

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Rajarshi Bharadwaj
And
The Hon'ble Justice Uday Kumar

MAT 1214 of 2022

With

CAN 1 of 2022

Enforcement Directorate & Anr.

Vs.

Sri Suman Chattopadhyay & Ors.

For the Appellants : *Mr. Arijit Chakrabarti*
Mr. Debsoumya Basak
Ms. Swati Kumari Singh

For the Respondents : *Mr. Deepan Sarkar*
Ms. Deepti Priya
Ms. Iran Hasan
Mr. Sanket Sarangi
Mr. Himanshu Bhawsinghka

Reserved On : *05.01.2026*

Pronounced On : *10.02.2026*

Rajarshi Bharadwaj, J.:

1. By this appeal, the correctness of the judgement of the learned Single Judge dated June 28, 2022 passed in W.P.A. No 10984 of 2021 (Suman Chattopadhyay & Ors v. Directorate of Enforcement, Government of India & Ors.) has been questioned by the appellant herein, who were the respondents in the writ petition.

2. The facts in a nutshell are that the respondents/writ petitioners challenged the Provisional Order of Attachment No. F. No. ECIR/KLZO-I/09/2021/AD(PS)/8304 dated March 29, 2022, issued by the Enforcement Directorate under Section 5(1) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as “PMLA”). The order provisionally attached five movable properties valued at approximately Rs. 63.5 lakhs and four immovable properties valued at around Rs. 2.23 crores belonging to the petitioners.

3. The said order arose from an investigation pursuant to Enforcement Case Information Report (ECIR) No. ECIR/KLZO-I/09/2021 dated March 15, 2021. During the inquiry, it was revealed that Sri Suman Chattopadhyay, principal petitioner, along with his wife, were directors of M/s. Disha Productions & Media Private Limited (hereinafter referred to as “DPMPL”) and M/s. Ek Din Media Private Limited (hereinafter referred to as “EDMPL”). Both entities were alleged to have engaged in fraudulent financial transactions with the I-Core Group, a chit fund enterprise operating in a manner analogous to the Saradha Group chit fund scam, in which the petitioners had been previously involved. Earlier, their assets worth Rs. 1.72 crores were attached under a provisional order dated December 21, 2015, later confirmed by the Adjudicating Authority.

4. It was specifically mentioned that the respondent no.1/ writ petitioner entered into an investment agreement dated July 29, 2009 with M/s I Core E Services Ltd. at a time when DPMPL was struggling financially, with its

newspaper 'Ek Din' having poor circulation and the company having defaulted on loans secured against the petitioners' residential property at 26, Prince Anwar Shah Road, Kolkata. Under the agreement, I-Core E Services Ltd. undertook the financial liabilities of running the newspaper, guaranteed payment of Rs. 2.5 lakhs per month remuneration to respondent no.1/ writ petitioner and agreed to repay outstanding loans taken by DPMPL from UCO Bank.

5. A precondition for such funding was the transfer of 50% shares of DPMPL to persons associated with the I-Core Group, which was never effectuated. Moreover, no express financial benefit was stipulated for I Core E Services Ltd. arising from the investment, indicating that the transaction was designed as a facade to siphon illicit funds from the I Core Group to DPMPL, exploiting respondent no.1/ writ petitioner's media reputation to generate public trust in I Core's operations.

6. The investigation also unearthed a letter dated August 13, 2010 authored by respondent no.1 on DPMPL's letterhead addressed to one Anukul Maiti of I-Core E Services Ltd., acknowledging receipt of investments amounting to at least Rs. 9.83 crores from I Core Group. During the probe, the respondent no.1/ writ petitioner's claim that these funds were balanced by advertising revenues in 'Ek Din' was contradicted by his own admissions that advertisements were placed through agencies, indicating falsity in the alleged claims of payment dues towards I Core Group.

