

APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

MP-PMLA-4728/HYD/2025 Stay
MP-PMLA-4729/HYD/2025 Exemp
MP-PMLA-4730/HYD/2025 Exemp
FPA-PMLA-1973/HYD/2025
M/s Dalmia Cement (Bharat) Limited

... Appellant

Versus

The Deputy Director
Directorate of Enforcement, Hyderabad

... Respondent

Advocates/Authorized Representatives who appeared

For the Appellant : Mr. Pramod Kumar Dubey, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Mayank Tripathy, Adv.
Ms. Kajal Dalal, Adv.
Mr. Sandeep Khairwal, Adv.
Mr. Rajiv Choubey, Adv.
Mr. Ayush, Adv.
Mr. Nishant Nandan (A.R. of Appellant)

For the Respondent : Ms. Nidhi Raman, Adv.
Mr. Nikunj Bindal, Adv.

CORAM

SHRI V. ANANDARAJAN : MEMBER

FINAL ORDER

09.03.2026

The present appeal arises from the order dated 22.09.2025 passed by the Adjudicating Authority (AA) under the Prevention of Money Laundering Act, 2002 (PMLA) in Original Complaint (OC) No. 235/2025, confirming the attachment of property made by the Directorate of Enforcement (ED) vide Provisional Attachment Order (PAO) dated 31.03.2025.

Facts in Brief:

2. The relevant facts briefly are that an **FIR (RC 19(A)/2011 CBI-HYD dated 17.08.2011)** was registered by the CBI, ACB, Hyderabad against Sh. Y.S. Jagan Mohan Reddy (hereafter referred to as Jagan Mohan), M/s Dalmia Cement (Bharat) Ltd. (the appellant herein) and others under Sections 420, 409 and 477-A of the erstwhile Indian Penal Code, 1960 and Section 13(2) read with 13(1)(c) & (d) of the

Prevention of Corruption Act, 1988, for entering into criminal conspiracy to cheat the Government of Andhra Pradesh. It was alleged that Sh. Jagan Mohan exercised his influence on his father, Late Dr. Y.S. Rajasekhara Reddy, the then Chief Minister of Andhra Pradesh, and also on unknown public servants of Govt. of Andhra Pradesh, who in turn, abused their official positions by corrupt or illegal means and issued orders favourable to the appellant company, M/s Dalmia Cements, other companies and persons, and thereby, dishonestly caused wrongful loss to the Govt. of Andhra Pradesh and corresponding wrongful gain to themselves. As quid-pro-quo, M/s Dalmia Cements, other companies and persons invested several crores of Rupees in companies promoted by Jagan Mohan at a huge premium in lieu of illegal favours. The said FIR was registered pursuant to a common order dated 10.08.2011 passed by the Hon'ble High Court of Andhra Pradesh in WP No. 794 & 6604 of 2011 filed by Sh. P. Shankar Rao, MLA, Secunderabad and Sh. Yerran Naidu, Ex. MP. Upon completion of its investigation, CBI, ACB, Hyderabad, filed Chargesheet No. 05/2013 dated 08.04.2013 before the Principal Special Judge for CBI cases, Hyderabad against Sh. Y.S. Jagan Mohan Reddy, Sh. Puneet Dalmia, M/s Dalmia Cement (Bharat) Ltd. and 10 other persons/entities.

3. Since the FIR revealed commission of offences under 120-B and 420 of the erstwhile Indian Penal Code, 1960 (IPC) and section 13 of the P.C. Act which constitute scheduled offences under the PMLA, the ED registered an Enforcement Case Information Report (**ECIR No. 09/HZO/2011** dated 30.08.2011) and initiated enquiries under the PMLA which resulted in attachment of various immovable properties of the appellant valued in all at Rs. 3,77,26,23,674/- vide a Provisional Attachment Order (**PAO No. 27/2025 dated 31.03.2025**). In consequence of the passing of the said PAO, an Original Complaint (**OC No. 235/2025 dated 28.04.2025**) was filed by the ED before the Ld. Adjudicating Authority as per the requirement of Section 5(5) for confirmation of the attachment.

4. The allegations as per the OC, briefly, were that Shri Jagan Mohan, both in his personal capacity and as Director of M/s Bharathi Cement Corporation Pvt Ltd, along with Shri Puneet Dalmia, Director of M/s Dalmia Cement (Bharat) Ltd., and Shri Sajjala Divakar Reddy, Director of M/s Eswar Cements Pvt. Ltd, were involved in the generation of proceeds of crime amounting to 945.48 crores through the commission of scheduled offences, and that the aforementioned individuals and entities were actively engaged in various processes and activities relating to the handling of the said proceeds of crime, as defined under Section 3 of the PMLA, including concealment of proceeds in the form of cash, possession in cash and in bank accounts, utilization for business and personal purposes, acquisition of shares and immovable properties using the proceeds of crime, and projection and claiming of such proceeds as untainted money, through purported legitimate transactions such as investments, sale of limestone, shares, etc.

5. So far as the present appellant is concerned, the allegations were, firstly, that the appellant company invested Rs. 95 crore through share subscription in Bharathi Cements Corporation Pvt. Ltd., a company controlled by Jagan Mohan. The said shares were subsequently sold to M/s PARFICIM, (France) for Rs. 139 crore. Out of this amount, an amount of Rs. 55 crore was paid to Jagan Mohan through cash and hawala channels, and the remaining Rs. 84 crore were retained by the appellant company. Secondly, the appellant company illegally extracted 1.06 crore MT of limestone from Kadapa Mines valued at Rs. 709.34 crore under unlawfully acquired mining lease. Thirdly, the appellant company overpaid Rs. 2.14 crore for acquisition of M/s Eswar Cements Pvt. Ltd., a company whose promoter-directors were Sajjala Diwakar Reddy, Sajjala Ramakrishna Reddy and Sajjala Bhageerathi. The said amount was later diverted to M/s R. R. Stones Pvt. Ltd. owned by Sajjala Diwakar Reddy. Thus, it was alleged that these amounts, namely, quid pro quo investment in shares of M/s Bharathi Cements Corporation Ltd., illegal mining proceeds, cash and hawala transfers, speculative overpayments amounting to Rs. 95 crore, Rs. 55 crore,

Rs. 709.34 crore and Rs. 2.14 crores respectively, constituted proceeds of crime. Investigation further revealed that the said proceeds of crime were intermingled in the business activities of the entities and, therefore, the direct proceeds of crime having distinct relation with the scheduled offence are no longer available for attachment u/s 5. Thus, other properties equivalent to value of to the direct proceeds of crime were identified as envisaged in Section 2 (1)(u) of the PMLA. and have been **attached as 'value of such property'** PAO dated 31.03.2025. A total of 1180 immovable properties valued in all at Rs. 3,77,26,23,674/- were accordingly attached.

6. After going through OC, the documents relied upon and the materials in possession submitted by the complainant, the Ld. AA had prima facie reasons to believe that the properties attached under the aforesaid PAO No. 27/2025 dated 31.03.2025 fall under the definition of "proceeds of crime" as defined under section 2(1) (u) of the PMLA, 2002 which renders them liable to confirmation of attachment under section 8(3) of the said Act. Accordingly, the AA issued a Show Cause Notice u/s 8(1) of the PMLA and initiated adjudication proceedings under section 8 which resulted in passing of the order dated 22.09.2025 confirming the attachment of the properties.

7. Aggrieved by the said order of the Ld. AA confirming the attachment of properties, the appellant has filed the present appeal under section 26 of the PMLA impugning the said order on various factual and legal grounds.

