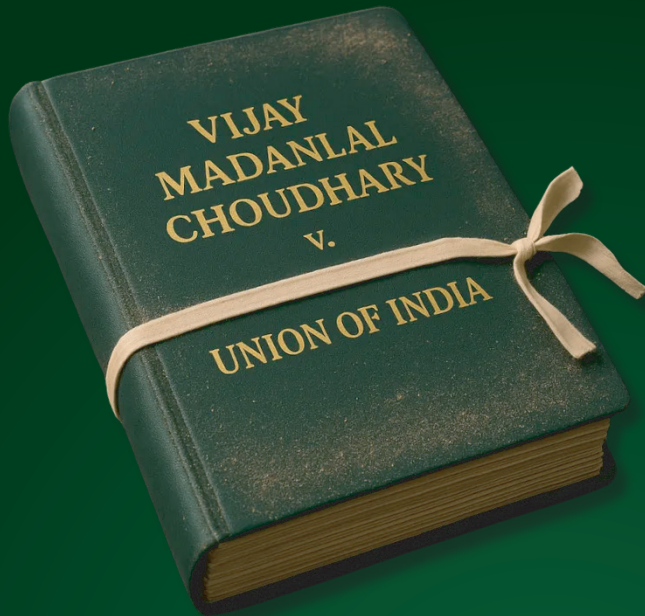


# WCC WATCH

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1st June 2025



info@knallp.com



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K&A INSIGHTS

# Editor's Note

**PMLA on Trial**, our cover story dissects the Supreme Court's impending review of the Madanlal judgment, a decision that has significantly influenced the PMLA's application. We explore whether this review will redefine the contours of PMLA law, an outcome that could have far-reaching implications for investigations and legal strategy.

This edition also brings you analyses of other pivotal issues. We examine the Supreme Court's verdict in *CCI v. Schott Glass India Pvt. Ltd.*, shedding light on the intricacies of competition law. Additionally, we unpack the Supreme Court's pronouncement on the 'Right to Access Investigative Material Under PMLA', a critical aspect of fair trial and disclosure obligations. The Karnataka High Court's ruling on the BNSS proviso, precluding pre-cognizance hearings for NI Act cases, is also under our scanner. Furthermore, we explore the NCLAT's significant stance on waiving Section 244 thresholds, offering enhanced protection for minority shareholders.

Beyond these in-depth analyses, we provide comprehensive coverage of recent **case laws** that are shaping judicial precedents across various domains of economic offences, including customs, GST, and criminal law. Our "Key Updates" section keeps you abreast of the latest regulatory changes, such as GSTN's recent advisory streamlining appeal withdrawals for waiver scheme beneficiaries.

Let's dive In!



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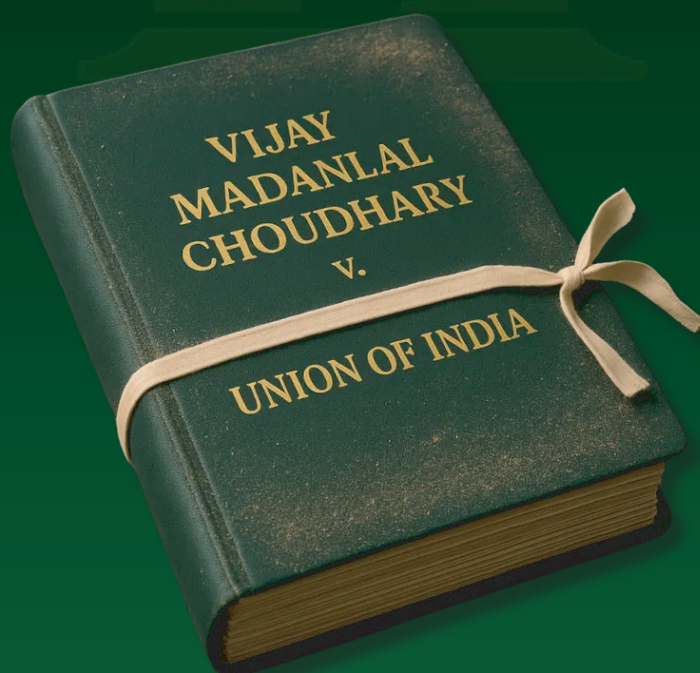
# COVER STORY

