

**IN THE HIGH COURT FOR THE STATE OF TELANGANA ::
HYDERABAD**

*** * ***

WRIT PETITION Nos.45761, 31957 & 31958 of 2022

Between:
Sanjay Agarwal and Others.

Petitioners

VERSUS

The Union of India,
Ministry of Finance,
North Block, New Delhi,
Rep. by its Secretary and others.

Respondents

COMMON ORDER PRONOUNCED ON: 26.03.2026

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : **Yes**

P.SAM KOSHY, J

*** THE HON'BLE SRI JUSTICE P.SAM KOSHY**

AND

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

+ WRIT PETITION Nos.45761, 31957 & 31958 of 2022

% 26.03.2026

Between:

Lateef Rahman Sharfan and others.

Petitioners

VERSUS

The Union of India,
Ministry of Finance,
North Block, New Delhi,
Rep. by its Secretary and others.

Respondents

! Counsel for petitioners : Mr. Sanjay Agarwal, petitioner / party in person in Writ Petition No.45761 of 2022.

Mr. Vedula Srinivas, learned Senior Counsel appearing for Ms. Vedula Chitralekha, learned counsel for the petitioner in Writ Petition Nos.31957 and 31958 of 2022.

^Counsel for respondent : Mr. A.R.N. Sundareshan, learned Additional Solicitor General of India appearing for Mr. Anil Prasad Tiwari, learned Standing Counsel for Enforcement Directorate.

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? Cases referred

- 1) 2025 SCC Online Del 8672 2) 2018 SCC Online Del 6523
- 3) W.P.No.40454 of 2025, dated 08.01.2026 4) (2023) 12 SCC 1

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WRIT PETITION Nos.45761, 31957 & 31958 of 2022

DATE: 26.03.2026

Between:

Sanjay Agarwal and Others.

...Petitioners

AND

The Union of India,
Ministry of Finance,
North Block, New Delhi,
Rep. by its Secretary and others.

...Respondents

COMMON ORDER: *(per the Hon'ble Sri Justice P.Sam Koshy)*

Heard Sanjay Agarwal, petitioner / party-in-person in Writ Petition No.45761 of 2022; Mr. Vedula Srinivas, learned Senior Counsel appearing for Ms. Vedula Chitrlekha, learned counsel for the petitioner in Writ Petition Nos.31957 and 31958 of 2022, and Mr. A.R.N. Sundareshan, learned Additional Solicitor General of India appearing for

Mr. Anil Prasad Tiwari, learned Standing Counsel for Enforcement Directorate.

2. These are three writ petitions arising out of the same transaction by three different set of people. Since the issue involved and the factual matrix being common, the three writ petitions are being proceeded to be decided by this Common Order.

3. Writ Petition No.31957 of 2022 has been filed by a group of petitioners namely Mahesh Agarwal, Mayur Agarwal and Pranita Agarwal. Mayur Agarwal is the son of Mahesh Agarwal and Pranita Agarwal is the wife of Mayur Agarwal. The three of them have challenged the order dated 19.04.2022 passed by the adjudicating authority under the Prevention of Money Laundering Act, 2002 (for short the 'PMLA'). *Vide* the said impugned order, the adjudicating authority has allowed an application filed by the Directorate of Enforcement, Calcutta Unit, under Section 17(4) of the PMLA whereby they had prayed for retention of the materials seized in the course of search and seizure for the purpose of further investigation required to be carried out.

4. Writ Petition Nos.31957 and 45761 of 2022 are filed challenging the common order dated 25.05.2022, whereby the adjudicating authority has confirmed the provisional attachment order dated 27.08.2021.

5. Writ Petition Nos.31957 and 31958 of 2022 are writ petitions where the petitioners are represented by Mr. Vedula Srinivas, learned Senior Counsel along with Ms. Vedula Chitralkha, learned counsel on record for the petitioners. Whereas, in Writ Petition No.45761 of 2022 the petitioner Sanjay Agarwal is appearing as party in person.

6. The brief facts relevant for disposal of these writ petitions are that the Directorate of Revenue Intelligence, Kolkata Zonal Unit (for short the 'DRI') filed a complaint on 05.02.2020 against Sanjay Agarwal, Mr. Preeth Kumar Agarwal, Ajay Kumar Agarwal and Avinash Soni, which was registered as Case No.562/2018. As per the contents of the complaint of the DRI, it is said that Preet Kumar Agarwal was intercepted at the Netaji Subhash Chandra Bose International Airport, Kolkata, on 04.04.2018 while he was about to board a flight to Dubai *vide* flight No.EK 573. On interrogation it was found that he was

supposed to carry along with him gold weighing 54096 grams which was cleared by the Customs Department for export to be carried on personal hand carry basis. However, after the formalities for export were completed Preet Kumar Agarwal is said to have diverted the said gold to his father Sanjay Agarwal who was waiting outside the said baggage and, who, in turn is said to have booked it to be delivered at Hyderabad through the IndiGo Airlines domestic cargo and which was recovered by the DRI from the IndiGo Airlines domestic cargo.

