WCC WATCH

Your Monthly Digest to Stay Ahead in the Evolving Realm of White Collar Crime

JAN' 2026

COVER STORY

PIVOTAL ISSUES

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Editor's Note

Symmetry or Subsumption, this edition puts forward a compelling cover story that interrogates whether general police powers under criminal law can harmoniously coexist with the specialized framework of the Prevention of Corruption Act.

We examine the jurisdictional tension at the heart of asset recovery, alongside several pivotal issues where individual liberty meets state scrutiny. These include the Supreme Court's refusal to allow premature dismissal of cheque bounce trials, the high-stakes balancing of bail in multi-crore frauds, and the clear distinction between settling a financial debt and answering for a criminal act. We also scrutinize recent judicial limits on the use of coercive warrants during money laundering probes.

Additionally, we bring you a curated selection of regulatory updates and judicial breakthroughs reshaping the fiscal landscape. This edition also highlights relief for the plantation sector regarding revenue expenditures and provides a roadmap for upcoming professional events in GST and international taxation to keep you anchored in this shifting legal environment.

Let's dive in!

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INDEX

COVER STORY

The Co-Existence Conundrum: Can Police Powers Under CrPC Intersect with the Prevention of Corruption Act?

> *Section 102 CrPC and the power of attachment under Section 18A PC Act are not mutually exclusive*

Does the specific and comprehensive framework of the Prevention of Corruption Act, 1988 (PC Act), completely oust the general powers of the investigating police officer under the Code of Criminal Procedure, 1973 (CrPC), particularly when it comes to securing the ill-gotten gains of a public servant? This question, at the nexus of India's fight against corruption, hinges on whether the general power of "seizure" of property by the police is mutually exclusive to the detailed procedure for "attachment" and "confiscation" of tainted property under the PC Act. The answer lies in carefully distinguishing the objectives and procedures enshrined in these two pivotal legal instruments.

The legal journey that brought this question to the fore involved a case concerning disproportionate assets. The investigation was initiated against a police officer under the PC Act for illicitly enriching himself and accumulating properties in his name and those of his relatives, which were found to be disproportionate to his known sources of income. In the course of this investigation, the police, in an effort to secure evidence and prevent dissipation of funds, proceeded to freeze the fixed deposits held by the accused officer's father (the Respondent), using the power vested in them under Section 102 of the CrPC (now section 106 of BNSS). This article delves into the High Court's far-reaching interpretation of the PMLA, specifically examining the scope of Section 2(1)(u), which defines 'proceeds of crime,' and how the court meticulously traced the wealth—not just to the betting—but to the underlying scheduled offenses like forgery, cheating, and criminal conspiracy used to enable...

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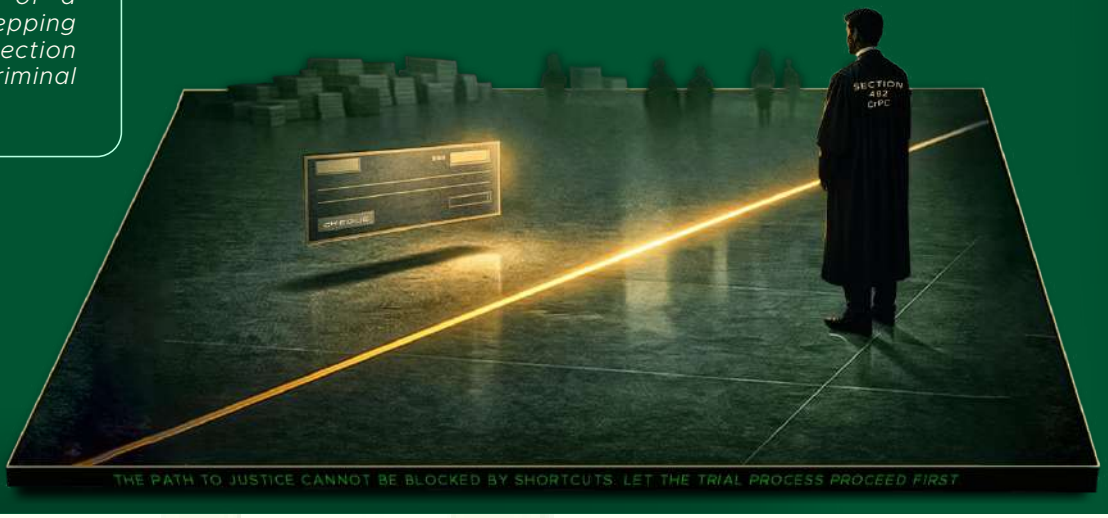
Presumed Bound: Redefining the Limits of Judicial Intervention in Cheque Dishonour

> *a court can bypass a full trial to evaluate the merits of a debt, effectively overstepping its jurisdiction under Section 482 of the Code of Criminal Procedure.*



Can a signed promise to pay be rendered meaningless before the courtroom doors even fully open for trial? For a creditor holding a dishonoured cheque, the legal path to justice often feels like an obstacle course, yet a recent intervention by the Supreme Court has ensured that this journey is not cut short by premature judicial interference. On December 19, the Apex Court held that High Courts are forbidden from quashing cheque bounce proceedings by conducting "roving enquiries" into disputed facts at a pre-trial stage, particularly when the law presumes the cheque was issued for a valid debt.