## PMLA on Trial: A Deep Dive into How the Supreme Court's Review of Vijay Madanlal Could Reshape PMLA Jurisprudence

The PMLA, stands as India's bulwark against the insidious crime of money laundering, empowering authorities to seize ill-gotten gains. Yet, its stringent nature has often stirred legal storms, a prominent one being the **Vijay Madanlal Choudhary v. Union of India judgment (July 27, 2022)**. This ruling, seen as the bedrock of PMLA jurisprudence, clarified many aspects but also ignited dissatisfaction among those facing its formidable reach. Review petitions have now surfaced, urging the Supreme Court to reconsider certain interpretations deemed overly harsh. This article navigates these contentious points, exploring the core arguments for a re-evaluation. The first arrow in the petitioners' quiver targets the very genesis of key PMLA amendments, questioning if Parliament bypassed crucial checks and balances. Several pivotal PMLA provisions were ushered in or significantly altered via Money Bills, a legislative route that curtails the Rajya Sabha's power. Did this maneuver sidestep the full deliberative process enshrined in our Constitution? The Supreme Court itself, in the Vijay Madanlal judgment, acknowledged the gravity of this challenge, noting its potential to **"strike at the root of the matter"**



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04



# PIVOTAL ISSUES

## Analysis of the Supreme Court's Verdict in CCI v. Schott Glass India Pvt. Ltd.

The Supreme Court in *Competition Commission of India v. Schott Glass India Pvt. Ltd. & Anr.* delivered in response to cross-appeals stemming from a CCI order, the judgment addresses critical questions on the interpretation of “abuse of dominance” under Section 4 of the Competition Act, 2002. The case concerned allegations that Schott India, a major manufacturer of pharmaceutical-grade borosilicate glass tubing, had used exclusionary tactics to preserve its dominance in the upstream market, thereby harming competition in both upstream and downstream sectors of pharmaceutical packaging. The dispute began when Kapoor Glass, a downstream converter, filed information before the CCI, alleging that Schott India had abused its dominant position by offering discriminatory and loyalty-inducing discounts, bundling clear and amber glass tubes, and entering into exclusionary long-term agreements with Schott Kaisha, a downstream joint venture. Kapoor Glass contended that these practices distorted market dynamics and effectively prevented competitors from accessing the upstream market on fair terms.



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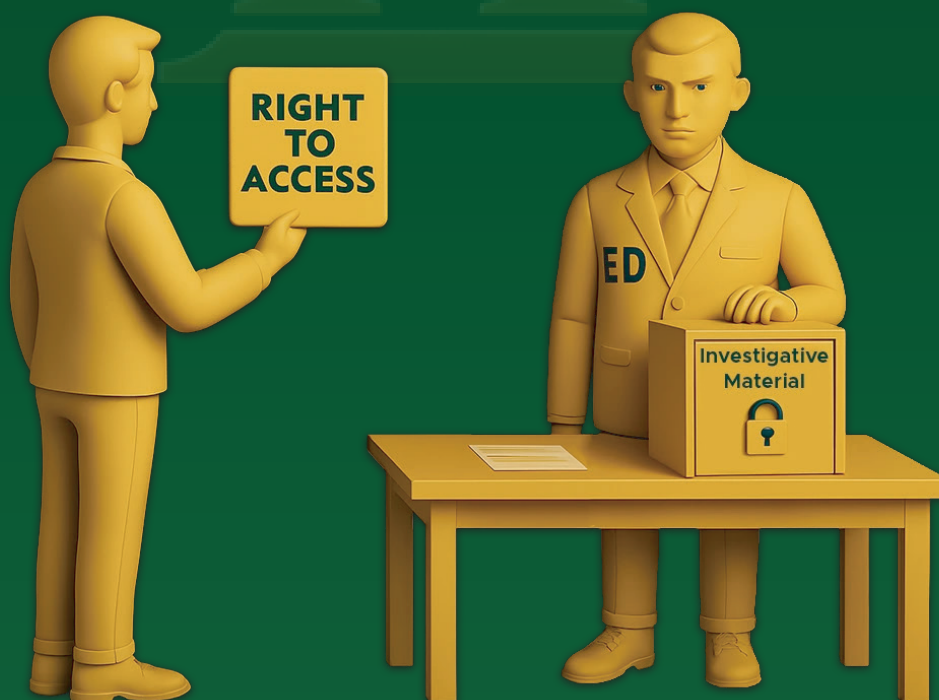
# PIVOTAL ISSUES

