2026:CGHC:19494

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2073 of 2025

Order reserved on 23/01/2026

Order delivered on 27/04/2026

1 - M/s Dream Achiever Consultancy Services Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park 1602, Block G.P. Plot G2, Bidhan Nagar, Kolkata, West Bengal - 700091

2 - M/s Discovery Buildcon Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park 1602, Block G.P. Plot G2, Bidhan Nagar, Kolkata, West Bengal - 700091

3 - M/s Forest Vincom Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park 1602, Block G.P. Plot G2, Bidhan Nagar, Kolkata, West Bengal - 700091

4 - M/s Brilliant Investments Consultant Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park 1602, Block G.P. Plot G2, Bidhan Nagar, Kolkata, West Bengal - 700091

5 - M/s Ability Ventures Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park 1602, Block G.P. Plot G2, Bidhan Nagar, Kolkata, West Bengal - 700091

6 - M/s Ability Smartech Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park 1602, Block G.P. Plot G2, Bidhan Nagar, Kolkata, West Bengal - 700091

7 - M/s Ability Games Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At Srijan Corporate Park, 16th Floor, Tower-1, Sector-5, Salt Lake, Kolkata, West Bengal - 700091

8 - M/s Sawarn Bhumi Vanijya Pvt. Ltd. A Company Incorporated Under The Provisions Of The Companies Act, Having Its Registered Office At 14/1b, 6th Floor, Ezra Street, World Trade Centre, Kolkata, West Bengal - 700001

... Petitioners

versus

1 - Union Of India Through - The Secretary, Ministry Of Finance, Room No.-46, North Block, New Delhi - 110001

2 - The Assistant Director Directorate Of Enforcement, Raipur Zonal Office, Having His Office At A-1 Block, 2nd Floor, Pujari Chambers, Pachpedi Naka, Raipur, Chhattisgarh - 492001

3 - The Joint Director Directorate Of Enforcement, Raipur Zonal Office, Having His Office At A-1 Block, 2nd Floor, Pujari Chambers, Pachpedi Naka, Raipur, Chhattisgarh - 492001

4 - Kantilal Chhaganlal Securities Limited Add - 7th Floor, Sangita Ellipse, Plot No.-32, Tajpal Scheme, Sahakar Road, Vile Parle (E), Mumbai, Maharashtra - 400057 (Ph - 022-67236000 / 001)

---Respondents

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Vijay Agrawal, Advocate appeared through virtual mode along with Mr. Ashish Mittal, Advocate

For Respondent No.1/UOI	:	Ms. Anpurna Tiwari, Advocate
For Respondent No. 2 and 3	:	Dr. Saurabh Kumar Pande, Advocate
For Respondent No. 4	:	Mr. Vijay Kumar Sahu, Advocate

Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. Order

1. The challenge raised in the present writ petition is that the freezing order dated 28.02.2024, as confirmed by the Adjudicating Authority on 30.07.2024, restrained the petitioner companies from dealing with their shares and DEMAT accounts. Consequently, the petitioners are unable to sell, transfer, or manage their investments, leading to potential erosion in the value of the securities, and prayed for the following reliefs in the writ petition:-

> "10.1 Allow the present petition and issue a writ or and/or in the nature of Mandamus, commanding the respondent authorities to permit the Petitioners and their Depository Participant i.e. Respondent No. 4 to dispose of and/or liquidate all the shares/investments through Enforcement Directorate, lying in the DMAT accounts of the Petitioners, so as to retain the attached value of listed entities at the current market price, without permitting the Petitioners or the Respondent No. 4 to withdraw or taking control of the liquidated shares/investments and thereafter, commanding the respondent authorities to permit the Petitioners to take any step/measure to their wisdom, through

> Respondent No. 4, to invest all the monies/liquidated amount in any SEBI registered Mutual Funds or any Alternative Investment Funds (AIF), without handing over or giving any control of the same to the Petitioners or the Respondent No. 4;
>
> 10.2 Pass any order/relief that the Hon'ble Court may deem fit and proper in the interest of justice and in favor of the Petitioners."

2. The present writ petition has been preferred by the petitioner companies, all of which are duly incorporated under the provisions of the Companies Act, 2013 and are engaged in business activities, calling in question the legality, propriety, and continued operation of the freezing order affecting their DEMAT accounts and investments under the Prevention of Money Laundering Act, 2002 (hereinafter called as "PMLA-2002").

3. The brief facts of the case are that the ECIR bearing No. RPZO/10/2022, dated 06.10.2022 and amended on 02.09.2023, have been registered against various accused persons for the offence under Sections 3 and 4 of the PMLA-2002. In the ECIR, it is alleged that about 6 FIRs have been registered against the various accused persons for the offences of Cheating and Criminal Conspiracy, which are the scheduled offences under the PMLA-2002. The said FIRs have been registered, whose details are given below:

   (i) FIR No. 112 of 2022, dated 30.03.2022, registered at Police Station Mohan Nagar, District

Durg for the offence under Sections 120B and 420 of IPC,

(ii) FIR No. 206 of 2023, dated 02.06.2023, registered at Police Station Cyber Crime, Vishakhapatnam Commissionerate, Andhra Pradesh,

(iii) FIR No. 37 of 2023, dated 17.03.2023, registered at Police Station Bhilai Bhatti, District Durg, for the offence under Section 420 of IPC,

(iv) FIR No. 86 of 2023, dated 27.02.2023, registered at Police Station Chhavani, District Durg, for the offence under Section 420 of IPC.

(v) FIR No. 336 of 2023, dated 10.08.2023, registered at Police Station Gudhiyari, District Raipur, for the offence under Sections 420, 34 of IPC.

(vi) FIR No. 685 of 2023, dated 11.08.2023, registered at Police Station Khamtarai, District Raipu,r for the offence under Section 420 of IPC.

4. The Enforcement Directorate (in short 'ED') had filed the first prosecution complaint on 20.10.2023 in the present ECIR under Section 44 read with Section 45 of the PMLA, 2002, for the offence under Section 3/4 of the PMLA-2002 against 14 accused persons, in which the petitioners were not the accused persons. On 01.01.2024, the ED filed a supplementary prosecution complaint in the present ECIR against 5 accused persons, in which they are also not arrayed as the accused persons. On the ECIR submitted by the ED, the Learned Special Court took cognizance of the offence and issued notices to the other accused persons, who were not in custody, vide order dated 19.01.2024.

5. A search conducted on 28/29.02.2024 pursuant to Search Warrant No. 08/2024 dated 27.02.2024 issued under Section 17 of the PMLA,

2002 at the premises of M/s Ability Games Pvt. Ltd., wherein a freezing order dated 28.02.2024 came to be passed in respect of the investment/securities/balance/equity shares/F&O/DMAT accounts linked to the PAN of the Petitioners. Subsequently, 2nd Supplementary Prosecution Complaint dated 11.03.2024 was filed before the Learned Special Court, Raipur, followed by the filing of Original Application No. 1184 of 2024 on 27.03.2024 before the Learned Adjudicating Authority seeking retention of the seized records and frozen properties in ECIR/RPZO/10/2022 dated 06.10.2022, wherein the Petitioners have been arrayed as Defendants. The allegation against the Petitioners, as set out by the Respondent, is that they are indirectly linked to ‘Mahadev Online Book’, an online betting application.

