

# WCC WATCH

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



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***Examining Regulatory Boundaries***, our cover story this month analyses the Calcutta High Court's decision in *Louis Dreyfus Company India Pvt. Ltd. v. Enforcement Directorate*, where the Court considered whether the Enforcement Directorate can continue money laundering proceedings when the CBI, after investigating the predicate offence, has found no criminal involvement against the accused. The ruling provides an important perspective on the evidentiary foundations required to sustain prosecution under the Prevention of Money Laundering Act, 2002.

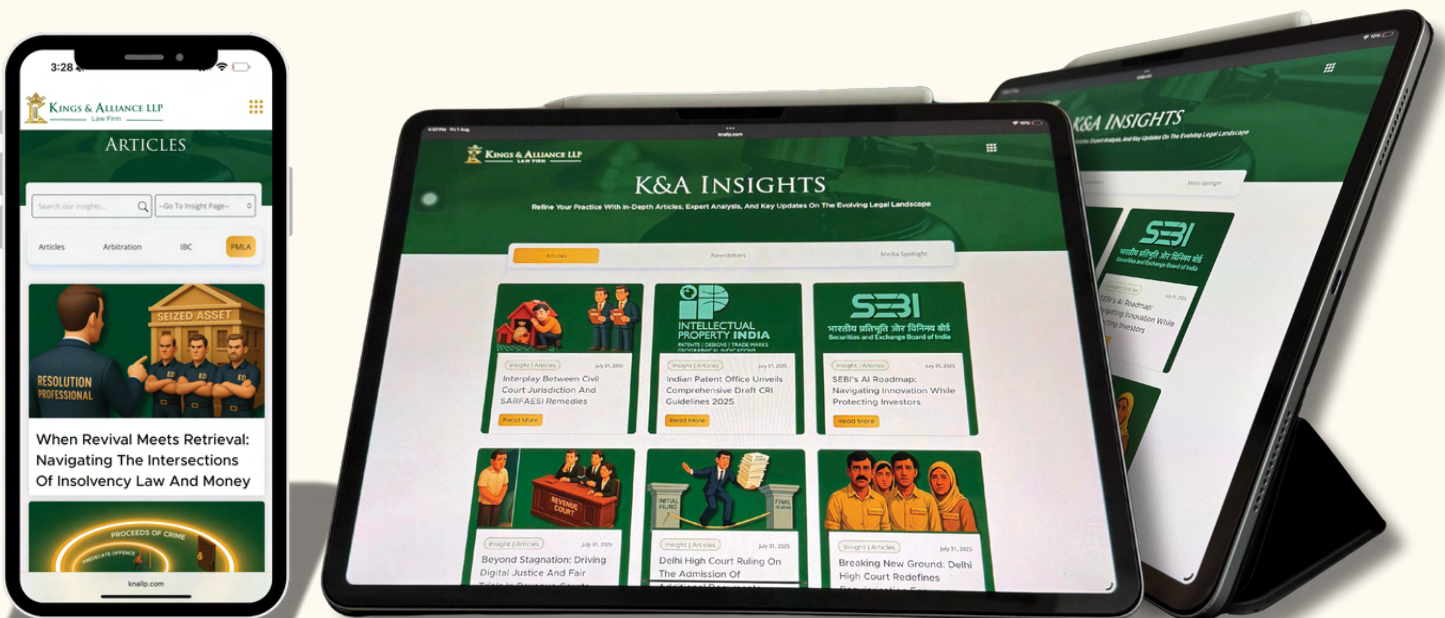
This edition also examines the interplay between Section 32A of the Insolvency and Bankruptcy Code and attachment proceedings under the PMLA, the limits of director liability for cheque dishonour after the appointment of a Provisional Liquidator, and the Supreme Court's consideration of whether customs authorities can question Certificates of Origin issued under the ASEAN-India Free Trade Agreement without first invoking the treaty's verification mechanism. We further explore the broader challenge of overlapping regulatory proceedings and the increasing compliance burden faced by businesses navigating multiple enforcement regimes simultaneously.

Across these developments, courts and tribunals continue to define the limits of regulatory power while balancing enforcement objectives against principles of fairness, procedural certainty, and commercial stability.