## Right to Access Investigative Material Under PMLA: Supreme Court on Fair Trial and Disclosure Obligations

The bedrock of any equitable legal system rests upon the principles of a fair trial and due process, fundamentally ensuring an accused's informed participation in their defense. At the core of this lies the undeniable right to access pertinent information collected during an investigation. In a landmark pronouncement, the Supreme Court of India in *Sarla Gupta & Another Versus Directorate of Enforcement*, through a bench comprising Justices Abhay S Oka, Ahsanuddin Amanullah, and Augustine George Masih, meticulously addressed this critical facet within the formidable framework of the PMLA. The Court unequivocally held that an accused individual is entitled to receive a comprehensive list of all documents and statements gathered by the ED during its investigation, extending even to those materials the prosecution ultimately opted not to rely upon when filing its complaint. This pivotal judgment stemmed from an appeal challenging a High Court of Delhi order, with the Supreme Court grappling with the central question: What is the true extent of an accused's right to pre-trial disclosure of investigative material under the PMLA, especially concerning documents and statements collected but subsequently omitted from the prosecution's formal case.



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# PIVOTAL ISSUES

## BNSS Proviso Hits a Wall: No Pre-Cognizance Hearing for NI Act, Rules Karnataka HC

The intricate interplay between special statutes and the broader framework of criminal procedure has recently been illuminated by a significant pronouncement from the Karnataka High Court in *Ashok S/O Siddappa Bankar vs Fayaz Aahmad S/O Aurangzeb Naikar*. This landmark decision, specifically addressing cheque bounce cases under the Negotiable Instruments (NI) Act, 1881, and the application of the newly enacted Section 223(1) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), offers a crucial perspective on procedural safeguards and legislative intent. It delves into the very essence of how our legal system balances the need for expeditious justice with the fundamental rights of the accused. The genesis of this judicial deliberation arose from a challenge brought forth by a petitioner. A cheque bounce case had been lodged against him before a local court, and his primary contention was that the trial judge, in taking cognizance of the complaint under **Section 138 of the NI Act**, had failed to extend him the crucial opportunity of being heard – a procedure now enshrined in Section 223(1) of the BNSS.



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# PIVOTAL ISSUES

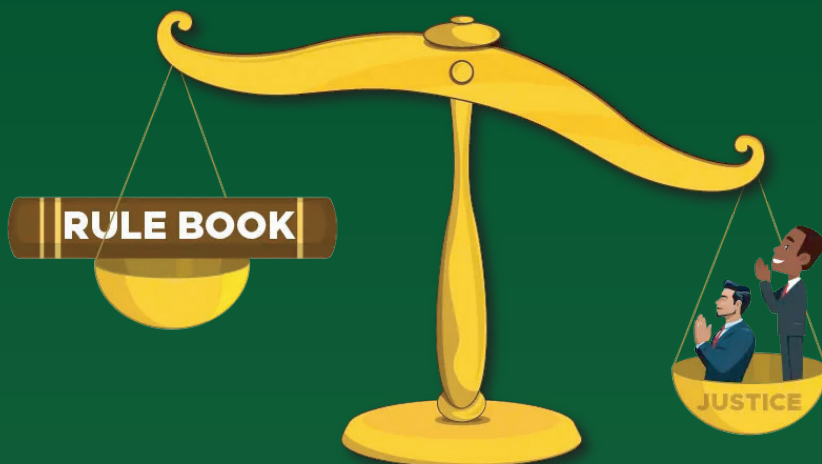
## Minority Protection: NCLAT's Stance on Waiving Section 244 Threshold

In the dynamic landscape of corporate governance, disputes concerning the affairs of a company, particularly those involving allegations of oppression and mismanagement, frequently arise. To address such grievances, **the Companies Act, 2013**, provides specific mechanisms, primarily through **Section 241**, which allows members to seek relief from **the National Company Law Tribunal (NCLT)**. However, the right to file such an application is subject to certain eligibility criteria, prominently detailed in **Section 244 of the Act**, which sets a threshold for the number or shareholding of members required to initiate these proceedings. Specifically, **Section 244(1)(a)** mandates that for a company having a share capital, not less than one hundred members or one-tenth of the total members (whichever is less), or any member(s) holding not less than one-tenth of the issued share capital, are eligible to apply. For companies without share capital, **Section 244(1)(b)** stipulates that not less than one-fifth of the total number of its members are required. Despite these stringent requirements, a crucial proviso to **Section 244(1)** empowers the NCLT to waive these conditions, thereby enabling members who might not otherwise meet the threshold to file an application under **Section 241**.