6. During the pendency of the Original Application before the learned Adjudicating Authority, the 3rd supplementary complaint was filed by the respondent/ED on 30-04-2024, before the learned Special Court. After that, on 30-07-2024, the Adjudicating Authority, PMLA, confirmed the OA No. 1184/2024 and ordered retention of the records and properties, which were seized and frozen under Section 17(1-A) of the PMLA-2002. The order dated 30-07-2024 passed by the learned Adjudicating Authority was challenged by the petitioners by filing separate appeals before the learned Appellate Tribunal, PMLA, which is pending for its consideration. The details of the appeals filed by the petitioners are given herein below:-

Petitioners	Appeal Title before the Hon’ble	Notice issued on	Directions to maintain

	Appellate Tribunal, PMLA.	the Appeal on (Next Listed on 21.05.2025)	"status quo" in regard to Demat accounts on: (On challenging the notice u/s 8(4) issued by the Deputy Director against the Petitioners, before the Hon'ble Appellate Tribunal PMLA.)
Petitioner No.1	M/s Dream Achiever Consultancy Services Pvt Ltd. v. Enforcement Directorate **[FPA PMLA 1874/2024]**	23.10.2024	26.11.2024
Petitioner No.2	M/s Discovery Buildcon Pvt. Ltd. v. Enforcement Directorate **[FPA PMLA 1875/2024]**	23.10.2024	26.11.2024
Petitioner No.3	M/s Forest Vincom Pvt. Ltd. v. Enforcement Directorate **[FPA PMLA 1870/2024]**	23.10.2024	26.11.2024
Petitioner No.4	M/s Brilliant Investments Consultant Pvt. Ltd. v. Enforcement Directorate **[FPA PMLA 1872/2024]**	23.10.2024	26.11.2024
Petitioner No.5	M/s Ability Ventures Pvt. Ltd. v. Enforcement Directorate	23.10.2024	26.11.2024

	[FPA PMLA 1876/2024]		
Petitioner No.6	M/s Ability Smartech Pvt. Ltd. v. Enforcement Directorate **[FPA PMLA 1871/2024]**	23.10.2024	26.11.2024
Petitioner No.7	M/s Ability Games Ltd. v. Enforcement Directorate **[FPA PMLA 1873/2024]**	23.10.2024	26.11.2024
Petitioner No.8	M/s Sawarn Bhumi Vanijya Pvt. Ltd. v. Enforcement Directorate **[FPA-PMLA-1730/2024]**	08.10.2025	26.11.2024

7. During the pendency of the aforesaid appeals, the ED has filed 4th supplementary prosecution complaint on 14.02.2025 before the learned Special Court, Raipur. The total value of the DMAT accounts of 8 different entities, which are freezed by the ED on 29.02.2024, was Rs. 423,60,42,389.11. it is the case of the petitioner that since the date from its freezing, the stock market is volatile and unpredictable and highly fluctuating. The funds lying in the DMAT accounts of the petitioners were invested in the equity shares. In view of the fluctuating nature of the stock market, the value of the equity shares lying in the DMAT accounts may go into deep lower side and it requires to be safe and stable performing market, otherwise the petitioner would be in huge monitory loss. The petitioner entities are high expertise in investing into stock-market, they took themselves to ascertain the better and stable market

instruments. The petitioner entities are in view to invest funds in Mutual Funds which is a viable and more secure option for the petitioners to invest their funds. The Mutual Funds are having various options and varieties of financial products having individual portfolios. The fund managers are regularly analyse the market risk and expected returns so that a positive return can be provided to its investors. The petitioners also proposes the various Funds under the Mutual Fund like HDFC Defence Fund, LIC MF Infra Fund, SBI PSU Fund, Quant Manufacturing Fund, HDFC Pharma and Healthcare Fund, Mahindra Manulife Business Cycle, Parag Parikh Flexi Cap Fund, SBI Contra Fund, Tata Small Cap Fund, SBI Long Term Equity Fund etc.

8. It is also the case of the petitioners that various shares and securities held by them in their respective DMAT accounts have been frozen by the Directorate of Enforcement in exercise of powers under Section 17(1-A) of the Prevention of Money Laundering Act, 2002. According to the petitioners, the investments comprised of listed equity shares, the value whereof is subject to continuous fluctuation in the stock market. It has been pleaded that during the period of freezing, the petitioners have been deprived of the opportunity to deal with the said investments, exposing them to the risk of substantial erosion in value. The petitioners have further averred that the respondent authorities ought to have taken appropriate steps for preservation of the value of the frozen investments and, if necessary, could have liquidated the shares through the concerned stockbroker and invested the proceeds in comparatively safer financial instruments. On the aforesaid premise, the petitioners have raised questions

regarding the scope and object of a freezing order under Section 17(1-A) of the PMLA, the duty of the Enforcement Directorate to preserve the value of frozen assets, the adequacy of safeguards available under the statutory framework, and the existence of any exceptional circumstances justifying continued control over the frozen DMAT accounts.

9. The principal grievance of the petitioners is that while exercising powers under Section 17(1-A) of the Prevention of Money Laundering Act, 2002, the Enforcement Directorate has frozen the shares and securities held in the petitioners' DMAT accounts without taking adequate measures to preserve and protect the value of such investments. According to the petitioners, the very object of a freezing order is to preserve the property and not to permit its value to diminish owing to market fluctuations. The petitioners, therefore, question whether the respondent authorities are under a corresponding obligation to safeguard the value of the frozen assets, whether the statutory framework under the PMLA provides sufficient protection in that regard, whether any steps have in fact been taken by the Enforcement Directorate to preserve the value of the investments during the period of freezing, and whether the circumstances of the case justified the assumption of control over the frozen DMAT accounts by the respondent authorities. Hence, this petition.

10. Respondents No. 2 and 3/ED have filed their return and pleaded that the record reflects that the ED registered ECIR No. RPZO/10/2022 under the provisions of the Prevention of Money Laundering Act,

2002 (PMLA) on the basis of Charge Sheet/Final Report No. 157/2022 dated 29.07.2022 submitted by Police Station Mohan Nagar, District Durg, Chhattisgarh, against Alok Singh Rajpoot, Rampravesh Sahu, Kharag alias Raja Singh and others for offences punishable under Sections 120-B and 420 of the IPC. As per the charge-sheet, the accused persons were allegedly engaged in illegal online betting activities through the “Mahadev Online Book” platform relating to cricket matches, football, casino games, horse racing, greyhound racing, kabaddi and other events. During a raid conducted by the local police, laptops, mobile phones, bank passbooks, debit and credit cards, SIM cards, cheque books and cash were seized. The investigation further revealed that the accused persons had allegedly created online IDs, collected money from punters through banking channels and facilitated betting transactions through the Mahadev Book platform. On the basis of the said scheduled offences, the Enforcement Directorate commenced an investigation under the PMLA. During the course of the investigation, the ED gathered information regarding several FIRs registered across the country in connection with illegal betting operations conducted through Mahadev Book and allied platforms. Particular reliance was placed upon FIR No. 206/2023 dated 02.06.2023 registered by the Cyber Crime Police Station, Visakhapatnam, Andhra Pradesh, wherein it was alleged that a network of persons was operating call centres for the collection of betting money and placing bets through various online platforms, with the proceeds ultimately being routed to persons allegedly connected with the Mahadev Book syndicate. The investigation also took note of several FIRs registered in

Chhattisgarh alleging fraudulent opening or misuse of bank accounts for routing betting-related transactions. Since these FIRs disclosed scheduled offences under the PMLA, an addendum dated 02.09.2023 was issued incorporating them into ECIR No. RPZO/10/2022. Subsequently, further FIRs, including FIR No. 06/2024 dated 04.03.2024 registered by the Economic Offences Wing, Raipur, and FIR No. 206/2020 dated 24.09.2020 registered at Burtolla Police Station, Kolkata, concerning alleged betting operations through Mahadev Online Book and related platforms, were also brought on record. Consequently, another addendum dated 26.03.2024 was issued by the ED, expanding the scope of the ECIR to include the aforesaid scheduled offences and the persons alleged to be involved therein.