To cap it off, we bring you the latest developments from the worlds of insolvency, financial regulation, customs, and economic enforcement.

Let's dive in.

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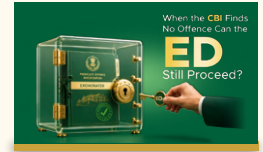




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# COVER STORY

Can the Enforcement Directorate Continue Prosecution on Allegations Rejected by the CBI? The Calcutta High Court Clarifies

When the **CBI** Finds No Offence Can the

**ED**  
Still Proceed?



Can the Enforcement Directorate prosecute a person for money laundering when the Central Bureau of Investigation, after investigating the underlying scheduled offence, has expressly found no criminal involvement against that person? This question formed the central issue before the Calcutta High Court in *Louis Dreyfus Company India Private Limited v. Enforcement Directorate*, decided on 22 May 2026 by Justice Suvra Ghosh. The Court was required to examine whether proceedings under the Prevention of Money Laundering Act, 2002 could survive where the investigating agency in the predicate offence itself had exonerated the accused after conducting a detailed investigation into the alleged bank fraud transactions. Holding that the ED could not continue prosecution on the same factual foundation in the absence of independent incriminating material, the Court affirmed that although proceedings under the PMLA are distinct in nature, they cannot be sustained merely upon suspicion, conjecture or allegations already disbelieved in the predicate investigation. The ruling therefore assumes significance as an important judicial limitation on arbitrary money laundering prosecutions and an affirmation of the evidentiary threshold embedded within Section 3 of the PMLA. The dispute originated from an FIR registered on 31 March 2014 by the Central Bureau of Investigation against Manoj Kumar Jain, Director of M/s Prakash Vanijya Private Limited (PVPL), pursuant to a complaint lodged by the Central Bank of India alleging wrongful loss amounting to approximately ₹234.57 crore. The investigation resulted in charge sheets under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code, 1860, along with Section 13(2) read with Section 13(1)(d) of the Prevention...

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Corporate Office - 13 Ring Road, Lajpat Nagar IV, New Delhi - 110024

Chamber - 511, Ad. Complex, Supreme Court of India, New Delhi - 110001



+91 981 981 5818



INFO@KNALLP.COM



WWW.KNALLP.COM

# PIVOTAL ISSUES

When Does Section 32A IBC Override PMLA Asset Attachment Proceedings?

## Value Maximization Over Confiscation



"Does the IBC offer a 'clean slate' immunity that prevents the Enforcement Directorate from attaching or seizing a company's assets under the PMLA, once the business has been transferred to a new owner through an NCLT-approved resolution plan?" This fundamental conflict between the commercial imperative of corporate revival and the state's mandate to seize proceeds of crime was definitively addressed by the PMLA Appellate Tribunal in its landmark judgment on 23 April 2026 in M/s. Viceroy Hotels Ltd. v. The Deputy Director, Directorate of Enforcement, Chennai. The Tribunal held that Section 32A of the IBC acts as an absolute statutory bar against the attachment of a corporate debtor's property once a resolution plan is approved and control passes to a bona fide, unconnected resolution applicant.

The dispute originated from a Provisional Attachment Order (PAO) issued by the Directorate of Enforcement (ED) in March 2019, covering properties worth over Rs. 315 crores, including the Marriott hotel of Viceroy Hotels Ltd. (VHL) in Hyderabad. The ED's action was rooted in allegations that funds received by Viceroy Hotels Ltd. (VHL) from M/s. Mahal Hotels Pvt. Ltd. (MHPL) as part of a terminated 2011 Business Transfer Agreement were actually "proceeds of crime" derived from a larger bank fraud involving Best & Crompton Engineering Projects Ltd. While these PMLA proceedings were pending, VHL entered the Corporate Insolvency Resolution Process (CIRP). In 2023, the National Company Law Tribunal (NCLT) approved a resolution plan submitted by Anirudh Agro Farms Ltd. (AAFL). With the change in...