Arguments on Behalf of the Appellant

8. Ld. Counsel for the appellant, firstly, described in detail the underlying facts of the case, the entities involved, and the allegations against the appellant company. The brief facts of the case have already been discussed in paragraphs 4 and 5 above.

Other facts relevant for arriving at a reasoned decision on the issues involved in this appeal would be referred to while addressing the arguments on merits.

9. Ld. Counsel pointed out that, in short, the following amounts are alleged to be the proceeds of crime in the hands of the appellant company:

(i) Sale proceeds from share of M/s Bharathi Cements Corporation Pvt. Ltd. (Rs. 139 cr) less amount paid to Jagan Mohan through cash and hawala (Rs. 55 cr.) = **Rs. 84 crore;**

(ii) Value of limestone extracted by the appellant company out of illegally granted mining lease = **Rs. 709.34 crore.**

Total = Rs. 793.34 crore.

10. It may be pointed out here that the computation of profits derived from limestone extraction has since been reduced by the ED to Rs. 92.52 crore only after deducting the cost of extraction. Thus, the revised proceeds of crime now stand at a total of Rs. 176.52 crore.

11. Coming to the **first main allegation** against the appellant company, namely, quid pro quo investment in shares of M/s Bharathi Cements Corporation Ltd., a company controlled by Jagan Mohan at the relevant time, the allegation is that investment by the appellant in the said company was not a bona fide commercial decision but was made at a highly inflated share premium without corresponding economic rationale. With regard to this allegation, the ld. counsel for the appellant referred to the detailed consolidated judgment dated 26.07.2019 passed by this Appellate Tribunal in the case of *M/s Alpha Avenue Pvt. Ltd. (FPA-PMLA-751/DLI/2014)* and 11 other connected matters involving identical allegations against the appellants therein. The Appellate Tribunal in that case, had held as below:

“49. The main concern it appears from the case of the ED is that the investment was bribe money in order to get the project and the purchase of shares were just eye wash, those were waste of papers, even these were purchased on higher market price in order to oblige the Chief Minister and ultimately has given the favour to the appellants. Unless and otherwise established in evidence, prima facie, it appears to this Tribunal that the said shares were sold to French Company on higher price. Those were not waste of papers. No material so far filed by the respondent no. 1 is available to establish that the purchase of shares or investment thereof is wholly bribe money and the same investment is done in order to get the project.

* * *

98. The main allegation is that the Government of Andhra Pradesh led by the then Chief Minister late Dr. Y. S. Rajasekhara Reddy extended undue favours to Mr. Nimmagadda Prasad, inter alia, in the form of allotment of VANPIC Project. This was, allegedly, a quid pro quo for investments made by Mr. Nimmagadda Prasad through his group companies to the tune of Rs.854.50 Crores in the companies controlled by the Y. S. Jagan Mohan Reddy (the son of Dr. Y.S. Rajashekhara Reddy), which allegedly is the bribe paid for award for allotment of the VANPIC Project. The issue of VANPIC has already been discussed in earlier part of my order.

99. It is rightly submitted by the appellants that if the phrase "proceeds of crime" is characterized as has been done by the Respondent No.1 in this case, without reference to any causal nexus with the scheduled offences in question, it would lead to a situation where any revenues generated by persons accused of a scheduled offence would be attached, regardless of whether there is a causal link with criminal activities or not. Clearly, this would be contrary to the scheme and object of the PMLA. One is also failed to understand that on the one hand respondent no 1 submits that it was a bribe amount and proceed of crime, the issuance of shares are just eyewash and waste of papers and on the other hand, when the shares are sold on higher price to the company who has not been charge-sheeted and its money is

admittedly to be the clean money, then how two stands of the respondent no. 1 have any valid argument Thus, in view of peculiar nature of the facts and circumstances in the present case, price facie, this Tribunal is of the view that the profit earned from the shares sold to the French Company cannot be considered as proceed of crime when it has come on record that original purchase of shares was a genuine transaction, otherwise why the French Company, who is a third party, would purchase the same very shares at the higher price who is admittedly not charged either by the CBI or ED.

100. The main allegations made by the CBI against Mr. Nimmagadda Prasad, have been confirmed by the Respondent No.1 stating that Mr Nimmagadda Prasad, through his group companies, paid illegal gratification to the tune of Rs. 854.50 Crores to the companies controlled by YS Jagan Mohan Reddy, which is a bribe paid for grant of several undue favours to Mr. Nimmagadda Prasad by the Government of Andhra Pradesh led by late. Dr. Y. S. Rajasekhara Reddy, the then Chief Minister Mr. Nimmagadda Prasad was allotted the VANPIC Project worth Rs.17,000 Crores under the guise of Government-to-Government Project by introducing Government of Ras al-Khaimah into picture a front. The Concession Agreement dated 11.07.2008 is in violation of the Memorandum of Understanding dated 11.03.2008 inter alia since the Government of Ras al Khaimah is not obligated to hold 51% equity in the SPVs of the VANPIC Project under the Concession Agreement and a nominee of the Government of Andhra Pradesh. Mr. Nimmagadda Prasad deceived the Council of Ministers while obtaining approval to the Concession Agreement dated 11.07.2008. There are deviations between the Cabinet Approval and the Concession Agreement which are detrimental to the interests of Government of Andhra Pradesh. There are crucial deviations between the provisions of the Concession Agreement dated 11.07.2008 entered into and the provisions of the concession agreements entered into by the Government of Andhra Pradesh in respect of ports at Krishnapatnam and Gangavaram ports, and that such deviations are advantageous to the concessionaire while being detrimental to the

interest of GoAP. The lands for the development of Industrial Corridor of the VANPIC Project were illegally acquired by the Vanpic Projects Pvt. Ltd., a private company allegedly exclusively owned by the Mr. Nimmagadda Prasad Mr. Nimmagadda Prasad misappropriated and diverted monies invested by the Government of Ras al Khaimah in the Vanpic Project. Mr. Nimmagadda Prasad/Matrix Laboratories Ltd. were granted exemptions under the Urban Land Ceiling Act.

101. It is submitted on behalf of appellants that the said allegations are contrary to the records. It is submitted that there is no reason to believe' that the Appellants are in possession of proceeds of crimes' or that the properties attached are proceeds of crime'.

102. It has come on record that after disinvestment in Matrix Labs, Mr. Nimmagadda Prasad identified five sectors with excellent growth prospects in the long run for the purpose of Investments, viz.

- a) Core infrastructure*
- b) Power*
- c) Healthcare*
- d) Entertainment & Media*
- e) Hospitality*

His investments were made taking into consideration the following factors which would ensure returns on his investments;

- a) Identifying the investment opportunity (company)*
- b) Evaluating the project*
- c) Company strength*
- d) Promoters' passion for the project*
- e) Promoters' competency*
- f) Social impact of the project*

g) Mode of investment one time / creeping

h) Gestation period

i) Exit option

103. It was explained by Mr. NimmagaddaPrasad in his statement dated 03.02.2012 as under:

"During 2003/2005 I have conceived an investment plan named as "Project Pancharatna" where I have identified 5 sectors in emerging Indian Economy. The sectors are Health Care, Media and Entertainment, Hospitality, Core infrastructure & Core Industries (cement, power, steel) Beginning 2005, I invested in these sectors based on my assessment, market reports of the investee companies/sectors and instincts. Therefore, as asked by you the investments made by the Companies was after consideration of the benefit factors."