7. It was further established that no repayments were made by the respondents/writ petitioners or DPMPL to I Core Group or its directors after severance of their association. The I Core Group was found to be operating a ponzi scheme and misappropriating public deposits for the promoters' personal benefits. Consequently, the funds transferred to the petitioners were held to amount to proceeds of crime, acquired through money laundering facilitated by

the respondents/petitioners' purported business partnership with I Core Group.

8. The respondents/writ petitioners challenged the provisional attachment on several grounds, inter alia, absence of any connection of the attached properties with proceeds of crime, lack of prior notice or opportunity to show cause before attachment, that some immovable properties predated association with I Core Group and procedural lapses in the attachment order.

9. The matter was heard before the Hon'ble Justice Moushumi Bhattacharya on June 21, 2022, who recorded that the petitioners sought a stay of the provisional attachment order. Petitioners relied on Supreme Court precedents to dispute the "*reason to believe*" recorded by the Enforcement Directorate in support of provisional attachment.

10. The appellants/respondents contended that the writ petition was not maintainable since, subsequent to the provisional attachment, an Original Complaint was filed with the Adjudicating Authority under Section 5(5) of the PMLA and show cause notices were issued to the petitioners under Section 8(1). These material facts had not been disclosed to the Court by the writ petitioners. The appellants further submitted that the burden to prove lawful acquisition of attached properties rested on the petitioners and that writ jurisdiction was not liable to interfere with the attachment's legality during pendency of statutory adjudication.

11. On June 28, 2022, the Single Judge quashed the provisional attachment order on the ground that it failed to comply with the statutory requirements under the PMLA and dismissed the writ petition. The appellants have challenged this order alleging that the Court erred in quashing the order without affording them a fair opportunity to be heard or calling for any affidavits from the Enforcement Directorate, herein the appellants. It further overlooked the ongoing statutory adjudication and misinterpreted the legal

scope of “*proceeds of crime*” and the nature of provisional attachment under the PMLA.

12. The appellants submit that the provisional attachment order was a reasoned and detailed order passed within competent jurisdiction and aligned with legislative intent to safeguard public interest and government revenues. Subsequently, the Adjudicating Authority confirmed the attachment by order dated September 23, 2022 under Section 8(3) of the PMLA, subject to outcome of this writ petition.

13. The respondents/writ petitioners have now preferred statutory appeals under Section 26 of the PMLA against the confirmation order before the Appellate Tribunal (PMLA), New Delhi, which are pending adjudication.

14. The appellants, therefore, being aggrieved by the impugned order passed by the Learned Single Judge prefers the present appeal praying for quashing the provisional attachment to prevent irreparable loss to the public exchequer and to uphold the integrity of ongoing statutory proceedings under the PMLA.

15. The Learned Counsel appearing for the appellants submit that the impugned order dated June 28, 2022 passed by the Hon’ble Single Judge is legally erroneous and liable to be set aside on multiple grounds in the interest of justice and sound jurisprudence.

16. It is submitted that the Learned Single Judge exceeded the scope of its writ jurisdiction by delving into a merit-based examination of the Provisional Attachment Order dated March 29, 2022 under Section 5(1) of the PMLA. The validity and legality of such attachment are exclusively vested in the Adjudicating Authority and the Special Court constituted under the PMLA, which follow the safeguards and procedures prescribed by the statute. By prematurely quashing the attachment order, the Court has usurped the specialized statutory adjudicatory process designed to undertake a detailed inquiry into the properties’ involvement as proceeds of crime.

17. The Learned Single Judge failed to take into account that subsequent to the issuance of the Provisional Attachment Order, the appellants filed original complaint No. 1723/2022 before the Adjudicating Authority under Section 5(5) of the PMLA, seeking confirmation of the attachment. Moreover, pursuant to such complaint, show cause notices were issued to the writ petitioners on June 03, 2022 under Section 8(1) of the said Act. These material facts were not disclosed in the writ petition, thereby impairing the Court's ability to appreciate the entire factual matrix and legal framework governing the attachment.