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# PIVOTAL ISSUES

Delhi High Court Clarifies Director Liability Under Section 138 After Appointment of a Provisional Liquidator



Can a director be held criminally liable for cheque dishonour when he was legally prohibited from operating the company's bank account at the relevant time? This important question came before the Delhi High Court in *Raj Kumar Jain v. Raj Kumar Jainshree Balaji Enterprises*, where the Court examined the scope of liability under Sections 138 and 141 of the Negotiable Instruments Act, 1881 in the context of corporate liquidation. The judgment is significant because it addresses a recurring issue in insolvency and cheque dishonour litigation: whether directors can continue to face criminal prosecution once the control of the company and its assets has legally shifted to a Provisional Liquidator. The Court answered this in the negative and held that criminal liability under Section 138 cannot survive where the accused no longer "maintained" the bank account due to legal restrictions imposed by the winding-up process.

The dispute arose from a commercial transaction involving M/s PRJ Enterprises Ltd., which had issued two cheques amounting to Rs. 45 lakh in favour of the complainant. The cheques were issued in January 2012 in relation to liabilities arising out of a failed MCD auto-tipper deployment contract. However, before the cheques were presented for encashment, the Delhi High Court had already admitted a winding-up petition against the company under Section 433(e) of the Companies Act, 1956 and appointed a Provisional Liquidator on 23 May 2012. The order specifically restrained the directors from dealing with or operating the company's assets and bank accounts. Despite the appointment of the Provisional Liquidator...

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# PIVOTAL ISSUES

Can Customs Go Behind a Certificate of Origin? The Supreme Court's AFTA Dilemma

## FTA Verification vs Domestic Customs Powers



Can Indian customs authorities question a Certificate of Origin issued under a free trade agreement without first following the verification mechanism prescribed by the treaty itself? This question is now before the Supreme Court in *Rajasthan Metals v. Union of India*, pending before a Bench of Justice K.V. Viswanathan and Justice Manmohan.

The dispute arises from imports of copper tubes and pipes from Vietnam under the ASEAN-India Free Trade Agreement (AFTA). Rajasthan Metals claimed preferential tariff treatment on the basis of a Certificate of Origin (CoO) issued by the designated Vietnamese authority under the Customs Tariff (Determination of Origin of Goods) Rules, 2009. Rule 13 recognises the CoO as the foundational document supporting a preferential tariff claim.

Indian customs authorities, however, initiated proceedings proposing denial of the benefit on the ground that the goods allegedly failed to satisfy the Regional Value Content (RVC) requirement under Rule 5, which mandates that at least 35% of the FOB (Free on Board) export value of the goods must originate from ASEAN member countries. According to the Revenue, the origin declarations were unreliable because the raw material inputs may have originated from non-ASEAN jurisdictions. A show cause notice was issued, following which the Delhi High Court declined to interfere and directed the parties to pursue adjudication before the customs authorities. Rajasthan Metals thereafter approached the Supreme Court under Article 136 of the Constitution. Indian customs authorities, however, initiated proceedings...

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# PIVOTAL ISSUES

How Multi-Agency Enforcement Is Reshaping Corporate Risk in India

## The Swarm Effect



At any given moment, somewhere in the country, a company is responding to multiple proceedings simultaneously. A tax notice seeks records from a decade-old transaction. An investigative authority demands forensic disclosures relating to the same commercial arrangement. Senior counsel is being briefed overnight for an urgent stay or interim protection before the High Court or Supreme Court while another team prepares filings before a tribunal in a connected matter. And by the next morning, the business must continue functioning normally. This increasingly reflects the operating reality of large corporations in India.

Modern regulatory architecture functions through multiple statutory frameworks operating simultaneously across overlapping factual circumstances. GST authorities, the Enforcement Directorate (“ED”), SFIO, Income Tax authorities, sectoral regulators, and competition regulators frequently examine the same transaction through separate legislative mechanisms, each carrying independent procedural and commercial consequences. In today’s enforcement climate, India’s corporate sector operates less like a regulated marketplace and more like a perpetual legal war zone, where a single business decision can trigger simultaneous scrutiny from tax authorities, enforcement agencies, securities regulators, competition watchdogs, and forensic investigators. What was once regulatory supervision has increasingly evolved into an era of overlapping, high-intensity enforcement, where expansive investigations, coercive proceedings, and headline-sized demands often...