[Emphasis supplied]

104. From the proceeds of his disinvestment in Matrix Labs. Mr. Nimmagadda Prasad invested in several companies, including the companies owned and controlled by Mr. Y. S. Jagan Mohan Reddy, while keeping in the mind the above investment strategy. His investments so far are as under:-

<i>Sl. No.</i>	<i>Investment(Company or business entity)</i>	<i>Sector</i>
<i>1.</i>	<i>Care Hospitals</i>	<i>Healthcare</i>
<i>2.</i>	<i>Asian Institute of Gastroenterology</i>	<i>Healthcare</i>
<i>3.</i>	<i>Mylan Inc.,</i>	<i>Healthcare</i>
<i>4.</i>	<i>Relysis Medical Devices</i>	<i>Healthcare</i>
<i>5.</i>	<i>Metronomix</i>	<i>Healthcare</i>
<i>6.</i>	<i>Indigen</i>	<i>Healthcare</i>
<i>7.</i>	<i>Pacific Healthcare</i>	<i>Healthcare</i>
<i>8.</i>	<i>MAA Television</i>	<i>Media &</i>

		<i>Entertainment</i>
9.	<i>Annapurana Studios</i>	<i>Media & Entertainment</i>
10.	<i>Jagati Publications (Sakshi)</i>	<i>Media & Entertainment</i>
11.	<i>Object One</i>	<i>Media & Entertainment</i>
12.	<i>Bharathi Cements</i>	<i>Core Infrastructure</i>
13.	<i>Indu Projects</i>	<i>Core Infrastructure</i>
14.	<i>VANPIC Project</i>	<i>Core Infrastructure</i>

105. It is submitted that Mr. Nimmagadda Prasad's investments in Companies controlled/owned by Mr. Y. S. Jagan Mohan Reddy are one amongst the many given above, and guided by the above principles and no extraneous motive ought to be imputed for such investments, which were purely guided by commercial interests as will be demonstrated herein below.

106. It is stated on behalf of appellants that if Mr. Nimmagadda Prasad's investments in companies controlled/owned by Mr. Y. S. Jagan Mohan Reddy is taken to be one investment portfolio, then, Mr Nimmagadda Prasadhas admittedly obtained a return of about Rs.617 Crores on his investment of about Rs. 847.50 Crores. Therefore, as on date, Mr. Nimmagadda Prasad's net investment is Rs.230 Crores in lieu of which he is holding 11.74% shareholding Jagati Publications Ltd., 5.02% shareholding in Carmel Asia Holding Pvt. Ld, and 4.7% shareholding in Sandur Power Company Ltd., which is a profit-making company. The aforesaid holdings are of considerable value even if one were to take into account the adverse impact of the wholly motivated CBI proceedings and the proceedings under the PMLA against these companies.

107. Furthermore, Rs. 180 Crores, which represents 20% of the total investment, was invested in the years 2006 & 2007, which was much prior to the Mr.

Nimmagadda Prasad being appointed as the local partner in the Vanpic Project and/or the decision of the State Government to revive the same after the termination of the previous Agreement with SKODA. Rs. 430 Crores, which represents 50% of the total investments, was invested after 2nd September 2009, post the demise of Dr. Y S. Rajashekhara Reddy. Therefore, 70% of the bral investments in companies allegedly held by Mr. Y. S. Jaganmohan Reddy were made either prior to Mr. Nimmagadda Prasad's association with the VANPIC Project or post the demise of Dr. Y. S. Rajashekhara Reddy.

108. Therefore, prima facie, it cannot be concluded by Respondent No. 1 and Adjudicating Authority or by this Tribunal that Mr. Nimmagadda Prasad's investments in these companies are illegal gratification for purported undue favors by the Government of Andhra Pradesh. Final sanction of the project has not been granted. Against the said project, the advance amount spent for purchasing the land from farmers and other charges or paid by Mr. N. Prasad is very less amount than the amount of Rs.863.33 crores. The project was not in his hand. He is not in possession of the land. How it is practicable possible. The project has not been started, no benefit of any nature has been derived by Mr. N. Prasad and merely on the basis of allegation and presumption, the inference cannot be drawn. The charges are framed in the schedule offence.

* * *

It is admitted position that Respondent No.1 never questioned the investment by M/s Paraticim, the French company and in fact, treated it as genuine investments. The aforementioned findings by the Adjudicating Authority are therefore completely out of record/pleadings before it and finds place for the first time in the Impugned Order. M/s. Paraficim which is French company is not accused either in the schedule offence nor in the prosecution complaint.

* * *

145. Mr. Y. S. Jagan Mohan Reddy was the promoter of Bharathi Cements and in control of the same. It may not be unusual for a promoter to invest in his own

company at par, whereas, the outside investors invest at a higher premium. The investment decisions are not solely based on whether a company is making profits or losses. If that be the case then no one would be investing in Eenadu, Flipkart, Amazon, Uber etc. Mr. Nimmagadda Prasad in his statements explains the rationale for investment in Bharathi Cements:

"I state that I have personally worked out the viable and profitable fields of business and it was Healthcare, Hospitalty, Media & Entertainment, Core Infrastructure, Core Industries (Cement, Steel, Power). Accordingly, I venture in these lines in and outside India. As regards the investment in Raghuram Cements is concerned I state that the parameters for a growing cement factory are capacity, credibility & Access to Markets leaving aside the other features which are considered before investments in the other fields. I noticed that Raghuram Cement at the time of my investment planned 2.5 MTPA (scalable to 5 MTPA with marginal cost) Focus on quality (Robotic Technologies) & access to Markets such as Andhra/Tamil Nadu/Karnataka & Kerala."

...

"As a part of my preferred and identified sector of Investment I came to know from Mumbai investment circles of an opportunity to invest in M/s Raghuram Company is depending on Capacity, Credibility, lime deposits and access to Markets. Balance sheet is not important if the Promoters are satisfactory. I had an offer to invest around Rs. 300 crores for 15% stake, Initially, I invested Rs 67.00 crores in January 2007 at the rate of Rs 104/share And as the project was progressing with the plant Construction I have invested in different tranches. Initially it was planned for 2.25 mi capacity/annum but in 2008/09 it was decided to scale up the plant to 5 mtpa, with only marginal investment cost. At this time I invested 20.00 cr at Rs. 1450/share. The plant was commissioned around sep. 2009. At that time I invested Rs.190 Crores at 1450/share. In total I invested around

Rs.285 crores for around 14.50% equity at an average price of Rs.341/share. It is within the original plan of Rs.300 crores for 15% stake. It is to be noted that my investment was done on commercial basis after due diligence"

* * *

163. As far as other heads i) to vi) are concerned, the total attachment of these heads is Rs.274.38 crores ie net profit on an investment of Rs.342 crores in Silicon Builders Pvt. Ltd and Bharati Cement Corporation Ltd. It appears that no cogent evidence is available on record to show that the said investment at the first instance was the bribe or not. On the one hand, the stand of the respondent is that the shares against investment in the said companies were just eye-wash and waste of papers, but on the other hand, it has been established on record that said shares got 96% profits. The said appellants prima facie placed the material on record that there are sources of funds available for the purpose of investment.