The core issue before the Bench in M/S Sri Om Sales Versus Abhay Kumar @ Abhay Patel & Anr., was whether a court can bypass a full trial to evaluate the merits of a debt, effectively overstepping its jurisdiction under Section 482 of the Code of Criminal Procedure. This legal tug-of-war reached the highest court after the Patna High Court quashed a complaint by questioning the existence of a liability before any evidence was formally recorded. In the ensuing legal battle, the complainant maintained that a prima facie case must lead to a trial, while the accused sought to terminate the proceedings by arguing that no legally enforceable debt actually existed. By reinforcing the boundary between a preliminary review and a full-scale trial, the Court has provided much-needed clarity on the limits of judicial discretion. The following discussion will explore the underlying legal principles and the weight of statutory presumptions which formed the basis of this significant judgment. Can the High Court prematurely terminate a criminal trial by weighing evidence before it...

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The Fragile Weight of Freedom: Navigating the Intersection of Economic Crime and Personal Liberty

> *economic offenses cannot be treated as a monolith. It is neither advisable nor legal to categorize all such offenses into one group and deny bail automatically*

At what point does the pursuit of justice for a multi-billion-dollar fraud collide with the sacred constitutional right to personal liberty? In the high-stakes arena of Indian white-collar crime, few cases have tested this balance as sharply as the pursuit of the Wadhawan brothers. The Supreme Court of India recently resolved this tension by granting bail to Kapil and Dheeraj Wadhawan in Kapil Wadhawan Versus Central Bureau of Investigation, the former leadership of Dewan Housing Finance Limited (DHFL). At the heart of the matter was a staggering ₹34,000 crore bank fraud case where the accused faced indefinite incarceration as the trial showed no signs of concluding.

While the prosecution emphasized the unprecedented scale of the financial crime, the defense argued that the "process" had effectively become the "punishment." This article will delve into the profound legal doctrines that guided the Court's hand, exploring how the bedrock principles of criminal jurisprudence ultimately triumphed over the gravity of the allegations. At What Point Does the Pursuit of Justice Collide With the Right to Liberty? In the high-stakes arena of Indian white-collar crime, few cases have tested the balance between state power and individual freedom as sharply as the pursuit of the Wadhawan brothers. The Supreme Court of India recently resolved this tension by granting bail to Kapil and Dheeraj Wadhawan, the former leadership of Dewan Housing Finance Limited. At the heart of the matter was a staggering ₹34,000 crore bank fraud case where the accused faced the prospect of indefinite incarceration as the trial showed no signs of concluding...

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Can a Handclasp Erase a Fraud? Supreme Court Rejects Discharge on the Basis of Bank Settlemen

> *Economic offences are not private in nature; they affect society at large and fall outside the category of disputes that can be quashed merely on the basis of a compromise*

Can a corporate handshake, in the form of a one-time settlement with a bank, wipe away serious criminal charges of fraud and corruption? This pivotal question was at the heart of the Supreme Court's decision in the case of Central Bureau of Investigation v. M/s. Sarvodaya Highways Ltd. and Ors., a landmark judgment delivered. The ruling underscores the critical distinction between resolving a financial liability and answering for an economic crime that impacts the public exchequer and the larger society.

The dispute originated from a credit facility sanctioned by the erstwhile State Bank of Bikaner and Jaipur to M/s. Sarvodaya Highways Ltd.. The loan account turned into a Non-Performing Asset (NPA) in 2013, due to non-repayment. An internal inquiry exposed a colossal fraud of Rs. 52.50 crores. The investigation by the Central Bureau of Investigation subsequently revealed a deep-seated conspiracy where officers of the company connived with the then Branch Manager of the Bank, to defraud the Bank. This was achieved through the submission of false stock and receivable statements, and critically, the use of fabricated work orders and forged collateral documents. Based on these findings, the CBI filed a chargesheet against the company, its directors, and the Bank Manager for offences under Sections 120B, 406, 420, 467, 468, and 471 of the Indian Penal Code (IPC) and Sections 13(2) read with 13(1)(d) of the Prevention of Corruption (PC) Act, 1988. The entire criminal proceeding was subsequently quashed by the High Court of Punjab and Haryana on the sole premise that the company and the Bank had entered into a one-time settlement (OTS) in 2018, where the cash credit liability...