11. The investigation conducted by the ED revealed that “Mahadev Online Book” was allegedly operating as a large-scale online betting syndicate providing a platform for betting on various sporting events, including cricket, football, badminton and tennis, as well as card-based and virtual games. According to the ED, the syndicate was promoted and beneficially owned by Sourabh Chandrakar and Ravi Uppal, who allegedly operated the betting business from abroad through a network of websites and communication channels, including WhatsApp, Telegram and other social media platforms. The investigation further disclosed that the betting operations were carried out through a franchise-like “panel” system, wherein panel operators managed betting activities, collected funds from users through designated and allegedly benami bank accounts, and shared a substantial portion of the profits with the head office operating from

Dubai. The ED alleged that the funds collected from punters were routed through numerous bank accounts, layered through various entities, withdrawn in cash or remitted outside India through hawala and other channels, resulting in the generation and concealment of proceeds of crime running into thousands of crores of rupees. It was further found that large call centres had been established to support the betting operations, numerous bank accounts had allegedly been opened using borrowed or fraudulently obtained KYC credentials, and several companies had been incorporated in Dubai for routing funds and facilitating the operations of the syndicate. The investigation also revealed the alleged involvement of Hari Shankar Tibrewal, a resident of Dubai originally from Kolkata, who was stated to have partnered with the promoters of Mahadev Online Book and to have owned and operated an online betting platform known as “Skyexchange”. These findings formed the basis of the ED's allegation that the activities of the Mahadev Online Book network constituted a sophisticated and organized mechanism for the generation, layering and laundering of proceeds of crime.

12. It is also replied that, during the investigation of the Mahadev Online Book matter, it was revealed that one Hari Shankar Tibrewal, an alleged associate of the promoters of the betting syndicate and co-owner of the betting platform “Skyexchange”, had laundered proceeds of crime through a network of companies operating in India and abroad. According to the Directorate, the affairs of the Indian entities were managed by Suraj Chokhani, who was allegedly aware of the illicit origin of the funds and actively participated in their layering and projection as untainted money. The investigation

identified eight companies, namely, Ability Games Limited, Brilliant Investment Consultants Private Limited, Discovery Buildcon Private Limited, Forest Vincom Private Limited, Swanbhumi Vanijya Private Limited, Dream Achievers Consultancy Private Limited, Ability Smarttech Private Limited and Ability Ventures Private Limited, as entities used for routing and investing the alleged proceeds of crime. It is alleged that substantial cash was introduced into these companies, either directly or indirectly, and thereafter converted into banking channels through accommodation entries obtained from professional entry operators under the guise of transactions in unlisted shares. Reliance has been placed upon the statements of Amit Saraogi recorded under Section 50 of the PMLA, wherein he allegedly disclosed that a company under his control, namely Pearl Dealers Private Limited, was utilized for providing banking entries against cash to entities controlled by Suraj Chokhani. The Directorate claims that funds so credited were immediately utilized for the acquisition of shares and investment in the stock market, thereby facilitating layering and concealment of the proceeds of crime arising from illegal betting operations. The ED further asserts that Suraj Chokhani assisted Hari Shankar Tibrewal in handling and investing funds generated from the operations of Skyexchange and Mahadev Online Book, and thereby knowingly enjoyed and projected the proceeds of crime as legitimate assets. During searches conducted on 27/28.02.2024 under Section 17 of the PMLA at the premises of Ability Games Limited and other connected entities in West Bengal, the Directorate formed an opinion that the aforesaid companies were involved in the offence of money-laundering. Consequently, by order dated 28.02.2024 issued under Section 17(1-A) of the PMLA, the Directorate froze the DEMAT accounts, FPI accounts, equity shareholdings, securities and F&O accounts of the said entities. The value of the investment portfolios held by the eight entities as on 29.02.2024 was stated to aggregate to Rs. 4,23,60,42,389.11. Thereafter, Original Application No. 1184/2024 was filed before the Adjudicating Authority under Section 17(4) of the PMLA seeking retention of the frozen properties, which came to be allowed by order dated 30.07.2024 passed under Section 8 of the Act. The Directorate has further stated that a Prosecution Complaint dated 30.04.2024 has been filed before the Special Court (PMLA), Raipur, arraigning the petitioners and other accused persons for the offence of money-laundering under Sections 3 and 4 of the PMLA and seeking confiscation of the aforesaid frozen properties on the ground that they constitute proceeds of crime and are directly involved in the alleged money-laundering activities.

13. The ED has raised a preliminary objection also, regarding the maintainability of the present writ petition, contending that the petitioners have an effective and efficacious statutory remedy under the Prevention of Money Laundering Act, 2002. It has been pleaded that pursuant to the freezing order dated 28.02.2024 issued under Section 17(1-A) of the PMLA, the Directorate filed Original Application No. 1184/2024 before the Adjudicating Authority under Section 17(4) of the Act seeking retention of the frozen properties, which culminated in an order dated 30.07.2024 passed under Section 8 of the PMLA permitting retention of the said properties. The respondents contend that Section 26 of the PMLA specifically

provides a statutory right of appeal against such an order before the Appellate Tribunal and that the petitioners have, in fact, already availed the said remedy by filing separate appeals, namely FPA-PMLA-1730/RP/2024, FPA-PMLA-1870/RP/2024, FPA-PMLA-1871/RP/2024, FPA-PMLA-1872/RP/2024, FPA-PMLA-1873/RP/2024, FPA-PMLA-1874/RP/2024, FPA-PMLA-1875/RP/2024 and FPA-PMLA-1876/RP/2024 before the Appellate Tribunal, which are stated to be pending consideration. It is further the stand of the respondents that a Prosecution Complaint dated 30.04.2024 has already been filed before the Special Court (PMLA), Raipur, wherein the petitioners have been arrayed as accused, and the question whether the frozen properties constitute proceeds of crime and are liable to confiscation is also subject to adjudication under Sections 8(5) and 8(6) of the Act. According to the respondents, since the issues raised in the present petition are already pending before the competent statutory forums constituted under the PMLA, namely the Appellate Tribunal and the Special Court, the petitioners cannot bypass the statutory mechanism and invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, particularly when adequate alternative remedies are available and have already been invoked by them.