164. The allegation of the respondent no. 1 as well as in the impugned order that Mr. Y.S. Jagan Mohan Reddy has received Rs. 35 crores as quid pro quo for VANPIC Projects, prima facie, there is a material on record that Y.S. Jagan Mohan Reddy received Rs.30 crores on 22.1.2007 by way of cheque no. 686670 from Mr. Nimmagada Prasad as sale consideration for 21,42,869 shares of Sandur Power held by him and on 19.2.2007 Share Transfer Form in form No.7B authenticated by Assistant Registrar of Companies, Bangalore bearing stamp and date. Mr. Y.S. Jagan Mohan Reddy had signed the said Share Transfer Form for a consideration of Rs 30 crores on 22.2.2007. Capital Gain Tax of Rs.6.69 crores paid by Mr YS Jagan Mohan Reddy on sale consideration of Rs.30 Crores from Mr. Nimmagadda Prasad on 31.7.2007.

165. From the impugned order as well as provisional attachment order and from the stand of respondent no. 1, it appears that the submissions are not correct as the allotment of the VANPIC Project was not to Mr Nimmagadda Prasad, but, to

Ras Al Khaimah, the sovereign Emirate of United Arab Emirates, which had engaged Mr Nimmagadda Prasad as its Local Partner under the MOU and Concession Agreement, the rationale for identifying a sum of Rs. 267.45 Cr (instead of which Rs 274.45 Cr approx has been actually attached) is found at pages 82-87 of the Complaint As per appellants, two sets of investments made and a donation by the Appellants have been wrongly identified as "illegal gratification" paid to Y. S. Jagan Mohan Reddy The details of the same are given as under:-

- i. The investment of Rs 285.50 Cr., for shares in Raghuram Cement Ltd. (which has been subsequently renamed as Bharati Cement Corporation Ltd.);*
- ii. An investment of Rs 57 Cr., for shares in Silicon Builders Pvt. Ltd., in which G2 Corporate Services Pvt. Ltd. invested Rs. 50 Cr. and Suguni Constructions Pvt. Ltd. invested Rs.7 Crores; and*
- iii. Rs. 7 Crores donated by to the YSR Foundation, which is a registered public charitable trust.*

It is a matter of fact that the donation made to YSR Foundation continues to remain with it and has not been returned to the Appellants, despite which the Complaint seeks to attach it in the hands of the Appellants.

165.1 The said shares were admittedly sold in 2010, as follows:-

- i. The shares in Bharati Cement Corporation Ltd. were sold to a French corporation, known as PARFICIM SAS (French Company) for Rs. 560.45 Cr. The Complaint itself identifies PARCIFIM as an "innocent investor" who is "not found in any criminal activity" and as not having proceeds of crime in its possession as admitted in paragraph 25(1) of the Complaint.*
- ii. The shares in Silicon Builders Pvt. Ltd were sold to M/s Classic Realty Pvt. Ltd. who is also described as "not found in any criminal activity" and as not having proceeds of crime in its possession, for a consideration of Rs. 57 Crores, as mentioned in Paragraph 25(1) of the Complaint. The CBI has filed a Memo on*

23.09.2013 in RC 19(A)/2011-CBI-HYD wherein they have specifically stated that no quid pro quo could be established in relation to the said Company viz Classic Realty Pvt. Ltd. As such, there is no question of any amounts earned from transactions with M/s Classic Realty Pvt. Ltd being proceeds of crime The Respondent No. 1, despite observation by the CBI in its charge sheet has taken the different view.

165.2 The total amount arising from the sale of shares referred to hereinabove is Rs. 617.45 Cr The said amount received from Parficim is not the proceeds of crime, nor it was/ is tainted amount as admitted by the respondent. The said amount is clean money and it has no nexus whatsoever with any alleged quid pro quo transaction mentioned in paragraph 24 the Complaint The only stand of the respondent that shares were purchased earlier was proceed of crime and these shares were sold on higher price to French Company (who is not accused) but the amount received amounts to proceed of crime.

* * *

165.4 It is rightly explained on behalf of appellants that this logic of Respondent No.1 is incorrect:-

i) Firstly, the returns which were generated from investments in M/s Silicon Builders Pvt. Ltd and Bharati Cement Corporation Ltd. may be business transactions as at present, it is merely an allegation. It has been ignored by the Adjudicating Authority. It is alleged on behalf of appellants that the mere fact that the shares in M/s Silicon Builders Pvt. Ltd., were sold at cost fails to appreciate that the same was an indirect stake in Bharti Cement Corporation and under the circumstances it was a strategic call taken by Mr. Nimmagadda Prasad in as much as his investment in M/s Silicon Builders Pvt. Ltd. and Bharati Cement Corporation Ltd., had returned a net profit of Rs. 274.95 Cr. on an investment of Rs. 342 Cr. which was sold for Rs.617.45 Crs. with an IRR of

31%. These numbers would reveal that the investments could not be said to be a bribe under any circumstances.

ii) Secondly, if the amount paid for purchasing the shares in the two said companies was illegal gratification, there would be no "refund". No criminal statute in India recognizes this idea of "refund of gratification, the assumption being that illegal gratification is retained by the person it is paid to. The Respondent No. 1 has failed to demonstrate how this concept of "refund" has any causal nexus with the ingredients of any of the scheduled offences involved in this case.

iii) Thirdly, if both PARCIFIM and M/s Classic Realty Pvt. Ltd. are innocent parties (as set out in the Complaint), the purchase of shares by them is clearly untainted. Therefore, monies received from transactions entered into with such innocent parties may be untainted.

iv) The monies generated from the sale of shares has no nexus whatsoever to any of the purported "favors extended to Mr. Nimmaggada Prasad and his group companies, as set out in the Chargesheet, because other investors have also shareholding to the said French Company.

v) The monies paid by the Appellants for the purchase of shares remains within the investee companies in question as share capital. If the same is to be characterized as "illegal gratification", it can, at best, be attached in the hands of the said companies. Revenue generated by the Appellants from a separate, untainted, secondary purchase by third parties who are admittedly innocent, paid for by them from untainted monies cannot be characterized as "proceeds of crime".

12. Thus, it is pointed out by the ld. counsel for the appellant that the underlying issue involved in the present appeal has already been decided by the Appellate Tribunal. In its 119-page order in the above case of *Alpha Avenue*, the Tribunal had decided the matter in appellants' favour and held that the amount invested by Shri

Nimmagadda Prasad (appellant in that appeal) in the shares of two companies controlled by Jagan Mohan, which were subsequently sold for handsome profits, could not be held to be a bribe. It is contended that the appellant in the present appeal is identically placed.

13. As regards the further allegation of payment of bribe of Rs. 55 crore to Jagan Mohan out of the sale proceeds of the shares, Id. Counsel for the appellant submitted, firstly, that no evidence of any cash or hawala payment to Jagan Mohan was found during investigations by the respondent directorate. It was simply alleged by them that the company wanted to pay a bribe of Rs. 55 crores and attached the value thereof in the hands of Jagan Mohan.

14. With regard to the **second main allegation**, namely, acquisition of mining lease for the Kadapa Mines by the appellant company, Id. counsel for the appellant argued that the contention of the ED is that the transfer of mining lease to the appellant was unlawful. However, under rule 37(1)(a) of the Mineral Concession Rules, 1960, a copy of which has been placed before the Bench by him, the same is permissible subject to the conditions mentioned therein which were duly fulfilled in the present case. As such, there was nothing illegal about the acquisition of mining rights by the appellant company. The license was initially granted for 30 years, which was extended upto 50 years in 2015, even after the change of Government in the State. The appellant's factory is in operation till date and production has gone up from 8 MT to 50 million MT.

