

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 1351 OF 2019**

M/s. 63 Moons Technologies Limited,
(formerly known as Financial,
Technologies (India) Limited having its,
address at F.T. Tower, Suren Road, Chakala,
Andheri (E)), Mumbai 400 093. ... Appellant

V/s.

- 1) Union of India,
Through Deputy Director,
Directorate of Enforcement,
Prevention of Money Laundering,
Act, 2002, Kaiser-I-Hind Building,
Ballard Estate, Mumbai-400 001.
- 2) National Spot Exchange Limited,
Having its office at Chintamani Plaza,
6th Floor, B-Wing, Andheri-Kurla Road,
Chakala, Andheri (East), Mumbai-400 099.
- 3) The State of Maharashtra ... Respondents

**WITH
INTERIM APPLICATION NO.4604 OF 2025
IN
CRIMINAL APPEAL NO. 1351 OF 2019**

M/s. 63 Moons Technologies Limited ... Applicant

V/s.

Union of India & Ors ... Respondents

**WITH
CRIMINAL APPEAL (ST) NO. 139 OF 2020**

Deputy Director,

Directorate of Enforcement ... Appellant

V/s.

M/s. 63 Moons Technologies Limited & Anr ... Respondents

**WITH
INTERIM APPLICATION NO.455 OF 2020**

Deputy Director,

Directorate of Enforcement ... Applicant

V/s.

M/s. 63 Moons Technologies Limited & Anr ... Respondents

**WITH
INTERIM APPLICATION NO.46 OF 2026**

M/s. 63 Moons Technologies Limited ... Applicant

V/s.

Deputy Director,

Directorate of Enforcement & Anr ... Respondents

**WITH
WRIT PETITION NO.5167 OF 2019**

Jignesh Shah ... Petitioner

V/s.

Union of India & Ors ... Respondents

**WITH
INTERIM APPLICATION NO.45 OF 2026**

IN

WRIT PETITION NO.5167 OF 2019

Jignesh Shah ... Applicant

V/s.

Union of India & Ors ... Respondents

WTHH
CRIMINAL APPEAL NO.1351 OF 2019

M/s. 63 Moons Technologies Limited ... Appellant

V/s.

Union of India & Ors ... Respondents

Mr. Vikram Nankani, Senior Advocate a/w Mr. Rahul Sarda, Mr. Vrushabh Vig, Mr. Vikrant Nalavade, Ms. Priyam Sharma i/b M/s. Crawford Bayley & Co., for the Applicant in IA/4604/2025 and Appellant in Appeal No.1351/2019.

Mr. Arvind Lakhawat i/b Mr. Abhijeet Marathe for the Applicant in IA/45/2026 and for Petitioner in WP/5167/2019.

Mr. Chetan Kapadia, Senior Advocate a/w Mr. Siddharth Puthoor i/b Mehta & Padmasey for NSEL Investors Forum.

Ms. P.P. Shinde, A.P.P. for Respondent-State.

Mr. Anil C. Singh, Additional Solicitor General of India a/w Mr. Chaitanya Pendse, Mr. Aditya Thakkar, Mr. Rajdatt Nagre, Mr. Krishnakant Deshmukh, Mr. Aadarsh Vyas, Ms. Rama Gupta, for the Respondent No.1-ED.

Mr. Arvind Lakhawat a/w Mr. Melvyn Fernandes i/b Vashi Associates for the Respondent No.2 in IA/4604/2025.

Mr. Arun Khatri, Assistant Director attached to ED is present.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**
DATE : 9th MARCH 2026

JUDGMENT (Per A.S. Gadkari, J.) :-

1) Appellant has impugned the Order dated 17th September, 2019, passed by the Appellate Tribunal for SAFEMA, FEMA, NDPS, PMLA & PBPT Act, at New Delhi in MP-PMLA-4694/MUM/2018 (Misc.) and other connected Applications/proceedings therein.

2) Appellant is principally aggrieved with the directions issued by the Appellate Tribunal, directing the Appellant to furnish indemnity bond for

a sum of Rs. 1095,27,17,055/- alongwith an undertaking that, if upon the conclusion of the trial and final adjudication it is found that the attached movable property constitutes proceeds of crime (PoC), the Appellant shall deposit the said amount with the Respondent No.1 namely the Union of India through the Deputy Director, Directorate of Enforcement, PMLA, Mumbai. The Tribunal further directed that, such undertaking be filed within one month from the date of the Judgment. It was also held that, subject to compliance with the aforesaid two conditions, the provisional attachment Order issued by the Respondent No.1 would stand quashed *qua* the Appellant and all its movable properties, namely DEMAT Account and investment in bonds would stand released. In addition, the Appellate Tribunal also granted liberty to the Appellant to seek review before the Tribunal itself or to move the Special Court for modification/vacation of the interim directions, in the event the two orders passed by the Company Law Board ('CLB') and Economic Offence Wing ('EOW') were vacated.