14. It is further pleaded that the relief sought by the petitioners is misconceived inasmuch as the frozen investments constitute proceeds of crime involved in the offence of money-laundering. According to the Enforcement Directorate, the investigation has disclosed sufficient material demonstrating the involvement of the petitioners and their controlling persons in the laundering of funds

generated through illegal betting operations, which findings have also been incorporated in the Prosecution Complaint dated 30.04.2024 filed before the Special Court (PMLA), Raipur. Permitting liquidation of the frozen shares and allowing the petitioners to reinvest or otherwise deal with the sale proceeds would effectively restore control over the alleged proceeds of crime to the accused persons and create a serious risk of dissipation, diversion or transfer of such assets, including to offshore jurisdictions, thereby frustrating the objectives of the PMLA. The respondents further contend that the Directorate is empowered under Section 8(4) of the PMLA read with Rule 4(4) of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013 to take possession and retain the frozen properties, and that the Directorate, being a law-enforcement agency, is under no statutory obligation to engage in investment activities for preservation or enhancement of the value of such assets. It is also urged that the freezing order dated 28.02.2024 was passed after due compliance with the statutory requirements, has subsequently been confirmed by the Adjudicating Authority by order dated 30.07.2024, and is presently the subject matter of appeals pending before the Appellate Tribunal, while the prosecution complaint and issue of confiscation are also pending before the Special Court.

15. The Respondent No. 4, namely, Kantilal Chhaganlal Securities Private Limited, has filed a separate return contending that it has been arrayed as a party only because the petitioner companies maintain their DEMAT and trading accounts with it and that it has no independent or adverse interest in the dispute between the

petitioners and the Enforcement Directorate. It has been pleaded that Respondent No. 4 is a SEBI-registered stock broker, a member of BSE and NSE in various segments and a registered Depository Participant of CDSL, carrying on the business of securities trading, wealth management, investment advisory and depository services strictly in accordance with the regulatory framework prescribed by SEBI and other statutory authorities. The respondent has furnished particulars of the DEMAT accounts maintained by all eight petitioner companies with it and has specifically pleaded that it has neither been implicated in the ECIR nor accused of any involvement in the alleged scheduled offences, money-laundering activities or transactions under investigation by the Enforcement Directorate. According to Respondent No. 4, upon receipt of the freezing order dated 28.02.2024 issued by the Assistant Director, Enforcement Directorate, under Section 17(1-A) of the PMLA, it immediately and scrupulously complied with the directions contained therein by freezing the DEMAT and trading accounts of the petitioner entities and marking the same appropriately in its internal systems as well as on the CDSL platform. It has further averred that the freezing order specifically prohibited any operation, transfer, pledge, encumbrance, sale, liquidation or dealing with the securities lying in the said accounts without prior permission of the Enforcement Directorate and, therefore, Respondent No. 4 has not permitted any debit transaction or movement of securities from the date of freezing. The respondent has emphasized that the securities and investments held in the accounts of the petitioners, stated to be valued at approximately Rs. 423.60 crores as on the date of freezing, continue to remain duly identified, traceable and reflected in the depository records and that it has neither appropriated nor exercised any control over such assets except to maintain them in compliance with the statutory directions. It has also been submitted that the challenge to the freezing order and the consequential adjudication proceedings are already pending before the competent authorities under the PMLA and that Respondent No. 4, being only a regulated intermediary, has no authority to independently release, transfer or liquidate the securities in question. While stating that it has no objection to complying with any lawful direction that may ultimately be passed by the competent authority or this Court regarding the subject securities, Respondent No. 4 has maintained that its role throughout has been confined to that of a custodian and facilitator acting in obedience to statutory mandates, and that no allegation of wrongdoing or violation of law has been attributed to it by either the petitioners or the Enforcement Directorate.

16. Learned counsel for the petitioners submits that the sole object of freezing or attachment under the provisions of the Prevention of Money Laundering Act, 2002, is to preserve the property which is alleged to be involved in the offence and not to permit its value to diminish during the pendency of investigation, adjudication or trial. It is submitted that the assets frozen by the ED consist predominantly of listed equity shares held in the DEMAT accounts of the petitioner companies and that the value of such investments is inherently dependent upon market conditions. According to the petitioners, the stock market has remained highly volatile, unpredictable and susceptible to significant fluctuations during the past year, thereby

exposing the frozen investments to the risk of substantial erosion in value. It is argued that if the shares continue to remain frozen without any protective mechanism, the very purpose of preserving the property may be defeated, as the value of the assets available for eventual confiscation or release may stand considerably reduced by the time the proceedings attain finality. He would also submit that, having extensive experience and expertise in securities and investment management, they undertook an assessment of various investment avenues and found that investment through SEBI-regulated Mutual Funds or Alternative Investment Funds (AIFs) would provide a comparatively safer and more stable mechanism for preservation of the value of the assets. It is submitted that professionally managed mutual funds are administered by qualified fund managers who continuously monitor market conditions, diversify investments and adopt risk-management strategies with a view to safeguarding capital and generating reasonable returns. On that basis, the petitioners urge that the frozen shares may be liquidated at prevailing market prices under the supervision of the Enforcement Directorate and that the sale proceeds be permitted to be invested in SEBI-registered Mutual Funds or Alternative Investment Funds, without restoring possession or control of the funds to the petitioners, so that the value of the attached assets remains protected during the pendency of proceedings under the PMLA.

17. Learned counsel for the petitioners further submits that although Rule 4(4) of the Prevention of Money Laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013 empowers the authorized officer, upon

confirmation of attachment by the Adjudicating Authority, to cause transfer of shares, debentures, units of mutual funds and similar instruments in favour of the Director of Enforcement, neither the PMLA nor the Rules framed thereunder prescribe any mechanism for preservation, management or protection of the value of such market-linked securities after they come under the control of the ED. It is argued that while the statutory scheme provides for taking possession and retention of shares, it remains silent regarding the manner in which the value of such assets is to be safeguarded against fluctuations in the stock market. According to the petitioners, shares are inherently volatile assets whose value is subject to continuous market forces and, therefore, mere freezing or transfer of ownership does not necessarily achieve the object of preserving the property if substantial erosion in value occurs during the pendency of proceedings. It is urged that the absence of a specific statutory mechanism for the protection of the value of frozen shares creates a legal vacuum which warrants the exercise of the extraordinary jurisdiction of this Court under Article 226 of the Constitution. The petitioners submit that, having considerable experience and expertise in securities trading and investment management, they have assessed that investment of the sale proceeds in professionally managed, SEBI-regulated Mutual Funds or Alternative Investment Funds would provide a more secure and stable avenue for preservation of value. On this basis, it is prayed that the frozen equity holdings be liquidated under the supervision of the Enforcement Directorate and the proceeds be reinvested in regulated investment instruments, without restoring possession or control thereof to the petitioners, so as to effectively preserve the value of the assets pending culmination of proceedings under the PMLA.

18. Learned counsel for the petitioners, placing reliance upon the decision of the Kerala High Court in "**Kavitha G. Pillai v. Joint Director, Directorate of Enforcement**", 2017 SCC Online Ker 10118, submits that the object of attachment, retention or freezing under the Prevention of Money Laundering Act, 2002 is essentially preservative in nature and is intended to ensure that the property alleged to be connected with the proceeds of crime remains protected and available until completion of the adjudicatory and criminal proceedings. Drawing attention to the observations made therein that the authorities must take "sensible steps" to preserve the property and that proceedings under Sections 5 and 8 of the PMLA are fundamentally aimed at preservation of the property pending trial, it is contended that the obligation of the ED extends beyond mere physical or legal control over the asset and includes taking reasonable measures to protect its value. Reliance is also placed upon the judgment of the Bombay High Court in "**Cupid Shipping Pte. Ltd. v. Cargo of Sand**" 2016 SCC Online Bom 4446, wherein it was observed that maintenance and preservation of attached property must be understood in a practical and purposive manner and that the authority securing attachment cannot disclaim responsibility for safeguarding the property in the mode most suitable to its nature. On the strength of the aforesaid principles, it is argued that shares and securities are fundamentally different from static assets, their value being directly dependent upon market conditions and subject to continuous fluctuations. Therefore, according to the

petitioners, preservation of such assets necessarily requires preservation of their economic value and not merely retention of the shares in a frozen state. It is, thus, urged that in order to effectively preserve the value of the investments and avoid erosion caused by adverse market movements, the frozen equity holdings should be liquidated under the supervision of the ED and the proceeds invested in SEBI-regulated Mutual Funds or Alternative Investment Funds, without restoring possession or control thereof to the petitioners, thereby advancing the very object of preservation contemplated under the PMLA.

