2026:DHC:7208-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 24.08.2026*

CNR No. DLHC010397222026

\+ **LPA 662/2026 & CM APPL. 57178/2026**

MS LOTUS VALLEY GLOBAL LLP AND ANR.....Appellants

Through: Ms. Beenashaw Soni, Senior Advocate along with Ms. Ridhima Verma, Mr. Shashwat Tripathi, Ms. Madhu Ayachit & Ms. Aparajita Singh, Advocates.

versus

DIRECTORATE OF ENFORCEMENT AND ORS.....Respondents

Through: Mr. Vivek Gurnani, Panel Counsel with Mr. Kanishk Maurya, Advocate for ED.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (*Oral*)

CM APPL. 57179/2026 (*Exemption*)

1. Exemption is allowed, subject to all just exceptions.

2. The Application stands disposed of.

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3. The present *intra court* Appeal is preferred against the order dated 23.07.2026 ("**Impugned Order**") passed in W.P.(C) 11796/2025 ("**Writ Petition**"), whereby learned Single Judge disposed of the Writ Petition,

granting liberty to the Appellants to assail the order dated 23.09.2025 ("**Adjudication Order**") passed by learned Adjudicating Authority under the Prevention of Money Laundering Act, 2002 ("**PMLA**"), in accordance with law.

4. Learned Senior Counsel for the Appellants submitted that learned Single Judge ought to have examined the validity of the Provisional Attachment Order ("**PAO**"), instead of relegating the Appellants to the statutory remedy of appeal under Section 26 of the PMLA. It was further submitted on behalf of the Appellants that learned Single Judge, during the pendency of the Writ Petition, by order dated 19.09.2025 permitted learned Adjudicating Authority to proceed, while observing that any order passed by learned Adjudicating Authority would remain subject to the final outcome of the Writ Petition. However, by passing the Impugned Order, the protection so granted was rendered illusory.

5. It was further submitted by learned Senior Counsel for the Appellants that the Appellants were not named as accused in the first information report registered in respect of the predicate offence ("**FIR**"), and yet their properties had been attached as property of equivalent value within the meaning of "*proceeds of crime*" under Section 2(1)(u) of the PMLA. Learned Senior Counsel for the Appellants placed reliance upon ***Deputy Director, Directorate of Enforcement, Delhi v. Axis Bank & Ors.***, 2019 SCC OnLine Del 7854, to submit that where Section 2(1)(u) of the PMLA is invoked, the property of equivalent value sought to be attached must be the property of the person accused of the offence of money laundering.

6. Learned Senior Counsel for the Appellants further placed reliance upon ***Bharati Sahakari Bank Ltd. v. Union of India***, 2026 SCC OnLine Del 2536,

to submit that where the jurisdiction to invoke the power of provisional attachment under Section 5 of the PMLA is itself assailed, the availability of a statutory appellate remedy under Section 26 of the PMLA cannot, by itself, constitute a sufficient ground to decline the exercise of jurisdiction under Article 226 of the Constitution of India, 1950 ("**Constitution**"). It was further submitted that in ***Bharati Sahakari*** (*supra*), a Coordinate Bench of this Court had set aside the order of learned single judge relegating the petitioner therein to the statutory remedy and had restored the writ petition for fresh consideration.

7. Learned Senior Counsel for the Appellants also placed reliance upon ***Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority & Ors.***, 2023 SCC OnLine SC 95, to submit that the availability of an alternate statutory remedy does not operate as an absolute bar to the exercise of jurisdiction under Article 226 of the Constitution, particularly where the impugned action is without jurisdiction. It was further submitted that the Impugned Order did not disclose the reasons which persuaded learned Single Judge to decline the exercise of discretionary jurisdiction vested under Article 226 of the Constitution.

8. Learned Counsel appearing for the Directorate of Enforcement ("**ED**") submitted that the PMLA provides a complete mechanism for redressal of grievances, comprising adjudication before learned Adjudicating Authority, an appeal to learned Appellate Tribunal under Section 26 of the PMLA and a further appeal to this Court under Section 42 of the PMLA. Learned Counsel for the ED placed reliance upon ***Gold Croft Properties (P) Ltd. v. Enforcement Directorate***, 2023 SCC OnLine Del 5900, and ***Commissioner of Income Tax v. Chhabil Dass Agarwal***, (2014) 1 SCC 603, to submit that,

in view of the availability of an alternate statutory remedy, the Writ Petition was not maintainable.