15. It was **also argued** by the Id. counsel that no 'reason to believe' existed in the present case to invoke the Second Proviso to Section 5 of the PMLA. In the case of *Alpha Avenue* (supra), the Appellate Tribunal had held that an attachment under S.5 of PMLA would only be sustainable in law if recourse to such remedy was required to be taken in case of emergency situation, then only "immediately" action is

required to be taken by the concerned officer and he must be assigned to reasons in writing invoke the Second Proviso to Section 5(1). It is pointed out that the appellant in the present case stands on an even better footing than Nimmagadda Prasad was in that case as there was not much delay in attachment of the property in that case, whereas, in the present case, property has been attached after 14 years of the investment being made. There could have been no urgency to attach the property 14 years after the alleged offence.

16. An **alternative prayer** has also been vehemently pressed on behalf of the appellant. An interlocutory application dated 10.10.2025 was filed by the appellant stating that the ED itself, in its rejoinder filed before the Ld. AA, had limited its revised quantification of the proceeds of crime in the hands of the appellant to Rs. 176.52 crore as against Rs. 793.34 crore as quantified in the PAO. While arriving at the quantum of proceeds of crime of Rs. 793.34 crore and provisionally attaching the property of the appellant valued at approximately 377.26 crore at the time of passing the PAO, the ED failed to deduct an amount of Rs. 616.82 crore being the cost of extraction of the mineral. Subsequently, the ED has revised its computation of proceeds of crime in the hands of the appellant to Rs. 176.52 crore only, which comprised Rs. 92.52 crore from mined limestone and Rs. 84 crore from share sale. The prayer of the appellant in the interlocutory application, therefore, was that the attachment should be limited to Rs. 176.52 crore, and attachment of property to the extent of Rs.616.82 be ordered.

17. **Lastly**, It was also prayed that since the attached properties are productive assets of the appellant company, which is causing irreparable prejudice to the business of the appellant and hampering day-to-day business, the objective of securing the alleged proceeds of crime may be met through alternate security offered by the appellant without causing any prejudice to the complainant (ED). It is pointed out by the ld. counsel that even before the Ld. AA, the appellant had made a

Misc. Application dated 31.03.2025 seeking the same relief, namely, release of attached properties subject to furnishing of security and/or substitution with alternative properties. The Ld. AA discussed the application in detail, but the Authority observed that substitution of immovable properties before confirmation is impermissible and there is no enabling provision in the Act or the Rules for substitution of attached properties by the Adjudicating Authority. Accordingly, he did not allow the said application filed by the appellant herein.

Arguments on Behalf of the Respondent

18. The issues raised on behalf of the appellant were contested by the Ld. Counsel for the respondent. She placed strong reliance on the facts discussed at length in pages 14 to 17 of the impugned order. Since, the gist of the allegations and the findings have already been discussed in paragraphs 2 to 5 of this order, the same are not being repeated here in the interest of brevity.

19. With regard to the issue of over valuation of the shares acquired by the appellant company, she placed reliance on paragraphs 18 to 25 of the reply to the appeal filed by the Directorate. the contents thereof are reproduced below for ready reference:

“18. The contention that the investments of Rs. 95 crores in M/s Raghuram (Bharathi) Cement was a bona fide commercial decisions, is specifically denied. As established in the rejoinder and supporting evidence, these investments were not commercially justified, as they were made at highly inflated share premiums (rising from Rs. 110 to Rs 1,140 per share) without corresponding business rationale, and at a time when the Appellant was simultaneously receiving mining leases and other regulatory approvals from the State Government. The Respondent submits that the investments were made to obtain favours and mining rights, not as legitimate market transactions, and the Appellant's attempt to invoke the judgment in Vijay Madanlal Choudhary

Union of India (2022 SCC OnLine SC 929) is misplaced, since in that case the absence of any scheduled offence was proven, whereas in the present case, the scheduled offences are well established through CBI charge sheets under Sections 420, 409, and 120B IPC and the Prevention of Corruption Act. Further, the appellants contention that attached property cannot be regarded as POC unless directly derived from criminal activity, in this regard it is submitted that Hon'ble Delhi High Court in Deputy Director, Directorate of Enforcement V. Axis Bank, (2019 SCC OnLine Del 7854) held that the Act empowers the respondents not only to proceed against properties which may be directly linked to proceeds of crime but also against properties which would be equivalent in value thereof. If the "tainted property" respecting which there is evidence available to show the same to have been derived or obtained as a result of criminal activity relating to a scheduled offence is not traceable, or the same for some reason cannot be reached, or to the extent found is deficient, the empowered enforcement officer may attach any other asset ("the alternative attachable property" or "deemed tainted property") of the person accused of (or charged with) offence of money-laundering provided it is near or equivalent in value to the former, the order of confiscation being restricted to take over by the government of illicit gains of crime.

19. It is further submitted that the seizure of the pen drive from the residence of Shri Joydeep Basu and the corresponding hawala entries are corroborated by independent evidence, including banking trails and witness statements. The material was duly examined and cross-verified during investigation; therefore, the claim that the hawala entries are uncorroborated is factually incorrect. The contention that the Respondent has "disowned" the Income Tax material is false, the Respondent has relied on the relevant portions consistent with the CBI's findings. The plea that this results in shifting the burden of proof under Section 24 of PMLA is misconceived; once prima facie involvement of property in money-laundering is shown, the onus legitimately shifts to the Appellant.

20. *The Respondent submits that the quantification of Rs. 176.52 crore, as stated in the rejoinder, is a refined computation based on the value of illegally obtained mining rights and benefits arising from quid pro quo investments. The Appellant's argument that the Adjudicating Authority could not confirm attachment beyond this figure is misconceived, the figure reflects the quantified proceeds of crime, not a binding ceiling for attachment, which remains within the Authority's statutory discretion. The revised figure was calculated after deducting extraction costs and re-evaluating the benefit derived from illegal mining, consistent with the evidence on record.*

21. *The argument that the computation of Rs. 92.52 crore (profit margin from limestone) is "assumed" or "illegal" is also untenable. The Respondent submits that this value represents the quantifiable benefit derived from exploitation of mining leases obtained through illegal means and conspiracy, and is therefore "proceeds of crime," regardless of subsequent tax or royalty payments. Payment of statutory dues such as royalty, DMF, or GST does not legitimize the taint of property obtained through criminal activity, as clarified in the rejoinder and upheld in judicial precedents interpreting Section 2(1)(u) of the PMLA.*

22. *The Respondent further denies that the Rs. 84 crore component arising from the sale of shares Bharathi Cement is mathematically or logically impossible. The Appellant's simplistic arithmetic ignores the structure of the transaction, which involved layered payments through multiple channels, including hawala transfers and benami intermediaries, as detailed in the rejoinder. The pen drive entries, corroborated by the statements of witnesses and financial data, clearly demonstrate that Rs. 55 crore was paid as kickback to Shri Y.S. Jagan Mohan Reddy, and Rs. 84 crore represents the laundered value of property derived from the criminal activity.*

23. *The contention that the revised computation "exposes the weakness" of the Respondent's case is baseless. The refinement of the figure does not undermine the core findings of money-laundering; it only reflects a more accurate valuation based on updated evidence submitted by the Appellant before the Respondent after issuance of PAO. The Adjudicating Authority rightly confirmed attachment based on the material then available, and the Respondent's subsequent computation cannot retroactively invalidate that order.*