19. With respect to alternative remedy of appellate jurisdiction, he would submit that present writ petition is maintainable notwithstanding the remedies provided under the PMLA, 2002, on the ground that neither the Adjudicating Authority under Section 8 nor the Appellate Tribunal under Section 26 possesses the jurisdiction to grant the specific relief sought in the present proceedings, namely, liquidation of the frozen equity shares and reinvestment of the proceeds in safer investment instruments such as SEBI-registered Mutual Funds or Alternative Investment Funds (AIFs) for preservation of their value. The powers of the Adjudicating Authority are confined to determining whether the property is involved in money-laundering, while the Appellate Tribunal is empowered only to confirm, modify or set aside the order under challenge, and neither forum can direct substitution, conversion, management or reinvestment of attached assets. It was, therefore, argued that there exists no equally efficacious statutory remedy for redressal of the grievance raised in the present petition. Reliance was placed upon the decision of the Constitution Bench of

the Hon'ble Supreme Court in "***L. Chandra Kumar v. Union of India***", (1997) 3 SCC 261, to contend that the power of judicial review and superintendence vested in the High Courts under Article 226 of the Constitution forms part of the basic structure of the Constitution and cannot be curtailed where the statutory forums are incapable of granting the relief claimed.

20. He would lastly submit that the impugned freezing order dated 28.02.2024 and the consequential confirmation order dated 30.07.2024 are wholly arbitrary, without jurisdiction and contrary to the scheme of the Prevention of Money Laundering Act, 2002. It is contended that neither the freezing order, nor the complaint and supplementary complaints filed by the Enforcement Directorate disclose any material or record any valid "reason to believe" that the assets lying in the petitioners' DMAT accounts constitute "proceeds of crime" or that the petitioners were involved in any activity connected with money laundering as contemplated under Section 3 of the PMLA. The petitioners are independent entities having no role in the alleged predicate offence and were neither aware of nor connected with any purported illegal activity attributed to the accused persons in ECIR/RZPO/10/2022. It is further submitted that there is no material demonstrating that the petitioners acquired, possessed, concealed, used or projected any property as untainted property, nor has any prima facie involvement of the petitioners been established by the respondents. The petitioners have at all times cooperated with the investigation and have never attempted to evade the proceedings. The petitioners are ready to give an undertaking that they would not claim to hand over the seized shares to them, but only

to keep the amount safe and to avoid any loss, they filed the present writ petition. The investment may be made in favour of ED in any SEBI-authorised investment scheme.

21. Per contra, learned counsel for the respondent/ED vehemently opposes the submissions and would submit that the impugned freezing order dated 28.02.2024 and the subsequent confirmation order dated 30.07.2024 have been passed strictly in accordance with the provisions of the Prevention of Money Laundering Act, 2002 and are founded upon substantial material collected during the course of investigation. It is argued that the ECIR was initially registered on the basis of Charge Sheet/Final Report No. 157/2022 relating to scheduled offences under Sections 120-B and 420 IPC concerning the operation of the “Mahadev Online Book” betting syndicate and was subsequently expanded by way of addenda, incorporating several other scheduled offences and FIRs registered across different States. According to the respondents, the investigation revealed a large-scale and organized mechanism for the generation, layering and laundering of proceeds of crime through illegal online betting activities, involving numerous entities, bank accounts and intermediaries operating within and outside India.

22. It is further submitted that the investigation specifically disclosed the role of Hari Shankar Tibrewal and Suraj Chokhani in routing and investing proceeds of crime through a network of companies, including the petitioner companies. The Directorate claims to have gathered material indicating that substantial amounts of cash generated from illegal betting operations were introduced into the

banking system through accommodation entries obtained from entry operators and thereafter invested through the petitioner entities in securities and stock market transactions. Reliance is placed upon statements recorded under Section 50 of the PMLA and other documentary evidence collected during the investigation, which, according to the respondents, prima facie establish that the petitioner companies were utilized for layering and projecting proceeds of crime as untainted assets. It is, therefore, submitted that the freezing of the DEMAT accounts, securities and investment portfolios was a necessary statutory measure to preserve assets suspected to be involved in money-laundering.

23. Learned counsel for the respondents/ED further submit that the contention of the petitioners that there is no material connecting them with the offence of money-laundering is a disputed question of fact which cannot be adjudicated in the exercise of writ jurisdiction. It is argued that after the freezing order was passed under Section 17(1-A) of the PMLA, the Directorate duly approached the Adjudicating Authority under Section 17(4) of the Act, which, upon consideration of the material placed before it, confirmed the retention of the frozen properties by order dated 30.07.2024. Moreover, a Prosecution Complaint dated 30.04.2024 has already been filed before the Special Court (PMLA), Raipur, arraigning the petitioners and other persons for offences under Sections 3 and 4 of the PMLA and seeking confiscation of the properties in question. According to the respondents, these proceedings themselves demonstrate the existence of sufficient material warranting further adjudication by the competent statutory forums.

24. It is also submitted that the present writ petition is not maintainable in view of the efficacious statutory remedies available under the PMLA. The respondents submit that Section 26 of the Act provides a specific appellate remedy against the order of the Adjudicating Authority and that the petitioners have already availed such remedy by filing appeals before the Appellate Tribunal, which are presently pending consideration. The question of whether the frozen assets constitute proceeds of crime and are liable to confiscation is also pending before the Special Court under the provisions of the Act. In such circumstances, it is argued that the petitioners cannot simultaneously invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution to challenge issues which are already sub judice before the specialized forums constituted under the PMLA. It is, therefore, prayed that the writ petition be dismissed on the grounds of the availability of alternative statutory remedies as well as on merits.

25. Learned counsel for the respondents would further submit that upon confirmation of the freezing order by the Adjudicating Authority under Section 8 of the PMLA, the Directorate is legally empowered to retain and take possession of the frozen properties in accordance with Section 8(4) of the Act read with Rule 4(4) of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013. It is contended that the said Rule contemplates the manner in which possession and control over securities, shares, units, bonds and other financial instruments are to be maintained after confirmation of

attachment or freezing and obliges the concerned depository participant, intermediary or authority to ensure that such assets remain under restraint and are not transferred, encumbered, liquidated or otherwise dealt with without authorization. Therefore, once the freezing order has attained confirmation by the Adjudicating Authority, the Directorate is under a statutory obligation to preserve the subject assets in the condition in which they exist and cannot permit their liquidation, reinvestment or active management at the instance of the petitioners. Any such relaxation, according to the respondents, would defeat the very object of the PMLA by creating a possibility of dissipation, diversion or depletion of assets alleged to be proceeds of crime and may frustrate the eventual adjudication regarding confiscation under the Act.