18. The law under Section 5(1) mandates that the attachment order record "*reasons to believe*" that the properties attached constitute proceeds of crime. The impugned Provisional Attachment Order is a detailed, reasoned and speaking order which complies with the statutory mandate. The reasons supporting such belief are part of the investigation records maintained by the Enforcement Directorate and were forwarded to the Adjudicating Authority along with the attachment order. It was an error of law for the Court to conclude non-compliance without requisitioning the relevant materials or affidavit from the Enforcement Directorate in support of the said order.

19. It is further submitted that the statutory allocation of the burden of proof under Section 24 of the PMLA was disregarded, which lies upon the respondents/writ petitioners to demonstrate that the attached assets were acquired from lawful sources. The Enforcement Directorate herein the appellants' prima facie satisfaction suffices for provisional attachment, which is an interim measure intended to protect the attached properties from dissipation or alienation pending investigation and trial. Judicial intervention at this preliminary stage is unwarranted and tends to frustrate the statutory guideline.

20. The legislative policy underlying the provisional attachment regime under the PMLA was overlooked. Such attachment is intended as a protective and preventive mechanism safeguarding public interest and funds. The Learned Single Judge incorrectly held that the Enforcement Directorate must conclusively establish '*proceeds of crime*' before provisional attachment. Such a requirement misconstrues the statutory mandate, which contemplates adjudication and trial on the merits only after confirmation of attachment by the Adjudicating Authority.

21. The contention of the petitioners that no prior notice or opportunity of hearing was afforded before attachment reflects a misinterpretation of the statutory provisions. Section 5(1) permits provisional attachment without prior notice where circumstances so necessitate. Thereafter, the scheme confers on affected persons the right to adjudication, including notice and hearing, before the Adjudicating Authority under Section 8, which safeguards the principles of natural justice. Notably, in ***Radhika Agarwal v. Union of India*** reported in **(2025) 6 SCC 545**, Justice Trivedi cautioned in her concurring view that judicial review under Articles 32 and 226 for arrests under special laws like PMLA, UAPA, FERA, Customs Act and GST Acts must be exercised sparingly, lest a permissive interpretation undermine these statutes' objectives in tackling grave offences that threaten national financial integrity and sovereignty. Likewise, in ***Arvind Kejriwal v. Directorate of Enforcement*** reported in **(2025) 2 SCC 248** equated safeguards in Section 104(1) of the Customs Act requiring reasons to believe an offence was committed with those in Section 19(1) of PMLA, finding no material distinction between guilt and commission of an offence.

22. It is submitted that the present case is part of a continuing investigation involving sophisticated financial fraud similar to established chit fund scams such as the Saradha Group, with which the petitioners have been implicated

previously. Their habitual involvement in money laundering underscores the imperative need for vigilant enforcement and non-interference with provisional measures intended to preserve assets and protect the government interests.

23. The appellants urge that the impugned order failed to appreciate the severe prejudice that would ensue from vacating the provisional attachment. The ability to attach properties provisionally is critical to the prospects of successful confiscation and recovery in the ultimate adjudication. The principle of maintaining attachment during pendency of adjudicatory proceedings serves to prevent jeopardizing public interest.

24. During the pendency of the writ petition, the Adjudicating Authority confirmed the provisional attachment by order dated September 23, 2022 under Section 8(3) of the PMLA, subject to the outcome of the writ. This confirmation reaffirms the correctness and procedural propriety of the attachment order challenged in the writ petition.