7. As per the DRI, from the investigations which were conducted thereafter it was learnt that the accused persons were habitual offenders and in similar fashion, in the past, have smuggled huge quantity of gold jewelry expected to be about 2,500 kgs and have disposed of such gold jewelry in the local market and in turn received consideration. The remittances received were in due course of time layered into different accounts of the family members and firms operated by the family. In the course of investigation, the DRI could lay hand on the details of the accounts maintained in the Axis Bank in the name of M/s. P.H. Jewelers, the proprietor of which is Radhika Agarwal. The said account revealed

that during the period of around 2½ years between 19.04.2014 to 30.11.2016, there was a transaction amounting to Rs.1184 crores from this account. Certain transactions from the said account also were found to have been subsequently layered in the personal bank account of the proprietor Radhika Agarwal. The DRI also found another Axis Bank account in the name of Radhika Agarwal, which too, revealed huge transaction amounting to more than Rs.400 crores to have undertaken between 20.05.2015 to 10.06.2018.

8. Likewise, there was another search and seizure proceeding conducted on 09.03.2021 at the residential and business premises of Sanjay Agarwal, Radhika Agarwal, Ajay Kumar Agarwal and Preet Kumar Agarwal. In the course of search, various incriminating documents, properties, and records were seized and an O.A. bearing O.A.No.474 of 2021 was filed seeking permission of the adjudicating authority for retention of the said documents for further investigation purpose. The search also revealed certain immovable properties having been acquired by Sanjay Agarwal.

9. In the course of investigation, certain incriminating materials were seized on 17.08.2021 and which were put forth for confirmation before the adjudicating authority under Section 17(4) of the PMLA and the adjudicating authority *vide* the impugned order dated 19.04.2022 (which is under challenge in Writ Petition No.31957 of 2022) was passed permitting the Directorate of Enforcement to retain the seized documents and materials for further investigation. Further, down the line, the Directorate of Enforcement passed the Provisional Attachment Order (for short 'PAO') order dated 27.08.2021 in respect of the materials seized in the course of search and seizure and also those which were collected during the course of investigation as is reflected in paragraphs 8(A) and 8(B) of the PAO reflecting the description of materials attached. Later, in terms of the provisions of the PMLA, the PAO was put for confirmation before the adjudicating authority, who in turn, *vide* order dated 25.05.2022 (which is under challenge in Writ Petition Nos.31958 & 45761 of 2022) confirmed the PAO pending the proceedings, if any, against the petitioners under the provisions of PMLA before the concerned Court.

10. It is the order dated 19.04.2022 confirming the seizure and permitting the investigating agency to retain the documents and materials seized in the course of investigation which has been challenged in one of the writ petitions and confirmation of the PAO passed by the adjudicating authority on 25.05.2022 which is under challenge in other two writ petitions.

11. The order of retention of the materials seized which is challenged by Mahesh Agarwal, Pranita Agarwal and Mayur Agarwal is primarily on the ground that the order of the adjudicating authority dated 19.04.2022 is contrary to the provisions of Section 5(1) of the PMLA on account of the same having passed beyond 180 days from the date of the PAO having passed.

12. According to the petitioners, the reasons assigned by the adjudicating authority on the aspect of limitation as is prescribed under Section 5(1) of the PMLA is totally erroneous and contrary to the mandate given by the Hon'ble Supreme Court in suo moto case and the orders passed so far as limitation is concerned on account of the COVID

pandemic that prevailed across the country from March, 2020 to February, 2022.

13. Even on merits, the contention of the petitioners in the course of challenging the order of retention was that the finding given by the adjudicating authority is unsustainable for having not properly appreciated the source and sources from where the funds were generated by the petitioners in purchasing the properties, the documents of which were seized. It was also contended that the findings of the adjudicating authority that the properties purchased by the petitioners are from the proceeds of crime related to alleged smuggling activities in which Sanjay Agarwal and his family members were involved is without any cogent basis or material proof collected in the course of investigation. Hence, the said finding is purely imaginary in nature.