9. It was further submitted on behalf of the ED that the PAO does not suffer from any jurisdictional infirmity. Learned Counsel for the ED contended that the power under Section 5 of the PMLA is not confined to persons arrayed as accused, and that attachment of property of equivalent value is not restricted only to cases where the proceeds of crime are held outside the country. It was further submitted by learned Counsel for ED that the properties of the Appellants had been attached on the basis of the statements of the accused in the FIR relating to the predicate offence. Learned Counsel also submitted that the beneficial ownership of the Appellants was still under investigation and that, attachment proceedings being civil in nature, such questions are required to be determined by the authorities under the PMLA on the standard of preponderance of probabilities.

10. We have heard learned Senior Counsel appearing for the Appellants as well as learned Counsel appearing for the ED, and have perused the material placed on record.

11. It is well settled that the availability of an alternate statutory remedy operates as a self-imposed restraint on the exercise of jurisdiction under Article 226 of the Constitution and does not constitute an absolute bar thereto. A writ petition may, notwithstanding the availability of an alternate remedy, be entertained where the impugned action is alleged to suffer from inherent lack of jurisdiction. Therefore, the only question that arises for consideration in this Appeal is whether the challenge raised by the Appellants is one of inherent lack of jurisdiction.

12. Section 5 of the PMLA confers power upon the ED to provisionally attach property, including property of equivalent value within the meaning of "*proceeds of crime*" under Section 2(1)(u) of the PMLA. The Appellants' contention that their properties could not have been attached, as they were not named as accused in the FIR, does not disclose any inherent lack of jurisdiction. It raises, at best, a plea of erroneous exercise of jurisdiction, involving disputed questions of fact. Such issues are appropriately agitated in the statutory appeal under Section 26 of the PMLA and are not amenable to examination in writ jurisdiction.

13. We also find ourselves in agreement with the view taken by learned Single Judge that the PAO does not survive independently as on date. Upon its confirmation, the PAO has merged into the Adjudication Order, which is now the operative order against the Appellants. It is against the Adjudication Order that an appeal lies before learned Appellate Tribunal under Section 26 of the PMLA, with a further statutory appeal to this Court under Section 42 of the PMLA. Learned Single Judge, therefore, rightly relegated the Appellants to the said remedy.

14. The Appellants' reliance upon ***Bharati Sahakari*** (*supra*) is misplaced. In that case, the attached property had been mortgaged to the appellant therein by a borrower accused under the PMLA and was also subject to proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**SARFAESI Act**"), pursuant to which possession of the property had already been taken by the appellant therein. The challenge to attachment, therefore, arose from the rights of a secured creditor and the interplay between the SARFAESI Act and the PMLA. The present case stands on a different footing, as the attached

properties admittedly stand in the names of the Appellants themselves, and no competing statutory regime or prior secured interest has been invoked.

15. The observation in the order dated 19.09.2025 passed by learned Single Judge during the pendency of the Writ Petition, that any order passed by learned Adjudicating Authority would remain subject to the final outcome of the Writ Petition, did not preclude learned Single Judge from relegating the Appellants to the efficacious statutory remedy under the PMLA once the Adjudication Order was passed, having found that the issue raised by the Appellants was an alleged erroneous exercise of jurisdiction involving disputed questions of fact, and not any inherent lack of jurisdiction. Accordingly, learned Single Judge rightly declined to entertain the Writ Petition.

16. In view of the foregoing discussion, we are of the considered view that the Impugned Order does not suffer from any illegality, perversity or jurisdictional error warranting interference in the present *intra-court* Appeal. Learned Single Judge has not adjudicated upon the merits of the controversy and has only relegated the Appellants to the efficacious statutory remedy available under the PMLA. Such exercise of discretion, in the facts and circumstances of the case, cannot be said to be arbitrary or contrary to law. Accordingly, the present Appeal deserves to be dismissed.

17. We, however, make it clear that we have not examined the merits of the controversy. Accordingly, all rights and contentions of the parties, including the Appellants' objection with respect to the exercise of jurisdiction by the ED in passing the PAO, are expressly kept open to be urged in the event the Appellants prefer an appeal under Section 26 of the PMLA, and such an

appeal shall be considered and decided on its own merits, uninfluenced by any observations made hereinabove or in the Impugned Order.

18. Accordingly, the Appeal is dismissed in the aforesaid terms. Pending application(s), if any, also stand disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

AUGUST 24, 2026
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