25. The appellants, therefore, submit that the respondents/writ petitioners have alternative efficacious remedies available under Section 26 of the PMLA before the Appellate Tribunal. Resorting to writ jurisdiction at a preliminary stage disrupts the statutory adjudicatory framework of the PMLA. With complete statutory adjudication under PMLA, writ jurisdiction under Article 226 should not be invoked, as aggrieved parties must exhaust remedies before the Adjudicating Authority and Appellate Tribunal. Reliance has been placed on ***Commissioner of Income Tax v. Chhabil Dass Agarwal*** reported in **(2014) 1 SCC 603**, ***Raj Kumar Shivhare v. Assistant Director*** reported in **AIR 2010 SC 2239**. The Allahabad High Court (Lucknow Bench) in ***Namrata Marketing Pvt. Ltd. v. Union of India*** reported in **AIR OnLine 2011 All 429**, held procedural challenges to PAO triable before the Adjudicating Authority with multi-layered appeals under Sections 26 and 42. Similarly, Madras High Court in ***A. John Kennedy v. Joint Director***, **AIR OnLine** reported in **2020 MAD**

2243 and the Delhi High Court in ***Farida Begum Biswas v. Union of India*** reported in **2015 SCC OnLine Del 11834** dismissed writs favouring statutory remedies. Therefore, praying that this Court stays the operation of the impugned order quashing the provisional attachment pending disposal of the present appeal.

26. Learned counsel appearing for the respondent/writ petitioner submits that the Provisional Attachment Order (POA) dated March 29, 2022, issued by appellant no. 2 under Section 5(1) of the PMLA, was rightly quashed by the Hon'ble Single Judge through the impugned judgment dated 28th June 2022 in WPA 10984 of 2022, without keeping any proceedings pending. This PAO, challenged after extensive hearings of both sides, suffered from a complete absence of causal nexus between the attached properties such as Flats 9F, 9G, 11H at Merlin Residency, Shantiniketan house and bank accounts and any proceeds of crime from scheduled offences linked to I-Core dealings. The writ court meticulously recorded in paragraphs 10 to 20 that the PAO failed to establish derivation from direct or indirect criminal activity under Section 2(1)(u), nor any real likelihood of dissipation under Section 5(1)(b), rendering it a jurisdictional nullity rather than mere inadequacy of reasons.

27. Learned counsel emphasises that Section 5(1) mandates written reasons forming an unbroken chain of possession of proceeds of crime and relation to scheduled offences all conjunctively required and absent herein. The impugned judgment rightly highlighted the PAO's general conclusions lacking factual precision, no money-trail from I-Core to respondents' pre-2009 acquisitions funded by legitimate sources like salaries and loans and no specific allegations against respondent nos. 2 and 3 and no charge-sheet against them. Properties were acquired years prior to alleged offences, stripping ED of jurisdiction, as affirmed in ***Enforcement Directorate v. Seema Garg*** reported in **(2020) SCC OnLine P&H 738** and ***Pavana Dibbur v. Directorate of Enforcement***

reported in **(2023) 15 SCC 91**. Such jurisdictional defect overrides alternative remedy bars as mentioned in **Whirlpool Corporation v. Registrar of Trade Marks** reported in **(1998) 8 SCC 1** and aligns with **Tofan Singh v. State of Tamil Nadu** reported in **(2021) 4 SCC 1** on absent reasons voiding orders.

28. The scope of this appeal confines to the impugned judgment's legality, not hypothetical Section 8(3) outcomes, which follow automatically upon its affirmation. ED was heard extensively across dates including June 21, 2022 with all documents placed and cannot belatedly cure PAO lacunae thereby, per settled law in Commissioner of **Police v. Gordhandas Bhanji** reported in **(1951) SCC OnLine SC 70**, **Mohinder Singh Gill v. Chief Election Commissioner** reported in **(1978) 1 SCC 405** and **Bhikhubhai Vithalbhai Patel v. State of Gujarat** reported in **(2008) 4 SCC 144**. Matters of law were fully argued and additional merits and material were rejected.