14. Further, the petitioners contended that as per Section 6(2) of the PMLA, an Adjudicating Authority shall consist of a Chairperson and two other Members, with at least one being a judicial member having experience in law, administration, finance or accountancy. Section

6(5)(b) stipulates that a Bench may be constituted by the Chairperson with one or two Members as deemed fit. On conjoint reading of these provisions, an Adjudicating Authority must comprise more than one member, with at least one judicial member, while deciding cases under Section 8(3) of the PMLA. However, in the present case, only the Chairman, who is not even a Judicial Member, presided over and heard the matter alone in Original Complaint (OC)No.1532 of 2021 and passed the impugned order dated 25.05.2022, thereby violating the mandatory provisions of Sections 5(1), 6(2), and 6(5)(b) of the PMLA. Such an order passed beyond jurisdiction is arbitrary, illegal, unlawful, and violative of the principles of natural justice, and therefore cannot be sustained in law and should be set aside.

15. It was lastly contended by the petitioners that the adjudicating authority has not properly appreciated the evidence which the petitioners submitted before the adjudicating authority so far as the genuineness of the sources of funds from which the attached properties were purchased. The order passed by the adjudicating authority also lacks reasons while reaching to the conclusion that the properties purchased by the

petitioners in Writ Petition No.31957 of 2022 were from the illegal money laundering of the gold by Sanjay Agarwal and his family members and the share of which have also fallen to Mahesh Agarwal, Pranita Agarwal and Mayur Agarwal.

16. Opposing the writ petitions, the learned Additional Solicitor General submits that the petitioners in Writ Petition No.31957 of 2022 are part of a big conspiracy. It was also the contention that there have been substantial material collected in the course of investigation which would strongly indicate that the petitioners in Writ Petition No.31957 of 2022 were having a close connection and proximity with Sanjay Agarwal and his family and their business.

17. According to the learned Additional Solicitor General, in the course of investigation what is prima facie revealed is that the petitioners had colluded with the main accused Sanjay Agarwal and others in concealing the proceeds of crime. According to the learned Additional Solicitor General, it is a case where the connivance of the petitioners that the main accused Sanjay Agarwal is reflected from the property which

was initially agreed to be sold to Radhika Agarwal, the wife of Sanjay Agarwal, in respect of the property developed by M/s. Shanta Sriram Constructions. However, subsequently by way of paper arrangement the deed in which the property was to be given in the name of Radhika Agarwal got cancelled and the said property thereafter was got registered in the name of Mahesh Agarwal, Pranita Agarwal and Mayur Agarwal. Further strong material against Mayur Agarwal was the regular phone calls that he was making to Sanjay Agarwal. The phone calls that were made by Mayur Agarwal to Sanjay Agarwal was on a mobile phone and the sim card used by Sanjay Agarwal was issued from Bangladesh. This establishes the close proximity that Sanjay Agarwal had with Mayur Agarwal and others.

18. Learned Additional Solicitor General further pointed that upon the Enforcement Directorate calling upon the petitioners to provide proof of the ownership and the sources of funds used for purchase of two villas in the name of Mahesh Agarwal and one villa in the name of Pranita Agarwal at M/s. Shanta Sriram Constructions, the petitioners did not provide for any such material in their support, nor did they provide for

any cooperation assisting the Enforcement Directorate in the investigation, which all the more would go against the petitioners. According to the learned Additional Solicitor General, there was enough material in respect of the dubious transaction of three villas which was originally registered in the name of Mahesh Agarwal and Pranita Agarwal.

19. Learned Additional Solicitor General further contended that the provisions of Section 6(2) and Section 6(5)(b) of the PMLA are directory in nature and not mandatory, and that any procedural irregularity in the composition of the Bench does not vitiate the proceedings or the order passed by the Adjudicating Authority. Further, the Chairperson of the Adjudicating Authority is duly appointed under the provisions of the PMLA and possesses the requisite qualifications and experience to adjudicate matters independently and the petitioners have not demonstrated any prejudice caused due to the alleged non-constitution of a multi-member Bench, and that the impugned order is based on the merits of the case and material on record. He submitted that the petitioners are merely raising technical objections to avoid legal

consequences of the attachment order, and that the confirmation order passed under Section 8(3) of the PMLA is in accordance with law and the findings recorded therein are well-reasoned and sustainable.

20. Learned Additional Solicitor General contended that since there was smuggling of huge quantity of gold made by the main accused Sanjay Agarwal and others against whom the proceedings under the PMLA have been initiated. In the course of the investigation, what is also *prima facie* revealed is that, even the employers of the M/s. Shanta Sriram Construction have deposed of the petitioners Mr.Mahesh Agarwal, Pranita Agarwal and Mayur Agarwal having not visited the site or the site office, nor have they at any point of time entered into any sort of consultation or negotiation and that they were for the first time seen at the time of re-registration of the property in their name. According to the learned Additional Solicitor General, it was in this context and in this line of investigation that the materials and records seized in the course of search and seizure needs to be retained and which has allowed by the adjudicating authority. According to the learned Additional Solicitor

General, it does not warrant any further interference and the writ petitions deserve to be dismissed.

21. Having heard the contentions put forth on either side and on perusal of records the factual matrix of the case on what exactly transpired at the Airport is not in dispute though the petitioners have denied the commissioning of any offence under the PMLA. What is also *prima facie* revealed from the proceedings and the materials on record is that from the phone calls made by Mayur Agarwal there appears to be frequent phone calls being made by Mayur Agarwal to Sanjay Agarwal and that on a phone belonging to Sanjay Agarwal which carried a sim-card from Bangladesh. Subsequently, the purchase of two villas in the name of Mahesh Agarwal and one in the name of Mr. Praneetha Agarwal without any substantial proof of the source of income and the mode of payment made to the developers.

22. All these facts go to *prima facie* establish the link that the petitioners Mahesh Agarwal, Pranita Agarwal and Mayur Agarwal had with one of the main accused Sanjay Agarwal, which further strengthens

from the reluctance shown by them to reveal more details to the authorities concerned. All these facts are also strong enough material for the adjudicating authority to pass an order permitting the retention of materials and records seized in the course of search and seizure.

23. It would be trite at this juncture to refer to the provisions of Section 6 of the PMLA. For ready reference, Section 6 of the PMLA is reproduced hereunder, viz.,

“The Central Government shall, by notification, appoint 1 [an Adjudicating Authority] to exercise jurisdiction, powers and authority conferred by or under this Act.

(2) An Adjudicating Authority shall consist of a Chairperson and two other Members: Provided that one Member each shall be a person having experience in the field of law, administration, finance or accountancy.

(3) A person shall, however, not be qualified for appointment as Member of an Adjudicating Authority,--

(a) in the field of law, unless he—

(i) is qualified for appointment as District Judge; or (ii) has been a member of the Indian Legal Service and has held a post in Grade I of that service

(b) in the field of finance, accountancy or administration unless he possesses such qualifications, as may be prescribed.

(4) The Central Government shall appoint a Member to be the Chairperson of the Adjudicating Authority.

(5) *Subject to the provisions of this Act,--*

(a) the jurisdiction of the Adjudicating Authority may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Adjudicating Authority with one or two Members as the Chairperson of the Adjudicating Authority may deem fit;

(c) the Benches of the Adjudicating Authority shall ordinarily sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson, by notification, specify;

(d) the Central Government shall, by notification, specify the areas in relation to which each Bench of the Adjudicating Authority may exercise jurisdiction.

(6) Notwithstanding anything contained in sub-section (5), the Chairperson may transfer a Member from one Bench to another Bench.

(7) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to such Bench as the Chairperson may deem fit.

(8) The Chairperson and every Member shall hold office as such for a term of five years from the date on which he enters upon his office: Provided that no Chairperson or other Member shall hold office as such after he has attained the age of 2(sixty-five) years.

(9) The salary and allowances payable to and the other terms and conditions of service of the Member shall be such as may be prescribed: Provided that neither the salary and allowances nor the other terms and conditions of service of the Member shall be varied to his disadvantage after appointment.

(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 shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Adjudicating Authority from the stage at which the vacancy is filled.

(11) The Chairperson or any other Member may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or any other Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(12) The Chairperson or any other Member shall not be removed from his office except by an order made by the Central Government after giving necessary opportunity of hearing.

(13) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the senior-most Member shall act as the Chairperson of the Adjudicating Authority/

until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(14) When the Chairperson of the Adjudicating Authority is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson of the Adjudicating Authority until the date on which the Chairperson of the Adjudicating Authority resumes his duties.

(15) The Adjudicating Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Adjudicating Authority shall have powers to regulate its own procedure.”

24. Now the first issue that arises for consideration of the Bench is “whether the composition of the Adjudicating Authority while passing the impugned order dated 25.05.2022 confirming the Provisional Attachment Order is in violation of Sections 6(2) and 6(5)(b) of the PMLA, thereby rendering the order illegal and void?”

25. Section 6(2) of the PMLA provides that the Adjudicating Authority shall consist of a Chairperson and two other Members. Section 6(5)(b) provides that the Chairperson may constitute one or more Benches consisting of one or two Members as he may deem fit. A plain

reading of these provisions makes it clear that while the Adjudicating Authority as an institution consists of a Chairperson and two Members, the actual adjudication can be done by a Bench constituted by the Chairperson consisting of one or two Members. The use of the words "may constitute" in Section 6(5)(b) clearly indicates that the provision is directory and not mandatory. The Chairperson has been given discretion to constitute Benches of one or two Members depending on the nature and complexity of the case. This is a well-recognized principle of administrative efficiency which enables speedy disposal of cases.

26. It would be relevant at this juncture to refer to a recent decision of the Delhi High Court in **Naresh Bansaland Othres vs. Adjudicating Authority and Another**¹, wherein in paragraph Nos.45 to 49, it was held as under, viz.,

"D. Section 6 of the PMLA: Whether the AA was coram non judice?"

45. Since the present issue concerning the validity of the SCN has been argued on two distinct limbs, this Court deems it appropriate to bifurcate the contentions under distinct heads and deal with them separately, the issues are as follows:

¹ 2025 SCC Online Del 8672

- i. Whether the SCN issued by AA is valid in view of the AA allegedly acting coram non judice under Section 6 of the PMLA; and*
- ii. Whether an SCN can be issued even in the absence of prior attachment of properties by the Directorate.*

(i) Whether the SCN issued by AA is valid in view of the AA allegedly acting coram non judice under Section 6 of the PMLA?

46. Section 6(2) of the PMLA provides that AA shall comprise of a Chairperson and two other members; whereas, Section 6(5)(b) authorizes the Chairperson to constitute Benches with either one or two members, as deemed necessary, thereby enabling functional flexibility of the AA. Section 6(7) of the PMLA, also enables the Chairperson to formulate a two-member Bench, wherein she/he is of a view that the matter is of such a nature which needs to be heard by a Bench consisting of two members. These three provisions when read in harmony, reveal that although the statute provides a prescription for the composition of AA, nevertheless, the usage of word ‘shall’ under Section 6(2) cannot be considered in isolation so as to suggest that a three-member composition is a compulsory and only acceptable composition, enabling the AA to exercise the power vested in it by the statute. It further reveals that the statute provides a threefold legislative design, permitting the AA to function in three distinct configurations, either as a three-member authority or for purposes of functional expediency, as a two-member Bench or even as a single-member Bench, depending on the nature of the matter before it.

*47. The aforesaid interpretation of the provision also aligns with the fundamental principle of statutory interpretation, *ut res magis valeat quam pereat*, which mandates that every statutory provision must be given effect and shall not be rendered as ineffectual, inoperative or*

*redundant. In view of the aforesaid, if the argument advanced by the learned counsel for the Petitioner is accepted and the provisions of Section 6 of the PMLA are interpreted in a manner that it prohibits the existence or constitution of AA as a single-member Bench, such interpretation would nullify the effects and intention behind adding Section 6(5)(b) and Section 6(7) of the PMLA, which is impermissible under the recognised principles of statutory provisions. A similar view has also been taken by the Division of Bench of Telangana High Court in **Enforcement Directorate v. Karvy India Reality Limited**. 2024 SCC Online TS 18*

48. The Court in Karvy India (supra) further clarified that although AA performs quasi-judicial functions, it is neither a tribunal within the meaning of Articles 323A or 323B of the COI, nor has it been vested with any adjudicatory function transferred from traditional courts. Additionally, it was also noted that the powers under Section 8 of the PMLA may validly be exercised by a single-member bench, even in absence of a judicial officer. While elaborating further, it was observed by the Court that under PMLA there exist sufficient checks and balances, since the order of the AA is subject to challenge before the AT under Section 26 of the PMLA, which is presided over by a retired Chief Justice.

49. To conclude, applying the aforesaid principles to the present case, this Court is of the view that the SCN issued by a Bench, comprising of a technical member, was valid. Consequently, the contention that the AA was acting coram non iudice is founded on a misinterpretation or ignorance of the statutory framework. Thus, in the view of this Court, the issuance of the SCN is well within the contours of the PMLA, and

as such, the first limb of argument advanced by the Petitioners, in furtherance of validity of SCN, is devoid of merit.”

27. Similarly, the Delhi High Court in the case of **J. Sekar vs. Union of India & Ors.**² held at paragraph Nos.79 and 80, as under, viz.,

“Composition of the AA and AT

79. The Court next takes up the question of the composition of the AA on which extensive arguments were advanced by the learned counsel for the Petitioners. In this context, it must be noticed that under Section 6 PMLA, the AA is supposed to consist of the Chairperson and two other members - one of whom shall be a person having experience in the field of law. Section 6(3) further sets out what the qualifications for appointment as a member of an AA should be. One of those qualifications is that the person has to be qualified for appointment as a District Judge or a person in the field of law or a member of an Indian Legal Service. The other qualification is possession of a qualification in the field of finance, accountancy or administration as may be prescribed. It is, therefore, not the case that all the members of the AA should be judicial members.

80. It is seen that under Section 5 PMLA, the jurisdiction of the AA “may be exercised by the Benches thereof”. Under Section 6(5)(b) PMLA, a Bench may be constituted by the Chairperson of the AA “with one or two members” as the Chairperson may deem fit. Therefore, it is possible to have single-member benches. The word ‘bench’ therefore does not connote plurality. There could, even under Section 6(5)(b) PMLA, be a ‘single member bench’. When Section

² 2018 SCC Online Del 6523

6(6) PMLA states that a Chairperson can transfer a member from one bench to another bench, it has to be understood in the above context of there also being single-member benches.”

28. This Court also recently in the case of **Shri. B.Sreenivasa Gandhi vs. Adjudicating Authority and Another**³ dealt with a similar issue concerning the composition of the Adjudicating Authority under Section 6 of the PMLA and held that a single-member Bench constituted by the Chairperson under Section 6(5)(b) is competent to exercise the powers of the Adjudicating Authority, and such constitution does not render the proceedings *coram non judice*.

29. Thus, in the present case also the Chairperson who passed the impugned order is duly qualified and appointed in accordance with law. The petitioners have not alleged any lack of jurisdiction or competence on the part of the Chairperson. The petitioners are merely raising a technical objection without demonstrating any prejudice or miscarriage of justice.

³ W.P.No.40454 of 2025, dated 08.01.2026

30. Now the second issue for consideration by the Bench is “whether the order dated 19.04.2022 passed by the Adjudicating Authority permitting retention of seized materials and documents is barred by limitation under Section 5(1) of the PMLA?”

31. For ready reference, Section 5(1) of the PMLA is reproduced hereunder, viz.,

“5. Attachment of property involved in money-laundering.—

[(1)Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

(a) any person is in possession of any proceeds of crime; and

(b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a

Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country:

Provided further that, notwithstanding anything contained in 1 [first proviso], any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.]”

32. The aforesaid interpretation of the provision provides that where a Provisional Attachment Order has been made, the Adjudicating Authority shall issue a notice to show cause as to why the attached property should not be declared as property involved in money laundering. The proviso to Section 5(1) mandates that the Adjudicating Authority shall after affording reasonable opportunity of being heard by an order in writing, within a period of 180 days from the date of receipt of the reply to the show cause notice, confirm the attachment or release the property.

33. In the instant case, the petitioners contend that the order dated 19.04.2022 is beyond the period of 180 days and therefore liable to be set aside. This contention is devoid of merit for multiple reasons.

34. Firstly, the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2020*, dated 10.01.2022, extended the period of limitation prescribed under any law for the time being in force w.e.f. 15.03.2020 till 28.02.2022. Consequently, the period during which COVID pandemic restrictions were in force is required to be excluded while computing the period of limitation under Section 5(1) of the PMLA. Secondly, the Adjudicating Authority has recorded detailed reasons in the impugned order dated 19.04.2022 explaining how the period of limitation was computed after excluding the period affected by the COVID pandemic. The petitioners have failed to point out any error in such computation. Thirdly, even assuming without admitting that there was any delay, the same would be a procedural irregularity which by itself would not vitiate the order passed by the Adjudicating Authority, particularly when the petitioners have been afforded adequate opportunity of being heard and the order is supported by material on record. Therefore, merely because

there is some irregularity in the procedure followed, the same would not vitiate the order unless it results in miscarriage of justice or causes prejudice to the party concerned. The petitioners have failed to demonstrate any such prejudice.

35. Therefore, in the present case, far from being prejudiced, the petitioners were granted multiple opportunities to file their replies and explanations. The Adjudicating Authority proceeded only after affording complete opportunity of hearing. Therefore, even if there was any procedural irregularity in computation of limitation, the same would not render the order void or illegal.

36. Another issue before the Bench is “whether the findings recorded by the Adjudicating Authority in the impugned orders dated 19.04.2022 and 25.05.2022 are supported by material on record and whether there exists *prima facie* evidence to establish that the attached properties represent proceeds of crime within the meaning of Section 2(1)(u) of the PMLA?

37. For ready reference, Section 2 (1)(u) of PMLA is reproduced hereunder, viz.,

“2. Definitions.— (1) In this Act, unless the context otherwise requires,—

xxx xxx xxx

(u) “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad;

Explanation.—For the removal of doubts, it is hereby clarified that “proceeds of crime” include property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relating to the scheduled offence;”

38. Before examining the evidence, it is essential to understand the scheme of the PMLA and the standard of proof required at the stage of confirmation of provisional attachment. The PMLA does not require proof beyond reasonable doubt at this stage. What is required is *prima facie* satisfaction based on material on record that the property in question is likely to be involved in money laundering. In the present case, the material on record overwhelmingly establishes a *prima facie* case of money laundering.

39. The following circumstances cumulatively establish the involvement of the petitioners in the alleged money laundering activities:-

- a) Sanjay Agarwal, the main accused was intercepted at the Airport with concealed gold worth substantial value. The modus operandi involved smuggling gold through innovative concealment techniques indicating a well-organized and systematic operation.
- b) Investigation revealed that the property which was initially agreed to be purchased in the name of Radhika Agarwal (wife of Sanjay Agarwal) at M/s. Shanta Sriram Constructions was subsequently through paper arrangements got registered in the names of the Mahesh Agarwal, Pranita Agarwal and Mayur Agarwal. This sudden change in the identity of purchasers immediately after the detection of smuggling activities raises strong suspicion of layering and placement of proceeds of crime.
- c) The Call detail records (CDR) analysis revealed frequent communications between Mayur Agarwal and Sanjay Agarwal. Significantly, the calls were made to a mobile phone of Sanjay

Agarwal which carried a SIM card issued from Bangladesh. This establishes close proximity and coordination between the petitioners and the main accused.

- d) Despite repeated opportunities, the petitioners failed to provide credible and verifiable proof of the source of funds utilized for purchasing three villas worth substantial amounts. The explanation offered by the petitioners regarding the source of income is vague, unsubstantiated and not supported by any documentary evidence such as income tax returns, bank statements, or other financial records.
- e) The petitioners have shown lack of cooperation with the investigating agency and have failed to provide necessary documents and information despite specific requests. Whereas, under Section 50 of the PMLA, every person is obligated to furnish information and documents as may be required by the authorities.

40. The Hon'ble Supreme Court in the case of **Vijay Madanlal Choudhary vs. Union of India**⁴ has comprehensively dealt with the scheme and object of the PMLA and has held that the twin conditions of concealment and possession or acquisition or use of proceeds of crime must be established for constituting the offence of money laundering. For ready reference, paragraph Nos.105 to 109 are reproduced hereunder, viz.,

“105. The other relevant definition is “proceeds of crime” in Section 2(1)(u) of the 2002 Act. This definition is common to all actions under the Act, namely, attachment, adjudication and confiscation being civil in nature as well as prosecution or criminal action. The original provision prior to amendment vide the Finance Act, 2015 and Finance (No. 2) Act, 2019, took within its sweep any property [mentioned in Section 2(1)(v) PMLA] derived or obtained, directly or indirectly, by any person “as a result of” criminal activity “relating to” a scheduled offence [mentioned in Section 2(1)(y) read with Schedule to the Act] or the value of any such property. Vide the Finance Act, 2015, it further included such property (being proceeds of crime) which is taken or held outside the country, then the property equivalent in value held within the country and by further amendment vide Act 13 of 2018, it also added property which is abroad. By further amendment vide Finance (No. 2) Act, 2019, Explanation has been added which is obviously a clarificatory amendment. That is

⁴ (2023) 12 SCC 1

evident from the plain language of the inserted Explanation itself. The fact that it also includes any property which may, directly or indirectly, be derived as a result of any criminal activity relating to scheduled offence does not transcend beyond the original provision. In that, the word “relating to” (associated with/has to do with) used in the main provision is a present participle of word “relate” and the word “relatable” is only an adjective. The thrust of the original provision itself is to indicate that any property is derived or obtained, directly or indirectly, as a result of criminal activity concerning the scheduled offence, the same be regarded as proceeds of crime. In other words, property in whatever form mentioned in Section 2(1)(v), is or can be linked to criminal activity relating to or relatable to scheduled offence, must be regarded as proceeds of crime for the purpose of the 2002 Act. It must follow that the Explanation inserted in 2019 is merely clarificatory and restatement of the position emerging from the principal provision [i.e. Section 2(1)(u)].