26. Learned counsel for respondents No. 2 and 3/ED would also submit that the impugned freezing order dated 28.02.2024 and the confirmation order dated 30.07.2024 have been passed strictly in accordance with the provisions of the PMLA on the basis of material collected during a detailed investigation, which prima facie discloses the involvement of the petitioner companies and their controlling persons in the process of laundering proceeds of crime arising out of the Mahadev Online Book betting syndicate. It is contended that the frozen properties are the subject matter of ongoing proceedings before the Appellate Tribunal as well as the Special Court (PMLA), where the issues relating to their nature, retention and eventual confiscation are required to be adjudicated. Since the petitioners have already availed the statutory remedy of appeal under Section 26 of the PMLA and disputed questions of fact are involved, the

extraordinary writ jurisdiction of this Court ought not to be invoked. It is, therefore, prayed that the writ petition, being devoid of merit and not maintainable in view of the efficacious alternative remedies available under the statute, deserves to be dismissed.

27. Learned counsel appearing for Respondent No. 4, would submit that the said respondent is merely a SEBI-registered stock broker and Depository Participant of CDSL and has been impleaded in the present proceedings solely because the petitioner companies maintain their DEMAT and trading accounts with it. It is submitted that Respondent No. 4 has no stake or adverse interest in the dispute between the petitioners and the Enforcement Directorate and has neither been named in the ECIR nor accused of any involvement in the alleged scheduled offences or money-laundering activities under investigation. Upon receipt of the freezing order dated 28.02.2024 issued under Section 17(1-A) of the PMLA, Respondent No. 4 duly complied with the statutory directions by freezing the DEMAT and trading accounts of the petitioner entities and ensuring that no transfer, sale, pledge, encumbrance, liquidation or other dealing with the securities could take place without authorization from the competent authority. It is submitted that the securities continue to remain identified, traceable and intact in the depository records and that Respondent No. 4 has neither exercised any proprietary control over the assets nor derived any benefit therefrom. Their role is confined to that of a regulated intermediary and custodian acting in compliance with statutory obligations, and it is bound to abide by any direction that may be issued by the competent authority under the PMLA or by this Court.

28. I have heard learned counsel for the parties, gone through their pleadings and perused the documents annexed thereto.

29. This Court, vide order dated 16.12.2025, directed the learned counsel appearing for the respondent/ED to seek further instructions in the matter with respect to investment of the amount involved in the shares of the petitioners, in view of the submissions made by the learned counsel for the petitioners to take safety measures of the investments under the name and control of ED. On being instructed, the learned counsel for the respondent/ED orally submits that in the absence of any provision for the same and in view of the fact that money is being considered as the proceeds of crime, it cannot be reinvested in any other form of investment or Mutual Funds, etc.

30. The principal issue which arises for consideration in the present writ petition is not the legality of the freezing order dated 28.02.2024 or the confirmation order dated 30.07.2024, as those orders are already the subject matter of challenge before the Appellate Tribunal under Section 26 of the PMLA. The limited question requiring adjudication is whether, in the peculiar facts of the present case, this Court can issue appropriate directions to ensure preservation of the value of the frozen assets, which admittedly comprise listed equity shares and securities whose market value is subject to continuous fluctuations. The petitioners do not seek release of the assets from the control of the ED, nor do they seek restoration of possession or beneficial enjoyment thereof. Their prayer is confined to safeguarding the economic value of the assets pending the culmination of proceedings under the PMLA.

31. It is not in dispute that the securities held in the DEMAT accounts of the petitioner companies were frozen by order dated 28.02.2024 under Section 17(1-A) of the PMLA and that such freezing has subsequently been confirmed by the Adjudicating Authority by order dated 30.07.2024. It is equally undisputed that the value of the investment portfolio as on 29.02.2024 was approximately Rs. 423.60 crores and that the said investments largely consist of listed equity shares. The respondents have also not disputed that the value of such securities is dependent upon market conditions and may undergo substantial fluctuations. Therefore, the Court is not dealing with static assets such as land, buildings or fixed deposits, but with market-linked financial instruments whose value may appreciate or depreciate significantly during the pendency of proceedings.

32. The object underlying attachment, seizure or freezing under the PMLA is essentially preservative in nature. The statutory scheme seeks to ensure that the property alleged to be involved in money-laundering remains available for adjudication and eventual confiscation, if so ordered by the competent court. Preservation of property cannot be understood in a narrow or mechanical sense so as to mean mere retention of legal title or physical custody. Where the property itself is of a nature that its value is intrinsically linked to market conditions, preservation of the property necessarily includes preservation of its economic worth. A frozen asset which substantially loses its value during the pendency of proceedings may ultimately defeat the very purpose for which the attachment or freezing was ordered.

33. The Court finds considerable substance in the submission advanced on behalf of the petitioners that neither the PMLA nor the Rules framed thereunder provide any specific mechanism for management or preservation of the value of market-linked securities after they are frozen. Rule 4(4) of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013 undoubtedly contemplates taking possession and retaining control over shares, securities, bonds, debentures and similar financial instruments. However, the Rule is silent regarding the manner in which the value of such assets is to be protected against adverse market movements. The statutory silence in this regard cannot be construed as a prohibition against adopting reasonable measures for preservation of value, particularly where the objective of the statute itself is preservation of the property pending adjudication. It is necessary here to notice Rule 4 of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013, which reads as under:-

> *"4.* ***Manner of taking possession of movable property.-*** *(1) Where the attached property confirmed under sub-section (3) of section 8 of the Act is a movable property, the authorized officer shall take physical possession of such property and deposit it in a warehouse or a storage place.*
>
> *(2) Where the attached property confirmed by the Adjudicating Authority, is liable to speedy and natural decay or the expense of maintenance is likely to exceed its value, the authorized officer*

shall sell such property with the leave of the concerned Special Court or Adjudicating Authority, as the case may be, and deposit the sale proceeds in the nearest Government Treasury or branch of the State Bank of India or its subsidiaries or in any nationalised bank in fixed deposit and retain the receipt thereof:

Provided that where the owner of the property furnishes the fixed deposit receipt of a nationalised bank equivalent to the value of property in the name of Director of Enforcement, the authorised officer may accept and retain such fixed deposit receipt as security and send a report to the Special Court or Adjudicating Authority, as the case may be, for information and appropriate action:

Provided further that where the movable property is a mode of conveyance of any description, the authorised officer, after obtaining its valuation report from the Motor Licensing Authority or any other authority, as the case may be, may accept and retain the fixed deposit receipt of a nationalised bank equivalent to the value of the movable property as security in the name of Director of Enforcement and send a report to the Special Court or Adjudicating Authority, as the case may be, for information and appropriate action.

(3) Where the attached property confirmed by the Adjudicating Authority consists of cash, government or other securities or bullion or jewellery or other valuables, the authorized officer shall cause to deposit it in a locker in the name of the Director of Enforcement or in the form of fixed deposit receipt, as the case may be, in State

> *Bank of India or its subsidiaries or in any nationalised bank and retain the receipt thereof.*
>
> *(4) Where the attached property confirmed by the Adjudicating Authority is in the form of shares, debentures, units of mutual fund or instruments, the authorised officer shall cause to get such shares, debentures, units of Mutual Fund or instruments to be transferred in favour of the Director of Enforcement.*
>
> *(5) Where the property confirmed by the Adjudicating Authority is in the form of money lying in a bank or a financial institution, the Authorized Officer shall issue a direction to the bank or financial institution, as the case may be, to transfer and credit the money to the account of the Directorate of Enforcement."*

34. The apprehension expressed by the respondents that permitting liquidation of the securities may result in dissipation of assets or frustrate the proceedings under the PMLA deserves consideration, but the same can be adequately addressed by imposing appropriate safeguards. Significantly, the petitioners are not seeking release of the sale proceeds into their own hands. On the contrary, they have categorically stated that the proceeds may continue to remain under the exclusive control of the ED and may be invested only in SEBI-regulated financial instruments. Therefore, the proposed arrangement does not result in restoration of possession, control or beneficial enjoyment of the assets to the petitioners. The corpus would continue to remain fully protected and available for confiscation or release, depending upon the final outcome of the proceedings.