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# NCLT



# SIGNIFICANT CASE LAWS

## Customs Act: Broker Not Liable for Penalty Under Section 114AA Over Premises Verification

The Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), New Delhi Bench, in the case of **HIM Logistics Private Limited v. Commissioner of Customs Export** (ICD TKD), New Delhi, has ruled that a penalty cannot be imposed on a customs broker under Section 114AA of the Customs Act, 1962, merely for failing to physically verify an importer's premises. The bench, comprising Justice Dilip Gupta (President) and Hemambika R. Priya (Technical Member), emphasized that to levy a penalty under Section 114AA, it is crucial to establish an intentional or deliberate act, omission, or abetment, not simply a lack of physical verification. The case involved HIM Logistics Private Limited, a customs broker, who had handled eleven prior consignments for M/s. Jagdamba Enterprises before the impugned import. Despite the broker filing the Bill of Entry based on import documents, examination revealed undeclared and varying quantities of declared goods, leading to detention and seizure. The adjudicating authority imposed penalties on the broker under Sections 112(a) and 114AA, a decision upheld by the Commissioner of Customs (Appeals). However, CESTAT overturned this, observing that the Revenue failed to provide evidence of the broker's direct involvement in wrongdoing or any malafide motive. The Tribunal noted that the broker possessed valid KYC documents, which were not found to be fake, and had successfully cleared previous consignments for the same importer. The Bench concluded that without explicit evidence of collusion, willful mis-statement, or suppression of facts, penalties under both Sections 112(a) and 114AA could not be sustained.



CLICK TO VIEW JUDGMENT



# SIGNIFICANT CASE LAWS

## Penalty U/S 122(1A) Of CGST Act Can Be Imposed On Both Taxable And Non-Taxable Person

In **Gurudas Mallik Thakur v. Commissioner Of Central Goods And Service Tax & Anr.**, the Delhi High Court has held that penalties for GST evasion under Section 122(1A) of the CGST Act can be imposed on "any person," irrespective of their taxable status. This ruling by Justices Prathiba M. Singh and Rajneesh Kumar Gupta diverges from a previous Bombay High Court interim decision, which suggested Section 122(1A) couldn't apply to non-taxable employees. The Delhi High Court emphasized that the section aims to hold accountable those who facilitate bogus invoices or misuse Input Tax Credit, acknowledging that company management, even if not directly taxable, can be responsible. The case involved former directors of a company facing significant GST evasion charges. Despite their claim of not being taxable post-resignation, the Court stressed that "any person" in Section 122(1A) is broad and includes individuals. It directed the Appellate Authority to ascertain the petitioners' specific roles and benefits derived from the alleged fraudulent activities. The Court also mandated the GST Department to establish a mechanism for non-taxable individuals to file appeals, underscoring the broader societal and economic impact of such fraudulent practices.



[CLICK TO VIEW JUDGMENT](#)



# SIGNIFICANT CASE LAWS

## Mere Recovery Of Tainted Money Not Enough For Conviction Without Proof Of Bribe Demand

In a significant ruling, the Supreme Court, in the case of **State Of Lokayuktha Police, Davanagere Versus C B Nagaraj**, has clarified that merely recovering tainted money is insufficient to activate the presumption of guilt under Section 20 of the Prevention of Corruption Act, 1988. Justices Pankaj Mithal and Ahsanuddin Amanullah emphasized that for a conviction under the Act, the entire chain of events—demand, acceptance, and recovery—must be conclusively established. The Court upheld the acquittal of a public servant accused of taking a ₹1,500 bribe, finding that the crucial element of demand was not proven, despite the acceptance and recovery of the tainted money. The Court observed that if the initial demand itself is suspicious, the chain of events necessary for conviction remains incomplete. In this specific case, a school teacher complained that the respondent demanded a bribe to forward a caste validity certificate. While a trap was laid and tainted currency recovered, the respondent claimed it was a loan repayment. The Trial Court's conviction was overturned by the High Court, which doubted the complainant's credibility and the proof of demand. The Supreme Court affirmed this, reiterating that the burden to disprove the prosecution's case only shifts to the accused once the complete chain, especially the demand is unequivocally proven.