24. *In view of the foregoing, the Respondent submits that the Appellant's defense of lawful acquisition, legitimate investment, and lack of predicate offence is without merit and contrary to the evidence on record. The mining leases, investments, and profits in question are clearly connected to the quid pro quo arrangement forming part of a continuing offence of money-laundering under Section 3 of the PMLA. The quantification of Rs. 176.52 crore represents the traceable proceeds of crime, and the attachment to that extent is fully justified.*

25. *In reply to para 8 it is submitted that the averment made in the para is not objected by the respondent."*

20. She also re-affirmed that the property in the present case has been attached 'value of such property'.

Consideration

21. I have given careful consideration to the facts on record and the rival submissions of the parties. As already discussed in the preceding paragraphs, the two main allegations against the appellant in the present case are, (i) that the investment made by the appellant company in M/s Bharathi Cements Pvt. Ltd., a company controlled by Jagan Mohan, lacked economic rationale and was a quid pro quo investment (effectively, a bribe) for getting the mining lease, and (ii) that the

allotment of the mining lease to the appellant company was tainted with illegality and, therefore, the profits derived therefrom were proceeds of crime. The estimation of the total amount of proceeds of crime has, admittedly, been reduced by the Respondent Directorate from Rs. 793.34 crore crore at the time of passing the PAO, to Rs. 176.52 crore during the course of the proceedings before the Id. AA after giving the benefit of extraction cost of mineral. However, properties amounting to a total value of Rs. 377.26 crore remain attached.

22. As regards, the **first main allegation**, namely, investment by the appellant company in the shares of M/s Bharathi Cements Pvt. Ltd., having perused the detailed judgment of this Appellate Tribunal in the case of *Alpha Avenue* and connected matters which has been relied upon by the appellant, I am in agreement with the submission of the Id. counsel for the appellant that the matter stands covered in favour of the appellant. In the said judgment the Appellate Tribunal has pointed out the contradictory stand of the Directorate. On the one hand, the respondent Directorate submits that the investment was a bribe and purchase of shares was an eye-wash but on the other hand, when the very same shares were sold at a much higher price to a company against whom there are no allegations and its money is admittedly clean money, it could not be alleged that the investment was not bona fide. It was further pointed out that it is an admitted position that ED never questioned the investment by the buyer of the shares, M/s PARAFICIM SAS, a French company, and in fact treated its purchase of shares as genuine investment. As per the complaint itself PARAFICIM is an innocent investor who is not found to be involved in any criminal activity or in possession of proceeds of crime. On the one hand, the stand of the respondent is that the purchase of the shares by the appellant in the companies was just an eye-wash, but on the other hand, it has been established that the very same shares fetched a profit of 96% upon sale.

23. The above findings of the Appellate Tribunal in the case of *Alpha Avenue* (supra) are equally relevant to the present case where the appellant company, as per the respondent itself, derived a profit of Rs. 139 crore upon sale of the shares which are alleged to have been acquired for a premium without any economic rationale. It is also noteworthy that the purchase of shares by the appellant company was an outgo in so far as the appellant company is concerned and was not an amount "derived or obtained" by the appellant. Therefore, even otherwise, it could not constitute 'proceeds of crime' in the hands of the appellant company as per the definition of the term provided u/s 2(1)(u). There is also no allegation that the consideration paid by the appellant company for the shares was paid out of tainted sources.

24. In light of the above discussions, therefore, the allegation that either the purchase of shares by the appellate company or any part of the sale consideration of the shares received by the bona fide third-party foreign company constituted proceeds of crime.

25. Coming to the **second main allegation**, namely, that the profits derived from extraction of limestone from the Kadapa mines constituted proceeds of crime, the counsel for the appellant has vehemently argued that acquisition of mining rights by the appellant company in the said mine was legal and permissible under the Mineral Concession Rules, 1960. Reference is made to Rule 37 thereof, which provides as follows:

"37. Transfer of lease:- (1) The lease shall not, without the previous consent in writing of the State Government and in the case of mining lease in respect of any mineral specified in [Part 'A' and Part 'B' of] the First Schedule to the Act, without the previous approval of the Central Government:-

(a) assign, sublet, mortgage, or in any other manner, transfer the mining lease, or any right, title or interest therein, or

(b) enter into or make any [bonafide] arrangement, contract, or understanding whereby the lessee will or may be directly or indirectly financed to a substantial extent by, or under which the lessee's operations or undertakings will or may be substantially controlled by, any person or body of persons other than the lessee:

37A. Transfer of lease to be executed within three months:- Where on an application for transfer of mining lease under rule 37, the State Government have given consent for transfer of such lease, a transfer lease deed in form O, or a form as near thereto as possible, shall be executed within three months of the date of the consent, or within such further period as the State Government may allow in this behalf."

26. I have given careful consideration to the submissions from both sides. I find, firstly, that as per the pleadings filed by the appellant company itself as part of the appeal memo, the facts are that M/s Jaya Minerals, a partnership firm, was set up in the November, 1997. The very next month, it applied for Prospecting License (PL) for limestone over 407.05 hectares of land in Kadapa Distt. Between late 1997 and 2006, it was recommended three times for grant of PL but the same was not granted to the firm. In October, 2004, Sajjala Diwakar Reddy of Eswar Cements Pvt. Ltd. requested the Director, Mines & Geology for grant of PL in its favour instead of Jaya Minerals, claiming a takeover. However, the PL was still not granted despite being recommended for the same three more times between 2004 and 2006. Thereafter, there was an MOU between Eswar Cements Pvt. Ltd. and the appellant company on 12.04.2006. As per the MOU, the appellant company was to acquire the said Eswar Cements Pvt. Ltd., subject to the condition, however, that the said company would first acquire a PL and subsequently, a Mining License (ML) which would then be transferred to the appellant company. Things seem to have moved very quickly thereafter. On 14.07.2006, PL was granted to Jaya Minerals (the original applicant since the year 1997) with the condition that it would be transferred to M/s Eswar

Cements Pvt. Ltd. within three months. As already mentioned, M/s Eswar Cements Pvt. Ltd. already had an MOU for with the appellant company whereby the said company would be acquired by the appellant company. The very next month, M/s Jaya Minerals applied for the transfer of the PL to M/s Eswar Cements. Two months thereafter, share purchase agreement was signed between M/s Eswar Cements and the appellant company, two months after which Govt. of AP led by Sh. Y. Rajasekhara Reddy F/o Jagan Mohan issued a Govt. Order transferring the PL from Jaya Minerals to M/s Eswar Cements which already had a share purchase agreement with the appellant. By Jan, 2008, a Mining Lease was granted to M/s Eswar Cements which by then was a 100% subsidiary of the appellant company.

27. On the above facts, I find myself in agreement with the submission from the side of the respondent that the timing of the acquisition M/s Eswar Cements by the appellant company, the grant of Prospecting License to Jaya Minerals with the stipulation to transfer M/s Eswar Cements which had an MOU with the appellant company, the subsequent grant of Mining License to the appellant do not appear to be routine administrative actions but smack of a coordinated and collusive design. It is also undeniable that Chargesheet (No. 05/2013 dated 08.04.2013) stands filed by the CBI, ACB, Hyderabad against Jagan Mohan, Puneet Dalmia of the appellant company and also against the appellant company itself. The culpability or otherwise of the appellant and others remains to be tested before the competent criminal court.

28. In light of the circumstances discussed above, I am of the view that at this stage of the proceedings, sufficient material was available with the Ld. AA to record a finding under section 8(2) that to the extent of profits derived from mining activity, the attached properties referred to in the notice issued under section 8(1) were involved in money-laundering as they represented the 'value' of the proceeds of crime within the meaning of Section 2(1)(u).