3) Criminal Appeal (ST) bearing No.139 of 2020, has been preferred by the Deputy Director, Directorate of Enforcement, Mumbai, challenging the same Judgment and Order. For the sake of convenience, the Directorate of Enforcement is hereinafter referred to as Respondent No.1.

3.1) The Respondent No.1 is aggrieved by the entire Order, and in particular, the lifting of the attachment pursuant to the Appellate Tribunal's directions upon furnishing the aforementioned undertaking by the Appellant.

4) We have heard these Appeals at considerable length on earlier occasions. We have also borne in mind the grievances and plight of the thousands of investors of the erstwhile National Spot Exchange Limited ('NSEL'), now Respondent No.2.

5) The record indicates that NSEL filed Application bearing No. C.A.(C.A.A.)/65(MB) 2025, seeking directions for convening a meeting of the Investors/Creditors, as well as Company Petition No. C.P (C.A.A.)/104(MB) 2025 in C.A.(C.A.A.)/65(MB) 2025, seeking sanction of the Scheme approved by the NSEL Investors Forum. The said Company Petition came to be allowed in terms of the prayer clauses (a), (b) and (c) of the Petition. However, the National Company Law Tribunal ('NCLT') clarified its order by issuing the following two directions :-

“(i) The sanction of the present Scheme shall not, in any manner, override, dilute, or affect the operation of any subsisting attachment orders issued by any Court, Tribunal, or Authority, and the same shall happen in accordance with the Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.

(ii) The sanction of the Scheme shall not be construed the quashing, withdrawal or termination of any criminal proceedings pending before any judicial, quasi-judicial, or other competent authorities, and the same shall be decided in accordance with the

Order passed by such Court, Tribunal, or Authority on an application filed in terms of the Scheme.”

6) Today, Mr. Nankani, learned senior counsel appearing for the Appellant, informed the Court that the said Order has been upheld by the Hon’ble Supreme Court and the S.L.P filed by the disgruntled investor has been dismissed.

7) During the course of hearing, Mr. Anil C. Singh, learned Additional Solicitor General of India, with usual fairness at his command submitted that, the Respondent No.1 has no serious objection to the implementation of the NCLT Order in its true letter and spirit. He, however, requested this Court to further clarify that paragraph No.56(i) of the Order dated 28th November, 2025, be implemented in its true letter and spirit.

8) The record further indicates that, by Order dated 28th November, 2025, the NCLT appointed former Judge of this Court, Shri. Justice S.C. Gupte, as the Monitoring Authority for distribution of the settlement amount to the specified creditors. The list of creditors benefiting under the said scheme is annexed at Schedule No.III to the Interim Application No.4604 of 2025.

9) Apart from the merits of the case, we have also considered the grievances and plight of the thousands of investors, who are the ultimate victims of the alleged crime.

10) Upon perusal of the scheme, we are unable to agree with Paragraph No.24.6 of the Scheme of Arrangement annexed at Exhibit-A to the Interim Application No.4604 of 2025 which reads thus:

“24.6. After the Settlement Trigger event, the Consenting Brokers, Consenting Brokers’ Associates, Persons in the 63 moons Group past and present employees of 63 moons and NSEL (to the exclusion of Amit Mukherjee, Jai Bahukhandi, Anjani Sinha and Manishchandra Pandey), and Specified Creditors, through the persons mentioned in Clause 24.14, shall jointly apply to respective Courts for quashing/compounding/dismissal/discharge of criminal proceedings.”

11) *Prima facie*, it appears that through the mechanism of settlement, the accused persons are attempting, albeit indirectly, to secure exoneration from the alleged offences by which several unsuspecting investors appear to have been duped. We are unable to countenance such a course. The offences alleged are serious in nature and must be taken to their logical conclusion before a competent Criminal Court. In our view, a Civil Court (NCLT) cannot determine or dilute the consequences of criminal prosecution by incorporating or accepting any covenant in a scheme or agreement executed between the parties by consent.

12) In view of the above Interim Application No.4604 of 2025, is allowed in terms of amended prayer clause (a). Consequently, the connected

Appeals, Interim Applications, and Writ Petition, do not survive and are accordingly disposed off.

13) We reiterate that although the NCLT has clarified the legal position in unequivocal terms, the lifting of attachment over the assets in question and the consequent disbursement of amounts to the investors/victims shall in no manner be construed as dilution of criminal charges against the accused persons in the present crime. The criminal prosecution shall proceed independently and will be taken to its logical end as expeditiously as possible by all prosecuting agencies.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)