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Summons versus Shackles: Defining the Limits of Coercive Power in Money Laundering Probes

> *power to issue non-bailable warrants in aid of investigation is not a blank check*

Can the state's power to investigate transform a simple summons into a threat of immediate incarceration? In the high-stakes world of financial investigations, the line between a cooperative witness and an accused criminal often seems blurred, raising a fundamental question: can a person be hunted with NBWs before they are even charged with a crime? The Delhi High Court recently provided a definitive answer in Sachin Dev Duggal Versus Directorate Of Enforcement, ruling that NBWs cannot be issued against individuals summoned merely as witnesses or suspects unless they are formally projected as accused of a non-bailable offense. The core dispute centered on whether the ED could bypass standard procedures to secure the arrest of UK-based businessman Sachin Dev Duggal for failing to appear in a money-laundering inquiry.

The legal battle pitted two sharp perspectives against each other: the ED asserted that warrants were essential to curb the evasion of a sensitive investigation, while the petitioner argued that as a mere witness who was never legally served, he could not be treated as a fugitive. This article will navigate the underlying legal principles and the "sacrosanct" procedural requirements of the CrPC that formed the basis of this significant judgment, ensuring that the zeal for investigation does not override the mandate of the law. Can a Court Bridge the Gap Between "Investigation Aid" and "Loss of Liberty"? The power of a Magistrate to issue a warrant during an investigation is often viewed by agencies as a tool of convenience to ensure cooperation. However, the Delhi High Court anchored this power...

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SIGNIFICANT CASE LAWS

GST Exemption Upheld for Municipal Services in Ganga Cleanliness Drive

In The Case Of Shubhabrata Chowdhury Vs. the West Bengal Authority for Advance Ruling (AAR) held that the supply of unskilled labour for a special cleanliness drive at Ganga ghats qualifies as a "Pure Service." The ruling, delivered by Shri. Shafeeq S (Member - Central Tax) and Shri. Jaydip Kumar Chakrabarti (Member - State Tax), clarified that such services provided to Municipalities and Corporations—which are "Local Authorities"—are exempt from GST. This is because the activities fall under the functions entrusted to local bodies under Articles 243G and 243W of the Constitution, specifically relating to solid waste management and public health.

The AAR further detailed the criteria for exemption under Notification No. 12/2017-Central Tax (Rate). It noted that if the value of goods involved in a composite supply does not exceed 25% of the total value, the service remains exempt under Entry 3A. However, if the value of goods exceeds this 25% threshold, the service would be classified under SAC 9987 and attract a 18% GST (9% CGST + 9% SGST). Since the applicant's work primarily involved manpower for the operation and maintenance of municipal machinery like movable compactors, jetting machines, and de-silt machines, it was deemed a predominantly service-based activity eligible for tax relief.

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SIGNIFICANT CASE LAWS

CESTAT Ahmedabad: Commission on Agricultural Produce Sale Taxable under 'Business Auxiliary Service'

In Ashutosh Metal Private Limited vs. Principal Commissioner CGST & Central Excise, the Ahmedabad Bench of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) confirmed the demand of service tax on commissions earned from the sale of agricultural produce (specifically Indian Raw Cotton). The tribunal, comprising Mr. Somesh Arora (Judicial Member) and Mr. Satendra Vikram Singh (Technical Member), upheld service tax liabilities totaling approximately ₹1.62 crore for the periods 2010-11 and 2011-12. The ruling clarified that such commissions fall under the category of 'Business Auxiliary Service' (BAS) and disallowed the exemption previously claimed under Notification No. 13/2003-ST.

The case also addressed a second major issue: whether "Premium" received for relinquishing rights in land deals (via an 'Agreement to Sale' or Banakhat) is taxable. The appellant argued that transferring land rights is not a service under Section 65B(44) of the Finance Act, 2012. However, the CESTAT found the factual matrix regarding the timing of payments and the execution of the Sale Deed to be unclear. Consequently, the tribunal remanded this specific portion of the dispute back to lower authorities to examine the validity of the land agreements under Gujarat Land Regulations and determine if such premium income constitutes a taxable service.

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SIGNIFICANT CASE LAWS

CESTAT Chandigarh: Extended Limitation for Service Tax Demand Requires Proven Intent to Evade

The Chandigarh Bench of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) recently set aside a substantial service tax demand of ₹18.95 crore against KEC International. The Bench, comprising Mr. S.S. Garg (Judicial Member) and Mr. P. Anjani Kumar (Technical Member),in M/S Kec International Versus Commissioner Of CGST & Central Excise,Panchkula, ruled that the Revenue Department cannot invoke the "extended period of limitation" under Section 73 of the Finance Act, 1994, unless it conclusively proves mens rea—a deliberate intent to evade tax through fraud, suppression of facts, or willful misstatement.