35. The judgments relied upon by the petitioners, particularly "***Kavitha G. Pillai***" (supra) emphasize that proceedings under Sections 5 and 8 of the PMLA 2002, are intended to preserve the property pending trial and that the authorities are expected to take reasonable measures for such preservation. The principle emerging from the said decision is that statutory powers relating to attachment and retention must be exercised in a manner that advances the object of preservation and not in a manner that permits avoidable diminution of the property's value. Similarly, the observations made in "***Cupid Shipping Pte. Ltd.***" (supra), though it is not a PMLA case, highlight that preservation of attached property must be viewed pragmatically, having regard to the nature of the asset involved. These principles acquire particular significance when the property consists of listed securities whose value is inherently volatile.

36. In the case of "***Directorate of Enforcement v. M/s Prakash Industries Ltd.***", 2025 SCC Online Del 8243, the Delhi High Court observed in paragraph 40 of its judgment that:

> "40-*…………………Similarly, if the sum received as bribe is invested in share market, which later increases or goes beyond and above the value of actual investment owing to market forces or corporate actions, the entire enhanced amount shall constitute as proceeds of crime. Meaning thereby the appreciation in value does not cleanse or purify the tainted origin, more so since the augmented value is inextricably and indirectly derived from the original illicit source of bribe*."

The aforesaid principle itself recognizes that the economic value generated by securities forms an integral component of the property, which remains subject to proceedings under the PMLA. If appreciation in the value of shares continues to remain attached to and traceable as proceeds of crime, preservation of such value cannot be regarded as irrelevant while dealing with market-linked securities. The emphasis under the statutory scheme is therefore not merely upon retaining the original form of the asset, but upon ensuring that the value represented by such asset remains available for eventual confiscation or release, as the case may be.

37. This Court also finds support from the decision of the Delhi High Court in "***Sandeep Tyagi & Others v. Directorate of Enforcement***", decided on 26.05.2025 in Misc. Appeal (PMLA) 5/2024, wherein it was recognized that, in relation to shares, mutual funds and other financial assets, appropriate protective arrangements can be devised so as to secure the corpus and preserve the asset while maintaining the control of the Enforcement Directorate and safeguarding the interests of the investigation, including a lien in favour of ED. In the present case, the petitioners do not seek release of the frozen assets but only a mechanism for preservation of their value. Therefore, if the securities are liquidated under the supervision with a lien in favour of the ED and the proceeds remain invested in regulated, low-risk, SEBI-authorised instruments under its exclusive control, the object of attachment under the PMLA would continue to be protected while avoiding potential erosion of value from market volatility.

38. The Court is also mindful of the fact that modern financial instruments are fundamentally different from conventional assets. Shares and securities are not merely documents of title; they represent investments whose value is determined by dynamic market forces. Preservation of such assets cannot always be equated with maintaining them in a frozen state irrespective of market realities. In appropriate cases, preservation of value may require conversion of one form of investment into another, provided that the corpus remains fully protected and the rights of the investigating agency are not prejudiced. The law must be interpreted in a manner that advances the object of preserving the property rather than permitting substantial erosion in value due to circumstances beyond the control of all concerned.

39. This Court is conscious that proceedings before the Appellate Tribunal and the Special Court are presently pending. However, the relief sought herein does not require adjudication upon the question whether the assets constitute proceeds of crime, nor does it affect the merits of the allegations levelled against the petitioners. The proposed mechanism is purely interlocutory and preservative in character and is intended only to safeguard the value of the assets pending final determination by the competent forums. Consequently, grant of such limited relief would neither interfere with the jurisdiction of the Appellate Tribunal nor prejudice the prosecution pending before the Special Court.

40. A significant aspect which cannot be overlooked by this Court is that the subject properties are not in the nature of cash deposits, fixed

deposits or other stable financial assets presently retained by the ED. Rather, the frozen properties continue to remain invested in various equity shares and securities traded in the open market. Consequently, their value is determined by prevailing market conditions and remains susceptible to appreciation as well as depreciation on a day-to-day basis. The respondents have not placed any material on record to indicate that the Directorate proposes to liquidate such investments and convert them into a secure form of asset for preserving their value. On the contrary, the assets are being allowed to remain exposed to market volatility while simultaneously restraining the petitioners from taking any steps in relation thereto. In such circumstances, the question before this Court is not whether the petitioners should be permitted to regain control over the assets, but whether the value of the assets, which are ultimately intended to remain available for confiscation or release depending upon the outcome of the proceedings, should be protected from avoidable erosion. Once the assets continue to remain invested in the market, the respondents cannot contend that mere freezing of the DEMAT accounts by itself fully achieves the objective of preservation contemplated under the PMLA. Preservation of market-linked securities necessarily carries with it an obligation to ensure, to the extent reasonably possible, that the economic value of the assets is not rendered illusory by prolonged exposure to market fluctuations during the pendency of proceedings.

41. The stand of the ED that it is under no obligation to undertake investment decisions may be correct to the extent that the Directorate is not expected to function as a portfolio manager.

However, in the peculiar facts of the present case, the Directorate itself has chosen not to convert the frozen securities into any stable asset and has allowed them to continue as market-traded investments. Therefore, the issue is not one of compelling the Directorate to carry on investment activity, but of devising an appropriate mechanism to preserve the value of the property which remains under statutory restraint. If the assets are ultimately found to be proceeds of crime, their preserved value would enure to the benefit of the State; conversely, if the petitioners ultimately succeed, substantial diminution in value during the period of freezing would cause irreversible prejudice. In either eventuality, preservation of the value of the assets serves the interests of justice and does not prejudice the investigation or the prosecution, provided that the corpus remains under the control and supervision of the competent authorities.

42. Another aspect that merits consideration is the scheme contained in Rule 4 of the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013. A conjoint reading of sub-rules (2), (3) and (5) makes it evident that the statutory framework itself does not contemplate that every attached or frozen movable asset must necessarily remain in its original form throughout the pendency of proceedings. On the contrary, the Rules recognize situations where the property may be converted into another financial form for the purpose of preservation. Rule 4(2) permits the sale of movable property and the deposit of the sale proceeds in fixed deposits with Nationalised banks. Likewise, Rule 4(3) contemplates conversion of

cash and securities into fixed deposits, while Rule 4(5) authorizes transfer of money lying in bank accounts to the account of the ED. Significantly, even when amounts are placed in fixed deposits, the funds do not remain idle or outside the financial system; they continue to be deployed by banking institutions in the ordinary course of their financial activities and generate returns during the period of retention. Therefore, the statutory scheme itself acknowledges that preservation of attached assets may legitimately be achieved through conversion into alternative financial instruments without affecting the control of the ED over the corpus. In that view of the matter, if the frozen securities are liquidated under the supervision of the Directorate and the proceeds are invested in regulated and low-risk investment avenues approved by the competent authority, the same cannot be said to be inconsistent with the object underlying Rule 4. So long as the corpus remains identifiable, traceable, fully secured and beyond the control of the petitioners, mere change in the form of investment from market-traded equities to SEBI-regulated investment products would not prejudice the interests of the Directorate or frustrate the proceedings under the PMLA. Rather, such an arrangement would be in furtherance of the fundamental objective of preserving the value of the property pending adjudication.