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# SIGNIFICANT CASE LAWS

## Cheque Dishonour Complaint Need Not State Specific Administrative Role Of Company Directors

In a crucial ruling, the Supreme Court, in the case of **HDFC Bank Ltd. v. State of Maharashtra**, has clarified that for company directors to be held liable for cheque dishonour offences, the complaint doesn't necessitate stating their specific administrative role within the company. Justices Viswanathan observed that while Section 141(1) of the Negotiable Instruments Act requires an averment that the person was "in charge of, and responsible to the company for the conduct of its business," word-for-word replication of the statute isn't mandatory. Material compliance is sufficient, provided the complaint specifies the director's role. The Court emphasized that the administrative role of each director falls within the company's or director's special knowledge, and it is for them to demonstrate they were not in charge. Therefore, demanding the complainant plead specific administrative details is incorrect. The judgment extensively relied on precedents like *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla & Anr.*, *K.K. Ahuja v. V.K. Vora & Anr.*, and *S.P. Mani & Mohan Dairy v. Snehalatha Elangovan*. These cases collectively establish that a general averment of a person being "in charge of and responsible for" the business is adequate at the complaint stage, and the complainant is only expected to know generally who controls the company's affairs. The Court reiterated that there's no automatic liability for directors; the complainant must plead their involvement. The burden to disprove involvement, or show lack of knowledge/due diligence, shifts to the director at the trial stage under the proviso to Section 141. The Supreme Court accordingly reinstated the Magistrate's order against the accused director, quashing the High Court's contrary decision.



[CLICK TO VIEW JUDGMENT](#)



# REGULATORY UPDATES

## 1. GSTN's Streamlines Appeal Withdrawal for Waiver Scheme Beneficiaries

- Goods and Services Tax Network (GSTN) has issued Advisory No. 602 on May 14, 2025
- The GSTN has issued this important advisory specifically for taxpayers who wish to apply for the GST Amnesty Scheme Sec. 128A of CGST Act.



CLICK TO VIEW ANALYSIS

# TRAINING AND EVENTS

## 1. National Seminar on Policing, Cyber Frauds, and Cyber Security

**Venue:** National Law University Delhi (NLUD) Campus, Dwarka, New Delhi

**Organized by:** National Law University Delhi (NLUD) (sponsored by ICSSR)

**Submission Deadline:** July 15, 2025



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## 2. Event: Global White Collar Crime Institute and London White Collar Crime Institute 2025

**Date:** November 17-18, 2025

**Venue:** InterContinental Genève, Geneva, Switzerland

**Organized by:** ABA Criminal Justice Section (CJS)



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## 3. NACDL's 2025 White Collar Seminar and Fall Board Meeting

**Dates:** September 17-20, 2025

**Venue:** Washington Marriott Georgetown, Washington, DC

**Organized by:** National Association of Criminal Defense Lawyers (NACDL)



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## 4. 18th Residential Conference on International Taxation

**Date:** June 12-15, 2025

**Venue:** Novotel Dona Sylvia Resort, Goa

**Organized by:** The Chamber of Tax Consultants



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# CONTRIBUTORS

ADV. ANUJA PANDIT,

ADV. ARCHANA SHUKLA,

ADV. ANUBHAV SINGHAL.



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## Corporate Office

13 Ring Road, Lajpat Nagar 4,  
New Delhi, 110024

## Chamber

Chamber No: 511 (Additional  
Complex), Supreme Court of  
India, New Delhi, 110001

 +91 981 981 5818

 [www.knallp.com](http://www.knallp.com)

 [info@knallp.com](mailto:info@knallp.com)



**Kings & Alliance LLP**

[wa.me/919819815818](https://wa.me/919819815818)

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