29. That having been said, I also find merit in the contention of the appellant that the amount of proceeds of crime derived from the extraction of mineral would stand reduced to a total of Rs. Rs. 92.52 crore only as against 709.34 crore as quantified in the PAO. Both in their reply to the appeal as well as their reply to the interim application for immediate relief, the respondent has acknowledged the downward revision of the quantum of proceeds of crime. It is submitted that the adjustment in the value of proceeds of crime represents the net computation after deducting verifiable extraction expenses. It is also categorically stated that the investigation has quantified the resultant proceeds of crime to Rs. 176.52 crore after accounting for extraction costs and other adjustments. Needless to say, this revised total of Rs. 176.52 is inclusive of Rs. 84 crore being the sale proceeds from share of M/s Bharathi Cements Corporation Pvt. Ltd. to M/s Parificim which I have already held not to constitute proceeds of crime in the hands of the appellant. As a result, the total proceeds of crime would stand reduced to Rs. 92.52 crore only as against Rs. 793.34 crore as quantified in the PAO.

30. An issue has also been raised by the appellant regarding the absence of **'reason to believe'** which is a precondition for invoking the provisions of Section 5 of the Act. It is inter alia contended that that there could have been no possible urgency to attach the properties after 14 years of the investment being made.

31. In this context, I have perused the 'reason to believe' recorded by the Dy. Director, Directorate of Enforcement, Hyderabad Zonal Office which is available on record. The text of the 'reason to believe' recorded by the officer is as follows:

"REASONS TO BELIEVE FOR ATTACHMENT OF PROPERTIES:

12.1. From the PMLA investigation conducted so far, it is evident that Shri Y.S. Jagan Mohan Reddy, both in his personal capacity and in his capacity as a director of M/s Bharathi Cement Corporation Pvt. Ltd., Puneet Yadu Dalmia,

Director M/s Dalmia Cement Bharat Ltd. and Shri Sajjala Divakar Reddy, Director of M/s Eswar Cements Pvt. Ltd. generated proceeds of crime (POC) amounting to Rs. 945.48 crores through the commission of scheduled offences.

12.2. Investigation also revealed that they have been actively involved in the various processes and activities connected with the proceeds of crime as defined u/s 3 of the PMLA viz. concealment in the form of cash; possession in the form of cash and in bank accounts; use of proceeds for business and personal purposes; acquisition of shares, immovable properties etc. out of proceeds of crime; projection & claim of proceeds of crime as untainted in the form of investments, sale proceeds of limestone, shares, etc. i.e. purported genuine business transactions. Consequently, Shri Y.S. Jagan Mohan Reddy, M/s Bharathi Cement Corporation Pvt. Ltd., M/s Dalmia Cement Bharat Ltd. and Shri Sajjala Divakar Reddy have committed the offence of money laundering as defined under Section 3 of the PMLA, 2002.

12.3. Based on the investigation conducted so far and the material available on record, I have reasons to believe that Shri Y.S. Jagan Mohan Reddy, M/s Bharathi Cement Corporation Pvt. Ltd., M/s Dalmia Cement Bharat Ltd. and Shri Sajjala Divakar Reddy have utilized the proceeds of crime in the business activities of the companies and/or for their personal benefit. As a result, the direct proceeds of crime have already been intermingled as well as consumed / dissipated and are no longer available for attachment as direct proceeds of crime.

12.4. Therefore, in order to prevent the further alienation or dissipation of the proceeds of crime acquired by Shri Y.S. Jagan Mohan Reddy, M/s Bharathi Cement Corporation Pvt. Ltd., M/s Dalmia Cement Bharat Ltd. and Shri Sajjala Divakar Reddy, it is imperative to attach properties under the provision of 'value of any such property' /value thereof as per Section 2(1)(u) of the PMLA. Should these properties not be attached promptly under Section 5(1) of the PMLA, 2002, there is a substantial risk that they may be disposed of in the

future, which would undermine the ongoing proceedings concerning the confiscation of proceeds of crime. Therefore, based on the material in my possession, I have reasonable grounds to believe that if the properties, as listed in the Schedule of Properties above, which are involved in the offence of money laundering are not attached immediately, their non-attachment may result in frustrating further legal proceedings aimed at the confiscation of these proceeds of crime.

12.5. In light of the material and evidence presented in the ongoing investigation, and having reasonable belief as outlined in the preceding paragraphs, I, in exercise of the powers conferred upon me under Sub-section (1) of Section 5 of the Prevention of Money Laundering Act, 2002 (15 of 2003), hereby order the provisional attachment of the properties identified as proceeds of crime under Section 2(1)(u) of the PMLA, 2002, as the 'value of any such property' / 'value thereof, as detailed in the "Schedule of Properties' mentioned at Para 10 above.

13. Thus, above mentioned properties attached shall remain under attachment for a period of 180 days from the date of attachment or order is passed by the Adjudicating authority under section 8(3) of the PMLA, 2002”

32. Having perused the above text of the 'reason to believe' recorded by the Respondent Directorate, I am of the view that more than sufficient reason existed for the authority to invoke the provision of Section 5(1) of the PMLA, including the Second Proviso thereto. It is well established that the requirement of existence of 'reason to believe' cannot be read as existence of conclusive proof. Reference may be had in this regard to the judgment of the Hon'ble Bombay High Court in *Radha Mohan Lakhotia Vs. The Deputy Director (First Appeal No. 527 of 2010, decided 05.08.2010)* wherein it was held the fact that the Respondents could have acted only if there was reason to believe that a person is in possession of proceeds of crime does not mean that the Authorities at this stage are obliged to prove the fact beyond

doubt that the property in possession was in fact proceeds of crime. Accordingly, I do not find any merit in this contention of the appellant and, therefore, reject the same.

33. Finally, before finally parting with the case, the issue of **substitution of attached property** by appropriate security also needs to be dealt with. It is the prayer of the appellant that the attached properties being productive assets of the appellant company, and particularly, since the same have been attached as 'value' equivalent to the proceeds of crime and not the direct proceeds of crime, the same may be allowed to be substituted by appropriate other security. The prayer was made even before the Ld. AA during the adjudicating proceedings, but, as mentioned in para- 17 above, the request was turned down by the AA on the ground that there are no provisions in the PMLA or the Rules framed thereunder to permit the Ld. AA to allow the same.

34. The respondent Directorate has not resisted the prayer, as is evident from the reply to the appeal filed by them before the Appellate Tribunal. Relevant extracts from the reply filed on 22.01.2026 are reproduced below for reference:

"7. In reply to para 4 it is most respectfully submitted that the concerns raised by the defendant are noted and appears to be genuine concerns regarding the impact of the provisional attachment on the ongoing operations of the defendant's company. It is respectfully submitted that while the powers under Section 5 of the PMLA allow for attachment of properties suspected to be proceeds of crime, the law also recognizes the need to balance enforcement objectives with protection of legitimate business interests. In the interest of justice and economic prudence, it is submitted that if the value of the alleged proceeds of crime can be secured by way of alternate security, such as à substitution with other non-operational assets, the same may be considered by this Hon'ble Authority so as to prevent irreparable harm to a functioning

enterprise and the economy at large Such an approach would serve the dual objectives of the PMLA preventing dissipation of alleged tainted assets while avoiding disproportionate hardship to bona fide business operations.