106. *The “proceeds of crime” being the core of the ingredients constituting the offence of money laundering, that expression needs to be construed strictly. In that, all properties recovered or attached by the investigating agency in connection with the criminal activity relating to a scheduled offence under the general law cannot be regarded as proceeds of crime. There may be cases where the property involved in the commission of scheduled offence attached by the investigating agency dealing with that offence, cannot be wholly or partly regarded as proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act — so long as the whole or some portion of the property has been derived or obtained by any person “as a result of” criminal activity relating to the stated scheduled offence. To be*

proceeds of crime, therefore, the property must be derived or obtained, directly or indirectly, “as a result of” criminal activity relating to a scheduled offence. To put it differently, the vehicle used in commission of scheduled offence may be attached as property in the case (crime) concerned, it may still not be proceeds of crime within the meaning of Section 2(1)(u) of the 2002 Act. Similarly, possession of unaccounted property acquired by legal means may be actionable for tax violation and yet, will not be regarded as proceeds of crime unless the tax legislation concerned prescribes such violation as an offence and such offence is included in the Schedule to the 2002 Act. For being regarded as proceeds of crime, the property associated with the scheduled offence must have been derived or obtained by a person “as a result of” criminal activity relating to the scheduled offence concerned. This distinction must be borne in mind while reckoning any property referred to in the scheduled offence as proceeds of crime for the purpose of the 2002 Act. Dealing with proceeds of crime by way of any process or activity constitutes offence of money laundering under Section 3 PMLA.

107. Be it noted that the definition clause includes any property derived or obtained “indirectly” as well. This would include property derived or obtained from the sale proceeds or in a given case in lieu of or in exchange of the “property” which had been directly derived or obtained as a result of criminal activity relating to a scheduled offence. In the context of the Explanation added in 2019 to the definition of the expression “proceeds of crime”, it would inevitably include other property which may not have been derived or obtained as a result of any criminal activity relatable to the scheduled offence. As noticed from the definition, it essentially refers to “any property”

including abroad derived or obtained directly or indirectly. The Explanation added in 2019 in no way travels beyond that intent of tracking and reaching up to the property derived or obtained directly or indirectly as a result of criminal activity relating to a scheduled offence. Therefore, the Explanation is in the nature of clarification and not to increase the width of the main definition of “proceeds of crime”. The definition of “property” also contains Explanation which is for the removal of doubts and to clarify that the term property includes property of any kind used in the commission of an offence under the 2002 Act or any of the scheduled offences.

108. *In the earlier part of this judgment, we have already noted that every crime property need not be termed as proceeds of crime but the converse may be true. Additionally, some other property if purchased or derived from the proceeds of crime even such subsequently acquired property must be regarded as tainted property and actionable under the Act. For, it would become property for the purpose of taking action under the 2002 Act which is being used in the commission of offence of money laundering. Such purposive interpretation would be necessary to uphold the purposes and objects for enactment of the 2002 Act.*

109. *Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence that can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the*

jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression “derived or obtained” is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of the definition clause “proceeds of crime”, as it obtains as of now.”

41. In the present case, the sudden transfer of properties initially earmarked for Radhika Agarwal to the other accused persons combined with their inability to establish legitimate source of funds, clearly indicates concealment and use of proceeds of crime derived from gold smuggling activities. Further, it must be noted that the PMLA adopts the principle of "reverse burden of proof" to some extent. Section 24 of the PMLA provides that where a person is charged with having committed the offence of money laundering, the burden of proving that the proceeds

of crime are untainted property shall be on the accused. While Section 24 applies to trial, the principle underlying it reflects the legislative policy that in cases involving economic offences, persons in possession of disproportionate assets must satisfactorily explain the source thereof.

42. In the present case, the petitioners have miserably failed to discharge even the initial burden of establishing the legitimacy of the source of funds. Their explanation is vague, inconsistent and unsupported by credible documentary evidence. In such circumstances, the Adjudicating Authority was perfectly justified in drawing adverse inference and confirming the attachment.

43. The Bench is duty-bound to uphold the rule of law and to ensure that economic offenders do not escape the rigors of law through technical pleas or by abusing the process of the Court. The present writ petitions are nothing but an attempt to stall the proceedings under the PMLA and to frustrate the investigation.

44. In the result, for the detailed reasons recorded hereinabove, all the three writ petitions are hereby dismissed. The impugned orders dated

19.04.2022 and 25.05.2022 passed by the Adjudicating Authority are upheld and confirmed.

45. As a sequel, miscellaneous petitions pending if any shall stand closed. However, there shall be no order as to costs.

P.SAM KOSHY, J

SUDDALA CHALAPATHI RAO, J

Date: 26.03.2026

Note: L.R. copy to be marked.
(B/o)GSD