29. Kaushalya Infrastructure Development Corporation Ltd. v. Union of India reported in **(2023) 18 SCC 526** is inapplicable, as it involved remand preserving proceedings, unlike the outright quashing leaving no PAO for Section 8(3) confirmation being expressly noted by the Appellate Authority subordinating its order to this appeal. Learned counsel further submits that no Sections 17/18 applies and that a quashed PAO equates to non-existence as mentioned in Shree **Chamundi Mopeds Ltd. v. Church of South India Trust** reported in **(1992) 3 SCC 1** and **Shree Hanuman Cotton Mills Ltd. v. Union of India** reported in **(2022) SCC OnLine Cal 4604**.

30. It is submitted that remand would perpetuate harassment as punishment after years of proceedings, despite the finding of the Single Judge. The Counsel submits that this Court under Article 226 may permit ED affidavit if needed and finally dispose, curing technical natural justice without prejudice. Judicial review under Article 226 permits merits scrutiny for perversity, absent

reasons or improper discretion as found in ***Roshan Di Hatti v. CIT*** reported in **(1977) 2 SCC 378**, especially for PMLA's rights-infringing powers.

31. The ED's cited cases are distinguishable as in ***Vijay Madanlal Choudhary v. UOI*** reported in **(2022) SCC OnLine SC 929** affirms PAO reviewability and in ***Commissioner of Income Tax v. Chhabil Dass Agarwal*** reported in **(2014) 1 SCC 603** it is settled law that the self-imposed restriction on alternative remedy does not and cannot bar a writ petition if the concerned authority has acted without jurisdiction or in breach of natural justice or in violation of fundamental rights. All three conditions apply to the instant case, which was absent in the aforementioned impugned judgement cited by the ED.

32. Having heard the learned counsel for the parties, this Court is of the opinion that the controversy raised in the instant appeal has become purely academic in nature and does not warrant adjudication on merits.

33. The Provisional Attachment Order dated March 29, 2022 under Section 5(1) of the PMLA, challenged before the Learned Single Judge, stands confirmed by the Adjudicating Authority vide order dated September 23, 2022 under Section 8(3). The respondents have availed statutory appellate remedies under Section 26 before the Appellate Tribunal (PMLA), New Delhi, where appeals (Nos. 5087/2022, 5088/2022, 5089/2022 and 5173/2022) remain pending adjudication.

34. It is a settled principle of jurisprudence that Courts refrain from deciding academic or infructuous matters, particularly where a comprehensive statutory mechanism exists for redressal. In ***Chhabil Dass Agarwal (supra)*** the Hon'ble Supreme Court held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation. The High Court must not interfere if there is an adequate efficacious alternative remedy available unless exceptional circumstances warrant such interference.

35. The PMLA provides such a complete adjudicatory hierarchy such as, provisional attachment under Section 5, confirmation under Section 8, appeal under section 26 and Special Court trial. None of the recognized exceptions such as futile remedy, jurisdictional defect or natural justice violation are attracted herein.

36. This position is fortified under the PMLA regime by the Constitution Bench in ***Vijay Madanlal Choudhary (supra)***, which upheld the Act's constitutional validity and cautioned that writ courts must exercise utmost restraint against interfering with provisional attachments, interim measures to secure proceeds of crime. '*Reasons to believe*' requires prima facie satisfaction only, conclusive proof awaits statutory adjudication.

37. The Adjudicating Authority's confirmation, despite awareness of writ pendency, underscores statutory primacy over premature writ intervention. Therefore, entertaining parallel writ proceedings post-adjudication would multiply litigation and frustrate public interest in protecting laundered assets. Exhaustion of statutory remedies remains the rule of judicial discipline.

38. The impugned order dated June 28, 2022 is set aside. The matter being academic, the parties shall expeditiously pursue Appellate Tribunal proceedings. The application being CAN 1 of 2022 is disposed of.

39. There shall be no order as to costs.

40. Urgent certified copy, if applied for, be supplied upon compliance with requisite formalities.

(Rajarshi Bharadwaj, J.)

I Agree.

(Uday Kumar, J)