the following terms:-

i) The impugned action of Enforcement Directorate in freezing the bank accounts/records of the petitioner company on 08.03.2025 is held to be unlawful for having been made without following the procedure prescribed under Section 17(1-A) of PMLA.

ii) The tainted money of the petitioner company which was frozen by the ED on 08.03.2025 shall remain in possession of the ED as mentioned in FIR No. 9 dated 25.08.2022 registered by State Vigilance Bureau, Panchkula, Haryana, under Sections 379, 414, 420 of the Indian Penal Code read with Sections 4 and 21 of Mines and Minerals (Regulation of Development) Act, 1957 and under sections 13(1)(a) and 13(2) of the Prevention of Corruption Act, 1988 and thus shall not be released to the petitioners. However, the impugned freezing shall always remain subject to the order passed by the Adjudicating Authority.

iii) The ED is directed to follow the procedure prescribed under Section 17(1-A) of PMLA by not only passing a speaking order showing impracticability of adopting extra ordinary procedure prescribed under Section 17(1-A) of PMLA but also communicating the said order to the petitioners before exercising power of freezing.

No order as to costs.

(SHEEL NAGU)
CHIEF JUSTICE

(SUMEET GOEL)
JUDGE

17.07.2025

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√