*8. In reply to **para 5** it is submitted that the complainant does not dispute the defendant's fundamental right to carry on business and acknowledges that the proposed expansion projects at Kadapa, Chennai, Belgaum, and Pune, involving a reported investment of approximately Rs. 6,800 crores, may have significant economic and developmental implications While the Directorate of Enforcement stands by the legality and necessity of the provisional attachment under the PMLA framework, it is submitted that the **Directorate is not averse to a pragmatic approach, wherein the alleged value of the proceeds of crime is adequately secured through alternative means such as a Bank Guarantee or substitution of assets subject to the satisfaction of this Hon'ble Authority.** Such an approach would ensure that the statutory objective of preventing dissipation of tainted property is achieved without unnecessarily obstructing bona fide business operations or proposed industrial expansion.*

*9. In reply to **para 6** it is submitted that the complainant acknowledges that the defendant is a subsidiary of Dalmia Bharat Limited, a publicly listed company with obligations toward its shareholders, lenders, and other stakeholders. It is further submitted that the Complainant is not opposed to a resolution that secures the interests of the investigation while simultaneously allowing the defendant to carry on legitimate business activities. In view of the defendant's stated willingness to furnish alternative security, and considering the potential economic benefits in terms of industrial expansion, employment generation, and increased tax contribution to the exchequer, the Complainant submits that this Hon'ble Authority may consider such alternative*

arrangements, provided the alleged value is adequately protected and the objectives of the Act are not compromised.

10. In reply to **para 7** it is submitted that the **Complainant notes the defendant's contention that the attached properties are not Proceeds of Crime-FPOC)** and acknowledges that the same is the subject matter of adjudication before this Hon'ble Authority. Without prejudice to the validity of the Provisional Attachment Order and the ongoing proceedings, **the complainant does not dispute that the attached assets may form part of the defendant's core operational infrastructure, and their continued attachment may be causing business, disruption and financial hardship. In this context, the Complainant submits that it is not averse to a pragmatic approach that ensures the alleged value of the property is, adequately secured whether through a Bank Guarantee or substitution with alternative non-operational assets subject to the satisfaction of this Hon'ble Authority. Such a course of action would protect the interests of justice, meet the objectives of the PMLA, and prevent disproportionate prejudice to the defendant's legitimate business activities, particularly when no corresponding prejudice would be caused to the Complainant if appropriate safeguards are in place.**

11. In reply to **para 8** it is submitted that the **Complainant does not dispute that the underlying legislative intent is to secure the value of alleged proceeds of crime without unnecessarily hampering bona fide business activities or causing disproportionate hardship. The Complainant submits that subject to the satisfaction of this Hon'ble Authority and appropriate, safeguards being put in place, the satisfaction substitution of provisionally attached immovable assets with adequate security such as Bank Guarantee or other acceptable financial instrument could serve the dual purpose of securing the alleged value**

involved in money-laundering, and enabling the defendant to continue its legitimate business operations without interruption.

12. In reply to para 9 it is submitted that the complainant respectfully acknowledges the defendant's application of just and equitable principles in the present matter, especially considering the critical nature of the attached assets for ongoing operations and the potential for irreparable harm. The complainant submits that while it is duty-bound to secure the interests of the investigation and prevent dissipation of alleged proceeds of crime, it equally supports a balanced approach that avoids undue hardship to legitimate business activities. In this light, the Complainant is amenable to the Hon'ble Authority considering alternative arrangements, such as the furnishing of adequate security or substitution of assets, to protect the interests of justice without stifling the defendant's operational capabilities or causing irreversible damage to its business.

13. In reply to para 10 it is respectfully submitted that, in accordance with established practice and, for greater assurance and enforceability, the complainant prefers the defendant to furnish a Bank Guarantee or Fixed Deposit Receipt (FDR) as security. Such instruments provide immediate and tangible security, ensuring that the interests of the investigation and the proceedings under Section 5 of the PMLA' are adequately protected without delay. A Corporate Guarantee, while a form of security, may not offer the same degree of immediate enforceability and reliability-as-a Bank Guarantee or FD. The Complainant therefore, request that this Hon'ble Authority may direct the defendant to furnish security in the form of a Bank Guarantee or Fixed Deposit, or any other security as deemed appropriate by this Hon'ble Authority.

14. In reply to para 11 it is respectfully submitted that to ensure stronger security and immediate enforceability, the complainant requires the defendant no.2 to furnish/a Bank Guarantee or Fixed Deposit Receipt (FDR) in lieu of the attached properties. Such forms of security provide greater reliability and prompt satisfaction of the alleged value involved in the proceedings under the Prevention of Money-laundering Act, 2002. The Complainant submits that the interests of both parties can be effectively balanced by accepting a Bank Guarantee or FDR, which would adequately safeguard the investigation while enabling the defendant to maintain its business operations without causing irreparable harm.”

[Emphasis added]

35. I have given careful consideration to the submissions from both sides on the issue of substitution of attached assets. The underlying issue has been discussed at great length in the order dated 12.11.2025 passed by this Appellate Tribunal in the case of *Sanjeev Tyagi FPA-PMLA-1287/DLI/2016* wherein it was held as follows”

*“17. As regards the question whether this Appellate Tribunal can allow substitution of the property, I find that in none of the cases cited by the appellants, it has been categorically held that the Appellate Tribunal has the requisite power to do so. On the contrary, it is pointed out by the Ld. counsel for the respondent, the Hon’ble Madras High Court had stayed the order of this Appellate Tribunal in *VGN Property Developers Pvt. Ltd. (supra)* on a challenge by the ED against its order allowing the substitution. Furthermore, the Hon’ble Delhi High Court in the case of *Revati Cements Pvt. Ltd. (supra)* has, in para 10 of its order, noted the absence of any specific power vested either with the Adjudicating Authority or with the Appellate Tribunal under PMLA, and, on the said basis, concluded that there is no force in the argument advanced by ED*

that writ petition is not maintainable as alternate remedy is available under the Act.

18. It may be mentioned at this stage that the two decisions of the Hon'ble Delhi Court, namely, Gagan Infraenergy and Revati Cements were both passed in writ petitions filed by the parties. It is well known that writ jurisdiction is an extraordinary jurisdiction available only to the High courts and the Hon'ble Supreme Court. Writ is an equitable remedy going beyond individual statutes such as the PMLA. It is also not in doubt that this Appellate Tribunal is a creature of the PMLA and cannot travel beyond the said statute and the rules framed thereunder. Accordingly, in the absence of any specific power vesting in this Appellate Tribunal to allow substitution of attached property, the applications are hereby dismissed.

19. The above order is also supported by the order of this Appellate Tribunal in M/s Agribiotech Industries Ltd. v. The Deputy Director, ED [FPA PMLA-3025/JP/2019, order dated 29.05.2023]."

36. In light of the above legal position, as the law currently prevails, this Appellate Tribunal would not be legally on a firm ground to allow substitution of attached properties by other properties, even if it finds such substitution to be the appropriate course of action based on the principles of equity and balance of convenience. It is noted, however, that in the present case, the respondent Directorate itself is not averse to such substitution. That being the case, should the Directorate deem it fit to release the properties from attachment against furnishing of alternate security in the form of fixed deposits, bank guarantees or any other reliable security, this order shall not come in the way, especially as the properties have been attached not as the direct proceeds of crime but as properties of equivalent value.

37. With the above order, the present appeal shall stand disposed of as **partly allowed**. Pending applications, if any shall also stand disposed of.

38. No order as to costs.

(V. Anandarajan)
Member

New Delhi
09th March, 2026
'PKV'