The dispute centered on the reversal of CENVAT credit for common input services. While the assessee had been reversing credit based on "common input service," the Revenue argued that for the period prior to April 2016, the "total CENVAT credit" should have been considered. However, the Tribunal observed that KEC International had been regularly filing returns and disclosing its methodology. The CESTAT held that mere negligence or a bona fide difference in legal interpretation does not justify the extended five-year limitation period. Since the Department failed to establish any positive act of suppression, the demand was declared time-barred, reinforcing the principle that the Revenue's failure to scrutinize returns in a timely manner cannot be blamed on the taxpayer.

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SIGNIFICANT CASE LAWS

Kerala High Court: Rubber Replantation and Maintenance Expenses are Deductible Revenue Expenditure

In Rehabilitation Plantations Ltd. v. State of Kerala, a Division Bench of the Kerala High Court comprising Justices A. Muhamed Mustaque and Harisankar V. Menon held that expenses incurred for the upkeep, maintenance, replantation, and replacement of rubber trees are revenue in nature. Consequently, such expenditures are fully deductible under Section 37 of the Income Tax Act, 1961. This ruling resolves a long-standing dispute regarding whether these costs should be treated as "capital expenditure" (which are not deductible) or "revenue expenditure" (which are deductible from business income).

The case reached the High Court following a complex legal history. Initially, the Income Tax Appellate Tribunal rejected the assessee's claim based on a 2012 Division Bench ruling in M/s. Rehabilitation Plantations Ltd. v. CIT. However, a Full Bench of the Kerala High Court in 2023 overruled that earlier decision, declaring it "not good law." The Full Bench clarified that the ongoing costs of maintaining a plantation—including replacing old trees to sustain production—are essential business operations. By allowing the review petition, the High Court reaffirmed that these costs are eligible for deduction, providing significant financial relief to the plantation sector.

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SIGNIFICANT CASE LAWS

Customs Act | Penalty U/S 112 Cannot be Imposed Solely On Co-Accused's Statement Without Corroborative Evidence: CESTAT Kolkata

In Shri Dharanidhar Ghosh v. Commissioner of Customs (Preventive), the Kolkata Bench of the CESTAT comprising Judicial Member R. Muralidhar and Technical Member K. Anpazhakan held that a penalty under Section 112 of the Customs Act cannot be imposed solely on the basis of a co-accused's statement. The Tribunal clarified that in the absence of independent corroborative evidence, a mere allegation by a co-accused that the assessee handed over smuggled goods is insufficient to implicate them. This ruling reinforces the legal principle that exculpatory statements made by persons in custody—often intended to shift responsibility—carry little evidentiary weight unless backed by physical or documentary proof.

The case originated when the DRI apprehended one Ratan Biswas at Sealdah Railway Station with 33 foreign-marked gold biscuits. During interrogation, Biswas named the appellant, Shri Dharanidhar Ghosh, as the person who handed him the gold for delivery. While the Revenue imposed a penalty of ₹50 lakhs on Ghosh based on this confession, the Tribunal noted that the investigation failed to find the intended receiver ("Sourav") or any other evidence linking Ghosh to the smuggling activity. By allowing the appeal, the CESTAT reaffirmed that personal liberty and financial liability cannot be compromised based on unverified statements, providing a safeguard against arbitrary penalties in customs disputes.

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REGULATORY UPDATE:

Beyond the Binder: SFO's New Rulebook Requires Operational Evidence

SFO

SERIOUS FRAUD OFFICE

The Serious Fraud Office (SFO) published an updated guidance on evaluating compliance programmes on November 26, 2025, solidifying a "refreshed approach" to corporate cooperation. The Guidance is particularly relevant as it outlines how "reasonable procedures" will be assessed under the new Failure to Prevent Fraud (FTPF) offence. The SFO's updated position emphasizes demonstrable action over documentation.

The SFO explicitly states that policies are not enough; the compliance programme must work in practice. The focus is shifting from "paper programs" to evidence of "conduct on the ground." Organisations must anticipate scrutiny of implementation, including training records, audit trails, testing results, and evidence of escalation and remediation. Furthermore, anti-circumvention measures, such as approval processes and periodic audits, are highlighted as essential to ensure genuine effectiveness. There are no fixed expectations, as compliance arrangements must be specific to the size, nature, and unique risks of the organization. The SFO acknowledges that arrangements vary widely, but stresses that the emphasis is on ensuring the programme is effective for that particular organization and the field in which it operates. Even small organizations are expected to have some form of compliance framework in place. Having an effective compliance programme is not just a defence; it is a critical factor assessed by the SFO at every stage of an investigation...

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