43. The objection regarding maintainability of the writ petition on the ground of availability of an alternative remedy is also raised by the respondents/ED. In the present case, the petitioners have already availed the appellate remedy under Section 26 of the PMLA against the order of the Adjudicating Authority, and the same is pending consideration. However, the petitioners are not seeking adjudication

on the legality of the freezing order or the confirmation order, nor are they seeking release of the frozen assets. The limited relief sought is for preservation of the value of the market-linked securities during the pendency of the proceedings. Such a relief is not specifically contemplated under the statutory scheme of the PMLA and cannot be effectively addressed in the pending appellate proceedings. Therefore, the present writ petition, being confined to a protective and preservative arrangement concerning the subject assets, is maintainable under Article 226 of the Constitution of India.

44. In the case of "***Whirlpool Corporation v. Registrar of Trade Marks***", 1998 (8) SCC 1, the Hon'ble Supreme Court has held that:-

> "15. *Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions, one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. ………."*

45. In the case of "***Harbanslal Sahnia v. Indian Oil Corporation Ltd.***" 2003 (2) SCC 107, it has been held by their lordships of the Hon'ble Supreme Court that:-

"7. *So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned. suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice: or (n) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See Whirlpool Corpn. V. Registrar of Trade Marks)[1] ………..”*

46. In the case of "***State of Himachal Pradesh v. Gujarat Ambuja Cement Ltd***." 2005 (6) SCC 499, it has been held that:-

“18. *The Constitution Benches of this Court in <u>K.S. Rashid and Son v. Income Tax Investigation Commission</u>, AIR 1954 SC 207; <u>Sangram Singh v. Election Tribunal, Kotah</u>, AIR 1955 SC 425; <u>Union of India v. T.R. Varma</u>, AIR 1957 SC 882; <u>State of U.P. v. Mohd. Nooh</u>, <u>AIR 1958 SC 86 and K.S. Venkataraman and Co. (P) Ltd. v. State of Madras</u>, AIR 1966 SC 1089, held that <u>Article 226</u> of the Constitution confers on all the High Courts a very wide power in the matter of issuing writs. However, the remedy of writ is an absolutely discretionary remedy, and the High Court always has the discretion to refuse to grant any writ if it is*

> *satisfied that the aggrieved party can have an adequate or suitable relief elsewhere. The Court, in extraordinary circumstances, may exercise the power if it comes to the conclusion that there has been a breach of principles of natural justice or procedure required for the decision has not been adopted."*

47. In view of the facts and circumstances of the present case, and the principles laid down by the Hon'ble Supreme Court in "***Whirlpool Corporation***", "***L. Chandra Kumar***", "***Harbanslal Sahnia***" and "***Gujarat Ambuja Cement Ltd***." (supra), this Court is satisfied that the present petition raises an issue for which no equally efficacious statutory remedy is available and, therefore, the writ petition under Article 226 of the Constitution of India is maintainable, notwithstanding the pendency of statutory proceedings under the PMLA. The relief sought by the petitioners is not directed against the validity of the freezing order dated 28.02.2024 or the confirmation order dated 30.07.2024, which are already under challenge before the Appellate Tribunal. The limited prayer made in the present petition relates to the preservation of the value of the frozen shares and securities by permitting their conversion into another regulated form of investment under the supervision and control of the ED. Neither the PMLA, 2002, nor the Rules framed thereunder contain any specific provision empowering the Adjudicating Authority, the Appellate Tribunal or any other statutory forum to consider such a request for replacement of shares by another mode of investment for the purpose of preserving the value of the attached assets. In such circumstances, this Court is of the considered view that the present

writ petition can be disposed of by issuing limited and protective directions for preservation of the value of the frozen assets, without expressing any opinion on the merits of the allegations made against the petitioners or on the legality of the freezing order dated 28.02.2024 and the confirmation order dated 30.07.2024, which are already subject matter of proceedings before the Appellate Tribunal and the Special Court under the Prevention of Money Laundering Act, 2002.

48. Accordingly, the writ petition is disposed of with the following directions:-

1. The petitioners shall submit before the ED a detailed proposal indicating the securities/shares sought to be liquidated, the proposed mode of liquidation and the nature of the SEBI-regulated investment instruments in which the sale proceeds are proposed to be invested.
2. Upon receipt of such proposal, the ED shall examine the same and shall be at liberty to obtain the opinion of an independent SEBI-registered Investment Adviser, Portfolio Manager or such other financial expert as may be considered appropriate for assessing whether the proposed mechanism would reasonably serve the objective of preservation of value of the frozen assets.
3. In the event the ED is satisfied that liquidation of any part or whole of the frozen securities is necessary or desirable for preservation of the value of the assets, it may permit liquidation of such securities strictly under its supervision and control and through a SEBI-registered intermediary.

4. The entire sale consideration realized from such liquidation shall not be released to the petitioners or to any person claiming through them and shall remain subject to the freezing order and all proceedings under the PMLA.

5. The sale proceeds shall be transferred into a separate escrow/custodial account or such designated account as may be identified by the ED, over which the petitioners shall have no operational control whatsoever.

6. The amount so realized may thereafter be invested only in low-risk and regulated financial instruments, including Government-backed securities, Treasury-linked instruments, debt-oriented mutual funds, liquid funds, money-market instruments or such other SEBI-regulated investment products as may be approved by the ED upon expert advice, keeping in view the paramount requirement of preservation of capital and liquidity.

7. Any income, dividend, interest, appreciation, redemption amount or other accretion arising from such investments shall also remain subject to the provisions of the PMLA and shall abide by the final outcome of the proceedings pending before the competent authorities and courts.

8. The petitioners shall not claim any right of possession, withdrawal, transfer, encumbrance, pledge, lien, beneficial enjoyment or management in respect of either the original securities or the sale proceeds and accretions thereon during the pendency of the proceedings under the PMLA.

9. In the event the ED, upon consideration of the proposal and expert opinion, forms the view that

liquidation of the securities may prejudice the pending proceedings or may not serve the objective of preservation of value, it shall pass a reasoned order communicating its decision to the petitioners within a period of eight weeks from the date of submission of the proposal.

10. It is made clear that this Court has not adjudicated upon the question whether the subject assets constitute proceeds of crime, nor upon the validity of the freezing order, retention order or the prosecution complaint, and all contentions of the parties in that regard are left open to be decided by the Appellate Tribunal, the Special Court and other competent forums in accordance with law.

11. Before parting, this Court observes that where the subject matter of attachment or freezing consists of market-linked securities and financial instruments, the authorities under the PMLA may, wherever circumstances so warrant, consider appropriate measures for preservation of the economic value of such assets so that the ultimate object of the statute, namely preservation of property pending adjudication, is effectively achieved.

49. With the aforesaid observations and directions, the writ petition stands **disposed of**.

50. No order as to costs.

51. Pending interlocutory applications, if any, shall also stand disposed of.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved