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# *DARSHAN MALA SERIES (DMS)*

## *41 Frequently Asked Questions (FAQs) on the Adjudication Authority and Appellate Authorities under the PMLA, 2002*

*The Darshan Mala Series (DMS) presents weekly research and updates based on information available in the public domain.*

*This edition, comprising 41 Frequently Asked Questions (**FAQs**), examines the Adjudication Authority and Appellate Authorities under the PMLA, 2002 including respective roles, jurisdiction, investigative processes.*

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# 41 FAQs on Adjudication Authority and Appellate Authorities under the PMLA, 2002

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# 41 FAQs on Adjudication Authority and Appellate Authorities under the PMLA, 2002

*(Source of information's used in preparation of weekly updates are taken from public domain)*

## 1. What is Adjudication Authority and Appellate Authorities under the PMLA, 2002?

(i) The Prevention of Money Laundering Act, 2002 (PMLA) provides a separate adjudication and appellate mechanism for determining whether property is involved in money laundering?

(ii) Whether the property is liable for attachment or confiscation under PMLA, 2002?

(iii) Whether an order passed by the Adjudicating Authority should be sustained, modified or set aside under the PMLA, 2002?

## 2. What are important sections principally contained in the PMLA, 2002?

| S.No | Sections | Subject matters |
|---|---|---|
| (i) | Sections 5 to 11 | Provisional attachment and adjudication |
| (ii) | Sections 17 to 21 | Search, seizure, retention and related proceedings |
| (iii) | Sections 25 to 42 | Appellate Tribunal and appellate remedies |
| (iv) | Section 44 | Trial of offences under PMLA |
| (v) | Section 8 | Adjudication, confirmation of attachment, confiscation and release of property |

**● Important ●**

(i) The ED investigates and initiates proceedings under the PMLA, 2002.

(ii) The Adjudicating Authority independently determines the questions assigned under the Section 8 of PMLA, 2002.

(iii) The Adjudicating Authority determines the questions assigned where the Special Court for criminal trial against the money laundering under the PMLA, 2002.

## 3. What is flow chart for Adjudication Authority and Appellate Authorities?

*The ED investigate under Section 2(na), read with Sections 17, 19 and other applicable provisions under the PMLA, 2002.*

↓

*The ED make provisional attachment under the section 5, attaches property believed to be Proceeds of Crime (PoC), subject to statutory conditions under the PMLA, 2002.*

↓

*The ED files a complaint before Adjudicating Authority stating the facts of attachment and its grounds under the section 5(5) of PMLA, 2002.*

↓

*The Adjudicating Authority make the notices, responses, hearings and determinations under the Section 8(1) to (3) of PMLA, 2002.*

↓

*The Adjudicating Authority determine whether an attachment be confirmed or property be released, depending on findings under the section 8 of PMLA, 2002.*

↓

*The appellate tribunal take decision on appeal against an order of Adjudicating Authority under section 26 of PMLA, 2002*

↓

*The High Court take decision on appeal against an order of Appellate Tribunal under section 42 of PMLA, 2002*

## 4. What is Adjudicating Authority's appointment and jurisdiction - sec. 6 of PMLA?

*(i) The Central Govt. appoints the Adjudicating Authority, consisting of:*

- *(a) 1 Chairperson*
- *(b) 2 other Members, with prescribed experience in law, administration, finance or accountancy.*

*(ii) The Adjudicating Authority exercises jurisdiction through designated Benches.*

*(iii) The Adjudicating Authority is an independent statutory adjudicatory body, not an investigating wing of the ED under the PMLA, 2002.*

## 5. What is ED's provisional attachment under the section 5 of PMLA, 2002?

(i) The ED Director or an authorised officer not below the rank of Deputy Director can provisionally attach property:

(a) When there is material giving reason to believe that a person is in possession of Proceeds of Crime (PoC) under the PMLA, 2002.

(b) When the Proceeds of Crime (PoC) are likely to be concealed, transferred or dealt with so as to frustrate confiscation proceedings under PMLA, 2002.

(c) When the reasons for such belief are recorded in writing under PMLA, 2002.

(ii) The provisional attachment is ordinarily for a maximum of 180 days, subject to statutory exclusions, including the period of a High Court stay.

(iii) The ED is required to forward the attachment order and material to the Adjudicating Authority and file a complaint within 30 days of attachment under the section 5(5) of PMLA, 2002.

## 6. What is Show Cause Notice (SCN) under the section 8(1) of PMLA, 2002?

(i) The Adjudicating Authority is required to issue Show Cause Notice (SCN) under the section 8(1) "after" receipt of the ED's complaint or the relevant application under the sections 17 or 18 of PMLA, 2002.

(ii) The Adjudicating Authority is required to issue SCN within 30 days from date of receipt of the ED's complaint or the relevant application under the sections 17 or 18 of PMLA, 2002.

(iii) The Adjudicating Authority is permitted to calls the followings:

(a) Sources of income and earnings under the PMLA, 2002.

(b) Sources of funds used to acquire the property under the PMLA, 2002.

(c) Details of assets and ownership under the PMLA, 2002.

(d) Documentary evidence supporting the acquisition under the PMLA, 2002.

(e) *Why the property should not be declared involved in money laundering and confiscated under the PMLA, 2002?*

(iv) *The relevant person is required to receive Adjudicating Authority's SCN as issued under section 8(1) when the property is held jointly or on behalf of another person under the PMLA, 2002.*

## 7. What is reply and hearing under the section 8(2) of PMLA, 2002?

(i) *The Adjudicating Authority is required to obey the followings:*

(a) *To consider the reply to the SCN under the PMLA, 2002.*

(b) *To give an opportunity of hearing to the person under the PMLA, 2002.*

(c) *To hear the ED Director or authorised officer under the PMLA, 2002.*

(d) *To examine the relevant documents and evidence under the PMLA, 2002.*

(e) *To record its finding whether the property is involved in money laundering under the PMLA, 2002?*

(ii) *The 3rd party claimant who asserts an independent interest in the property is required to be given an opportunity of hearing under the PMLA, 2002.*

**● Important ●**

- *The Adjudicating Authority is not bound by the Code of Civil Procedure, 1908.*
- *However, the Adjudicating Authority is required to comply the principles of natural justice under the section 6(15) of PMLA, 2002.*

## 8. What is adjudication under the section 8(3) and 8(4) of PMLA, 2002?

| S.No | Finding | Consequence |
|---|---|---|
| (i) | When the property is "not" involved in the money laundering? | (a) An attachment or retention is "not" confirmed<br>(b) The property is liable to be released under the applicable statutory procedure. |

| | | |
|---|---|---|
| (ii) | When the property is involved in the money laundering? | (a) An attachment or retention is required to be confirmed by a written, reasoned order of the Adjudicating Authority, subject to statutory requirements.<br><br>(b) The property is "not" liable to be released under the applicable statutory procedure |

**● Important ●**

- The authorised officer is permitted to take possession of the attached property in accordance with the statutory requirements under the section 8(4), "after" confirmation under the section 8(3) of PMLA, 2002.
- A confirmed attachment is not the same as final confiscation.
- This distinction is important because final confiscation is ordinarily determined by the Special Court under the section 8(5) to 8(7) of PMLA, 2002.

## 9. What is final confiscation or release under the section 8(5) to 8(8) of PMLA, 2002?

**The Special Court determines the final fate of the property after conclusion of the PMLA trial under the PMLA, 2002**

### Provisions under the section 8(5) of PMLA, 2002

- The Special Court orders for confiscation to the Central Govt. when money laundering is established under the section of 8(5) of PMLA, 2002.

### Provisions under the section 8(6) of PMLA, 2002

- The Special Court "not" orders for confiscation to the Central Govt when money laundering has not taken place or the property is "not" involved under the sec. of 8(6) of PMLA, 2002.

### Provisions under the section 8(7) of PMLA, 2002

- The Special Court orders for confiscation or release when the trial cannot be conducted or concluded for the specified reasons under the section of 8(7) of PMLA, 2002.

### Provisions under the section 8(8) of PMLA, 2002

- *The Special Court orders for restoration of confiscated property, or part thereof, to eligible claimants having a legitimate interest and quantifiable loss, subject to statutory conditions under the section of 8(8) of PMLA, 2002.*

## 10. What is appeal before the Appellate Tribunal under the section 26 of PMLA, 2002?

### 1st statutory appeal

(i) *A person aggrieved by the Adjudicating Authority's order is permitted to file appeal before the Appellate Tribunal under the section 26 of PMLA, 2002.*

(ii) *The ED is also permitted to file appeal against Adjudicating Authority's order under the section 26 of PMLA, 2002.*

## 11. What are important sections for representing in appeal before Appellate Tribunal?

| S.No | Sections | Particulars |
|---|---|---|
| (i) | Section 25 | The Appellate Tribunal |
| (ii) | Section 26(1) | An Appeal against the Adjudicating Authority's order |
| (iii) | Section 26(3) | A 45 days limitation period for filing an appeal |
| (iv) | Section 26(4) | The Appellate Tribunal is permitted to confirm, modify or set aside the order the Adjudicating Authority's order |
| (v) | Section 26(6) | The Appellate Tribunal is endeavour to dispose of the appeal within 6 months |

## 12. What is 45 days computation for the limitation's period under the PMLA, 2002?

(i) *The 45 days are to be computed from receipt of a copy of the Adjudicating Authority's order under the PMLA, 2002.*

(ii) *The Appellate Tribunal is permitted to entertain a delayed appeal when sufficient cause is established, "after" giving the parties an opportunity of hearing under the PMLA, 2002.*

## 13. What are powers of the Appellate Tribunal under the section 26(4) of PMLA, 2002?

(i) To confirm the Adjudicating Authority's order under the PMLA, 2002.

(ii) To modify the Adjudicating Authority's order under the PMLA, 2002.

(iii) To set aside the Adjudicating Authority's order under the PMLA, 2002.

(iv) To examine the legality and correctness of the adjudication under PMLA, 2002.

(v) To consider the evidence, legal submissions and procedural irregularities.

- The Appellate Tribunal is guided by principles of natural justice and regulates its own procedure under the section 35 of PMLA, 2002.
- The Appellate Tribunal's statutory objective is to endeavour to dispose of an appeal within 6 months, however it's an endeavour, "not an absolute disposal deadline".

## 14. What is appeal before the High Court under the section 42 of PMLA, 2002?

**2nd statutory appeal**

- A person aggrieved by the Appellate Tribunal's order is permitted to approach the jurisdictional High Court of the respective state.

| S.No | Particulars | Details |
|---|---|---|
| (i) | **Relevant Provision** | The section 42 of PMLA, 2002 |
| (ii) | **Limitation Period** | Within 60 days from Communication of Appellate Tribunal's order |
| (iii) | **Extension** | An extension is permitted for the period "not" exceeding 60 days. Hence total permitted period for approaching to High Court is 120 (60+60) days |
| (iv) | **Grounds of Appeal** | Any question of law or fact arising out of the Tribunal's order passed under section 26(6) of the PMLA, 2002 |

- *The High Court is permitted to examine the legality and correctness of the Appellate Tribunal's order under the PMLA, 2002.*
- *The additional 60 days is the maximum statutory extension available, subject to sufficient cause under the section 42 of PMLA, 2002.*

## 15. What is comparison in Adjudicating Authority and Special Court under PMLA, 2002?

| S.No | Particulars | Adjudicating Authority | Special Court |
|---|---|---|---|
| (i) | Governing provision | The section 8 | The sections 43 and 44 |
| (ii) | Nature | Civil or statutory adjudication | Criminal trial |
| (iii) | Main function | To determines whether property is involved in money laundering? | To determines the criminal liability |
| (iv) | Proceedings | To attach, retain and confirmation of property | Prosecution and the criminal trial |
| (v) | Final outcome | Confirmation or non-confirmation of attachment | Conviction, acquittal, confis-cation or release of property |
| (vi) | Presiding authority | Chairperson or Members | Designated Special Court |

- *The Adjudicating Authority's confirmation order issued under Section 8(3) is not a conviction under the section 4 of PMLA, 2002.*
- *Therefore, the Adjudicating Authority's attachment proceedings and Special Court's criminal prosecution are "not to be treated as identical proceedings" under the PMLA, 2002.*

## 16. What are limitation periods and procedural deadlines under the PMLA, 2002?

| S.No | Stage | Relevant provision | Statutory period |
|---|---|---|---|
| (i) | Provisional attachment | Section 5(1) | Within 180 days |
| (ii) | Filing complaint "after" attachment | Section 5(5) | Within 30 days |
| (iii) | Reply to Show Cause Notice (SCN) | Section 8(1) | Within 30 days from the SCN |
| (iv) | 1st appeal | Section 26(3) | Within 45 days |

| | | | |
|---|---|---|---|
| *(v)* | *Condonation of delay* | *Section 26(3)* | *Based on sufficient cause* |
| *(vi)* | *Disposal by the Appellate Tribunal* | *Section 26(6)* | *Endeavour to dispose of appeal within 6 months* |
| *(vii)* | *2nd appeal* | *Section 42* | *Within 60 days* |
| *(viii)* | *Extension by High Court* | *Section 42* | *"Not" exceeding 60 days* |

## *17. What are practical grounds for challenging Adjudicating Authority's orders?*

| ***S.No*** | ***Legal issue*** | ***Relevant provision*** |
|---|---|---|
| *(i)* | *Absence of legally sustainable Proceeds of Crime (PoC)* | *Sections 2(1)(u) and 3* |
| *(ii)* | *"No connection" between scheduled offence and alleged Proceeds of Crime (PoC)* | *Sections 2(1)(u) and 3* |
| *(iii)* | *Absence of legally sustainable reasons to believe* | *Section 5* |
| *(iv)* | *Failure to comply with mandatory attachment conditions* | *Section 5* |
| *(v)* | *Defective or insufficient Show Cause Notice (SCN)* | *Section 8(1)* |
| *(vi)* | *Failure to provide relied-upon material or adequate opportunity* | *Section 8(2)* |
| *(vii)* | *Violation of principles of natural justice* | *Sections 6(15) and 8* |
| *(viii)* | *Failure to establish the property nexus* | *Sections 2(1)(u) and 8* |
| *(ix)* | *Independent ownership or bona fide acquisition by the 3rd party* | *Section 8(2)* |
| *(x)* | *Incorrect application of burden of proof* | *Section 24* |
| *(xi)* | *Non-speaking or unreasoned adjudication order* | *Section 8* |
| *(xii)* | *Disproportionate or legally unsustainable attachment* | *Sections 5 and 8* |

**● *Important* ●**

- *Whether the property actually derived from "criminal activity" and property attached are equivalent in value under the PMLA, 2002?*
- *This requires examination of the statutory definition of Proceeds of Crime (PoC) and the applicable judicial precedents under the PMLA, 2002.*

● *Judgments be examined for Adjudications and Appellate proceedings* ●

### 18. Supreme Court's judgement in Vijay Madanlal Choudhary v. Union of India (2022)?

- *This judgement has comprehensive interpretation for PMLA, including attachment, Proceeds of Crime (PoC) and the statutory framework under the PMLA, 2002.*

### 19. Supreme Court's judgement in Nikesh Tarachand Shah v. Union of India (2017)?

(i) *This judgement has comprehensive interpretation for PMLA's constitutional framework.*

(ii) *However, this judgement was for bail and subsequently superseded by legislative amendment. Hence its required to be read accordingly.*

### 20. Delhi High Court's judgement in Prakash Industries Ltd v. ED (2022)?

- *This judgement has comprehensive interpretation for understanding about Proceeds of Crime (PoC) and equivalent-value property under the PMLA, 2002.*

### 21. Delhi High Court's judgement in ED v. Axis Bank (2019)?

- *This judgement has comprehensive interpretation for 3rd party interests, secured creditors and attachment of property under the PMLA, 2002.*

### 22. Andhra Pradesh High Court's judgement in B. Rama Raju v. Union of India (2011)?

- *This judgement has comprehensive interpretation for attachment of property and the scope of PMLA proceedings under the PMLA, 2002.*

### 23. What is the best approach for representing before the Adjudicating Authority?

- *Needed a detailed reply against the Show Cause Notice (SCN) issued under the section 8(1) "after" proper examination of ED's relied-upon documents, source-of-funds analysis, ownership evidence and challenge to the property nexus under the PMLA, 2002.*

## 24. What is the best approach for representing before the Appellate Tribunal?

- *Needed to challenge the legality, factual findings and reasoning of the Adjudicating Authority's confirmation order, including an appropriate application for interim protection wherever warranted under the PMLA, 2002.*

## 25. What is the best approach for representing before the High Court?

- *Needed to challenge the Appellate Tribunal's order issued under Section 42, identifying substantial factual and legal errors arising from the order under the PMLA, 2002.*

● The Courts' Judgments for Adjudication Authority and Appellate Authorities ●

## 26. What are Supreme Court's views in Nav Nirman Builders v. Union of India (2026)?

*(Criminal Appeal arising out of SLP (Crl.) No. 9216 of 2023 for Sec. 8(3), 8(7), 8(8) and 26 under PMLA, 2002.)*

*(i) The Adjudicating Authority's confirmation order issued under Section 8(3) is subject to appeal under the section 26 of PMLA, 2002.*

*(ii) The Special Court can "not" exercise the section 8(7) powers to confiscate property while the challenge to the Adjudicating Authority's confirmation order remains pending under the PMLA, 2002.*

*(iii) The proceedings under the section 8(7) can be taken up "after" the Adjudicating Authority's confirmation order attains finality under the PMLA, 2002.*

*(iv) A person who has already suffered an adverse Section 8(3) order, is permitted to seek relief under Section 8(7) on the basis of new material "not previously considered" under the PMLA, 2002.*

*(v) The restoration under the section 8(8) requires satisfaction of the statutory conditions, including legitimate interest, quantifiable loss and good faith under the PMLA, 2002.*

- *The Supreme Court also directed restoration of the pending appeal's proceedings under section 26 for decision on merits under the PMLA, 2002.*

● Practical relevance ●

- *This is an important judgment for preventing the Special Court from confiscation when proceedings are pending in appeal before the Appellate Tribunal under the PMLA, 2002.*

## 27. What are Supreme Court's views in JSW Steel Ltd. v. ED (2025)?

*(INSC 1194 – 7 October 2025/Criminal Appeal Nos. 4183–4184 of 2025/: Sections 5, 8 and 26 under PMLA, 2002)*

*(i) That the PMLA, 2002 contains a comprehensive adjudicatory mechanism.*

*(ii) That the section 5 of PMLA, 2002 provides for provisional attachment.*

(iii) *That sec. 8 provides for the Adjudicating Authority's confirmation under PMLA, 2002.*

(iv) *That the section 26 provides the statutory appeal before the Appellate Tribunal under the PMLA, 2002.*

(v) *That the constitutional jurisdiction should ordinarily not to be invoked to bypass an effective statutory remedy already being pursued under the PMLA, 2002.*

- *The Supreme Court declined to interfere with the proceedings and permitted the statutory appeals to proceed on the merits under the PMLA, 2002.*

**● Practical relevance ●**

- *A parallel writ petition seeking substantially the "same adjudication is not ordinarily be entertained" when an appeal against an attachment or confirmation order is pending before the Appellate Tribunal*

## 28. What are Supreme Court's views in Vijay Choudhary v. Union of India (2022)?

***(SCC On-Line SC 929; (2023) 12 SCC 1, Decision date: 27 July 2022 on Sec. 2(1)(u), 3, 5, 8 and 24 under PMLA, 2002)***

- ***The 3-judge bench examined the constitutional validity and interpretation of several important provisions under the PMLA, 2002 like:***

(i) *Meaning and scope of Proceeds of Crime (PoC) under the PMLA, 2002.*

(ii) *Powers of provisional attachment under the PMLA, 2002.*

(iii) *The Adjudicating Authority's Confirmation for attachment under PMLA, 2002.*

(iv) *Burden of proof under the section 24 of PMLA, 2002.*

(v) *Relationship between money laundering and scheduled offence under PMLA, 2002.*

(vi) *Constitutional validity of the PMLA framework under the PMLA, 2002.*

**● Practical relevance ●**

- *This is the foundational judgment for drafting replies to the Show Cause Notice (SCN) issued under the section 8 and challenging the ED's assertion that particular properties constitute Proceeds of Crime (PoC) under the PMLA, 2002.*

## 29. What are Supreme Court's views in Pareena Swarup v. Union of India (2008)?

***(30 September 2008, (2008) 14 SCC 107 on the sections 6, 25, 27 and 28 under the PMLA, 2002)***

- ***The Supreme Court considered the independence and impartiality of the Adjudicating Authority and Appellate Tribunal like:***

*(i) Independence of statutory tribunals under the PMLA, 2002.*

*(ii) Separation of judicial and executive functions under the PMLA, 2002.*

*(iii) Safeguards in appointments and service conditions under the PMLA, 2002.*

*(iv) Constitutional judicial review under Articles 226.*

**● Practical relevance ●**

- *This judgement supports the institutional character and independence required for adjudicatory bodies under the PMLA, 2002.*

## 30. What is Karnataka High Court's views in K.C. Nagaraja v. Union of India (2026)?

***(4 November 2026/W.P. Nos. 964/2026 and connected matters on the sec. 8, 17, 26 and 42 under the PMLA, 2002.***

- ***The Karnataka High Court considered the challenges relating to ED's search, seizure, freezing and retention of property under the PMLA, 2002.***
- ***The Karnataka High Court relied upon the Supreme Court's decision in JSW Steel Ltd. v. ED under the PMLA, 2002 and emphasised on:***

*(i) The comprehensive statutory adjudication process under the PMLA, 2002.*

*(ii) The role of the Adjudicating Authority under Section 8 of PMLA, 2002.*

*(iii) The statutory appeal under Section 26 of PMLA, 2002.*

*(iv) The importance of exhausting alternative remedies under the PMLA, 2002.*

*(v) The limited circumstances in which writ petition should be exercised despite an available statutory remedy under the PMLA, 2002.*

**● Practical relevance ●**

- *This judgment is important for the limits of direct writ petition intervention in pending adjudication proceedings under the PMLA, 2002.*

## 31. What is Delhi High Court's views in ED v. Prakash Industries Ltd (2025)?

***(DHC:9626-DB – 3 Nov 2025/LPA Nos. 102/2023 and 138/2023 on Sec 2(1)(u), 5, 8 and 66(2) under PMLA, 2002)***

- ***The Division Bench examined challenges to provisional attachment and the scope of writ jurisdiction like:***

*(i) The ED has a complete statutory adjudication and appellate mechanism under the PMLA, 2002.*

*(ii) A party should ordinarily pursue the remedies under Sections 8, 26 and 42 under the PMLA, 2002.*

*(iii) The High Court should "not ordinarily interfere" with a provisional attachment order merely because the affected party disputes the ED's factual allegations under the PMLA, 2002.*

*(iv) The statutory procedure provides an opportunity to contest the attachment before confirmation under the PMLA, 2002.*

*(v) The judgment also examines attachment of equivalent-value property under the PMLA, 2002.*

**● *Practical relevance* ●**

- *This judgement is important for the ED and to the defence counsel when considering whether to approach the High Court directly or first contest the matter before the Adjudicating Authority?*

## 32. What is Delhi High Court's views in ED v. Rajesh Kumar Agarwal (2025)?

***(DHC:7898-DB – 12 Sep 2025/Appeal (PMLA) No. 03/2023 on sec. 8, 17 and 20 under PMLA, 2002)***

*(i)* ***This judgement is important for adjudication of seized and retained property under the PMLA, 2002 like:***

*(a) The seizure under Section 17 of PMLA, 2002.*

*(b) An application for retention under Section 17(4) of PMLA, 2002.*

*(c) The retention under Section 20 of PMLA, 2002.*

*(d) Adjudicating Authority's confirmation for retention.*

(ii) *The Delhi High Court held that filing an application under Section 17(4) does "not automatically authorise retention", therefore, statutory requirements of the section 20 are also required to be fulfilled under the PMLA, 2002.*

(iii) ***The Adjudicating Authority is required to examine**:*

(a) *Whether the property is prima facie involved in money laundering under the PMLA, 2002?*

(b) *Whether continued retention is required for adjudication under the PMLA, 2002?*

(c) *Whether the statutory requirements and relevant procedural safeguards have been satisfied under the PMLA, 2002?*

**● Practical relevance ●**

- *This judgement is important for challenging unlawful retention of seized property, bank records and other assets under the PMLA, 2002.*

## 33. What is Delhi High Court's views in ED v. Vikas WSP Ltd & Others (2025)?

***(DHC:8490-DB – 24 Sep 2025 on the sec 5(3) read with Sec 8(3) under PMLA, 2002)***

(i) *The Delhi High Court has replied whether the Supreme Court's COVID-19 limitation-extension orders applied to the 180-day period for provisional attachment under the PMLA, 2002?*

(ii) *The Division Bench of Delhi High Court held that the Supreme Court's COVID-19 orders extended the applicable period for judicial and quasi-judicial proceedings, including the relevant PMLA adjudication period under PMLA, 2002.*

**● Practical relevance ●**

- *This judgement is important when examining the validity of attachment confirmation orders passed during the COVID-19 period under the PMLA, 2002.*
- *This judgement should "not be treated as a general extension" of the statutory period in ordinary circumstances under the PMLA, 2002.*

## 34. What is Bombay High Court's views in Shiv Charan v. Adjudicating Authority (2024)?

***(2024: BHC-OS:3371-DB – 1 March 2024/W.P. (L) Nos. 9943/2023 and 29111/2023 on the Issues: Sections 8, 11 and 26 PMLA, 2002 read with Section 32A of the Insolvency and Bankruptcy Code (IBC)).***

- ***The Bombay High Court made important observations:***

*(i) That the Adjudicating Authority under Section 8 performs a quasi-judicial function under the PMLA, 2002.*

*(ii) That the Adjudicating Authority is required to issue a Show Cause Notice (SCN) under the PMLA, 2002.*

*(iii) That the Adjudicating Authority is required to provide a proper opportunity of hearing under the PMLA, 2002.*

*(iv) That the Adjudicating Authority is required to pass a reasoned / speaking order under the PMLA, 2002.*

*(v) That the Adjudicating Authority is required to follow the law declared by the Supreme Court under the PMLA, 2002.*

*(vi) That the Adjudicating Authority is required to release the attachment under the PMLA, 2002 when the requirements of Section 32A of the IBC are fulfilled.*

**● Practical relevance ●**

- *This judgement is particularly useful for the cases involving corporate debtors, Approved Resolution Plans (ARP) and PMLA attachments under the IBC, 2016 and the PMLA, 2002.*

## 35. What is Delhi High Court's views in ED v. Axis Bank & Others (2019)?

***(Crl. Appeal No. 143/2018 and connected appeals on the Issues: Sections 2(1)(u), 5 and 8 under the PMLA, 2002.)***

- ***This is a landmark judgment concerning:***

*(i) The rights of secured creditors under the PMLA, 2002.*

*(ii) The bona fide 3rd party interests under the PMLA, 2002.*

(iii) *The property acquired "before or after" the alleged "criminal activity" under the PMLA, 2002.*

(iv) *The attachment and confiscation under the PMLA, 2002.*

(v) *The priority and competing claims over attached property under PMLA, 2002.*

**● Practical relevance ●**

- *This judgement is especially important when property belongs to banks, financial institutions, secured creditors or 3rd parties who claim an independent lawful interest under the PMLA, 2002.*

## 36. What are foundational High Courts' judgments under the PMLA, 2002?

| S.No | Judgment's name | Court (Year) | Principal subject |
|---|---|---|---|
| (i) | B. Rama Raju v. Union of India | Andhra Pradesh High Court (2011) | Attachment, Proceeds of Crime (PoC) and 3rd party property under the PMLA, 2002 |
| (ii) | J. Sekar v. Union of India | Delhi High Court (2018) | PMLA statutory safeguards and attachment proceedings under PMLA, 2002 |
| (iii) | Abhay Nigam v. Union of India | Allahabad High Court (2021) | Provisional nature of the attachment under Sections 5 and 8 of PMLA, 2002 |
| (iv) | Hamilton Houseware P.L. v. Union of India | Delhi High Court (2021) | Challenge to confirmation of attachment of bank account under the PMLA, 2002 |
| (v) | ED v. Pradeep Kumar Satapathy | Orissa High Court (2021) | Relationship between PMLA investigation and criminal proceedings under the PMLA, 2002 |

**● Practical relevance ●**

- *These are useful supplementary judgements, but their precise applicability is required to be examined against the facts and subsequent courts' decisions under the PMLA, 2002.*

## 37. What are cases to be used before Adjudicating Authority or Appellate Tribunal?

| S.No | Legal issue | Leading judgment |
|---|---|---|
| (i) | Independence of Adjudicating Authority under the PMLA, 2002 | Supreme Court's judgement on Pareena Swarup v. Union of India (2008) |
| (ii) | Constitutional validity and attachment under the PMLA, 2002 | Supreme Court's judgement on Vijay Choudhary v. Union of India (2022) |
| (iii) | Appeal pending under Section 26 of PMLA, 2002 | Supreme Court's judgement on Nav Nirman Builders (2026) |
| (iv) | Alternative statutory remedy under the PMLA, 2002 | Supreme Court's judgement on JSW Steel (2025) |
| (v) | Quasi-judicial character of adjudication under the PMLA, 2002 | Bombay High Court's judgement on Shiv Charan (2024) |
| (vi) | Retention of seized property under the PMLA, 2002 | Delhi High Court's judgement on Rajesh Kumar Agarwal (2023) |
| (vii) | Limitation for attachment confirmation under the PMLA, 2002 | Delhi High Court's judgement on Vikas WSP (2020) |
| (viii) | 3rd party and secured creditor rights under the IBC, 2016 | Delhi High Court's judgement on Axis Bank (2019) |
| (ix) | Direct writ challenge to PAO under the PMLA, 2002 | Delhi High Court's judgement on Prakash Industries (2025) |
| (x) | Writ jurisdiction during pending adjudication under the PMLA, 2002 | Karnataka High Court's judgement on K.C. Nagaraja (2026) |

## 38. What are 5 legal questions required for case study under the PMLA, 2002?

### (i) Effect of acquittal or discharge in the scheduled offence

- *Whether the attachment confirmed under Section 8(3) can survive "after" the predicate offence is quashed or the accused is discharged or acquitted under the PMLA, 2002?*

### (ii) Independent adjudication

- *Whether the Adjudicating Authority can confirm attachment "without" independently examining the material establishing the property nexus with Proceeds of Crime (PoC) under the PMLA, 2002?*

### (iii) Burden of Proof

- *Whether an application of Section 24 and the extent to which the burden shifts to the affected person under the PMLA, 2002?*

### (iv) 3rd party ownership

- *Whether property acquired through legitimate funds by a person "not accused" of the scheduled offence can be attached as equivalent-value property under the PMLA, 2002?*

### (v) Appellate Tribunal's powers

- *Whether the scope of examination under Section 26, grant of interim relief, remand, setting aside of confirmation orders and the High Court's jurisdiction under Section 42 of PMLA, 2002?*

## 39. What are Courts' judgments for attachments beside the schedule offence quashed?

| S. No. | Judgment | Court and Date | Legal Proposition |
|---|---|---|---|
| (i) | **Vijay Madanlal Choudhary v. Union of India** | Supreme Court, 27.07.2022 | No PMLA offence can survive against that person or a person claiming through him in relation to the linked property when final discharge or acquittal in the scheduled offence or quashing of criminal case under PMLA, 2002. |
| (ii) | **Nik Nish Retail Ltd. v. ED** | Calcutta High Court, 28.11.2022 | No PMLA proceedings, when quashing of the scheduled-offence FIR under the PMLA, 2002. |
| (iii) | **Manturi Shashi Kumar v. ED** | Telangana High Court, 19.04.2023 | No PMLA "after" closure or compounding of the predicate-offence proceedings, having the effect of acquittal, resulted in absence of Proceeds of Crime (PoC) and direction for release of attached property under the PMLA, 2002. |
| (iv) | **Nayati Healthcare and Research NCR Pvt. Ltd. v. Union of India** | Delhi High Court, 11.10.2023 | No PMLA proceedings "after" final quashing of the scheduled-offence FIR under PMLA, 2002. |

| | | | |
|---|---|---|---|
| *(v)* | ***Sanjay Gupta v. Prabhakant, ED*** | *Delhi High Court, 15.01.2024* | *No PMLA proceedings "after" final acquittal of the principal accused in the scheduled offence affected the sustainability of the consequential PMLA charge against the petitioner under the PMLA, 2002.* |
| *(vi)* | ***ED v. Akhilesh Singh & Others*** | *Delhi High Court, 30.04.2024* | *No PMLA prosecution and attached-property proceedings could not continue "after" acquittal in the predicate offence, in the circumstances of the case under the PMLA, 2002.* |

## *40. What is Supreme Court's judgment on burden of proof under sec. 24 of PMLA, 2002?*

- *The Supreme Court in Vijay Madanlal Choudhary v. Union of India (2022) upheld the constitutional validity of the reverse burden of proof under the section 24 of PMLA, 2002.*

## *41. What is distinction in sec. 24(a) and 24(b) for burden of proof under PMLA, 2002?*

*(i)* *The section 24 does "not eliminate the ED's obligation" to establish the foundational statutory conditions for invoking provision of the PMLA, 2002.*

*(ii)* *The nature of the property, the alleged "criminal activity" and the connection with Proceeds of Crime (PoC) are required to be examined "before" burden of proof on the person under the section 24 of PMLA, 2002.*

### *(iii) Provision under the section 24(a) of PMLA, 2002*

- *When a person is accused of money laundering, the statutory presumption applies to relevant Proceeds of Crime (PoC) under section 24(a) of PMLA, 2002.*

### *(iv) Provision under the section 24(b) of PMLA, 2002*

- *When the proceedings involving another person, the Adjudicating Authority or Special Court is permitted to presume involvement in money laundering, subject to the statutory wording under the section 24(b) of PMLA, 2002.*

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***Nov-2026***