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# SIGNIFICANT CASE LAWS

## Supreme Court Refuses Bail in Dark Web Drug Trafficking Case Under PMLA, Preserves Right to Renew if Trial Delay Not Attributable to Accused

In the case of *Banmeet Singh v. Directorate of Enforcement* (2026), the Supreme Court dismissed a Special Leave Petition challenging the Uttarakhand High Court's refusal to grant bail to an accused allegedly involved in international dark web drug trafficking and money laundering. A Bench of Justices M.M. Sundresh and Nongmeikapam Kotiswar Singh found no ground to interfere with the High Court's December 2025 order, while granting liberty to the petitioner to renew his bail plea if the trial fails to proceed for reasons not attributable to him. The Enforcement Directorate alleged that Banmeet Singh and his brother Parvinder Singh operated the "Singh DTO," an international narcotics network that sold drugs through dark web marketplaces and laundered proceeds via cryptocurrency wallets and foreign remittances. Singh had been arrested in the United Kingdom in April 2019 at the request of US authorities and later entered into a plea agreement with the US on January 5, 2024. The High Court rejected his second bail application on the ground that no material change in circumstances had occurred since the dismissal of his first application, and further noted trial court observations that Singh had himself contributed to delays in proceedings by filing unnecessary applications. The ruling reaffirms the stringent bail threshold under Section 45 of the PMLA, particularly in cases involving transnational organised crime and cryptocurrency-linked money laundering. The conditional liberty preserved by the Supreme Court signals, however, that pre-trial detention driven by factors beyond the accused's control may warrant reconsideration, offering a balanced precedent for courts adjudicating bail in complex financial crime matters.

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# SIGNIFICANT CASE LAWS

## Supreme Court Issues Notice in ED's Challenge to Anticipatory Bail Granted to Accused in West Bengal Coal Smuggling Money Laundering Case

In *Directorate of Enforcement v. Anup Majee* (2026), the Supreme Court issued notice to the respondent on a petition filed by the Enforcement Directorate challenging a Delhi High Court order granting anticipatory bail in a money laundering case arising from the West Bengal coal smuggling scandal. A Bench of Justices Vikram Nath, Sandeep Mehta, and Vijay Bishnoi admitted the petition, condoned the delay in filing, and directed Majee to file a counter affidavit within eight weeks, with the ED having four weeks thereafter to file its rejoinder. The matter has been listed for hearing in September 2026. The case stems from an ECIR registered by the ED on November 28, 2020, following a CBI FIR alleging large-scale illegal excavation and pilferage of coal from leasehold areas of Eastern Coalfields Limited in alleged connivance with public officials and private persons. The ED alleges that Majee was one of the principal organisers of this illegal mining and transportation syndicate and generated proceeds of crime through the unlawful coal excavation. The Delhi High Court had, on June 13, 2025, granted anticipatory bail after holding that the twin conditions under Section 45 of the PMLA were satisfied. The High Court noted that the investigation had continued for nearly five years without any attempt to arrest Majee, despite his repeated appearances before the agency in response to summons, and that he had not misused earlier protections granted by courts in connected proceedings. It further noted that the prosecution complaint and supplementary prosecution complaint had already been filed by the time the bail application was taken up. The Supreme Court's decision to issue notice signals judicial scrutiny of the High Court's application of the twin conditions under Section 45 of the PMLA in circumstances where the accused had cooperated with the investigation. The outcome of this petition is likely to have bearing on how courts weigh an accused's prior conduct and the agency's own inaction in arrest decisions while assessing satisfaction of the stringent bail threshold under the PMLA in large-scale economic offence cases.



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# SIGNIFICANT CASE LAWS

## Supreme Court Directs Expedited Hearing in Pernod Ricard's Rs. 3,000 Crore Customs Duty Dispute Over Alleged Undervaluation of Imported Alcoholic Beverage Concentrates

In the case of Pernod Ricard India Private Limited v. Union of India (2026), the Supreme Court directed the Delhi High Court to expeditiously hear and decide Pernod Ricard's challenge to a September 2025 customs adjudication order in a long-running valuation dispute involving alleged duty liability of approximately Rs. 3,000 crore. A bench of Justices Sanjay Karol and Nongmeikapam Kotiswar Singh noted that the writ petition before the Delhi High Court was listed for July 28, 2026, and directed the parties to appear before the High Court on May 15, 2026, with a request that the matter be taken up on May 19, 2026 and decided within two weeks thereafter. The Supreme Court also requested the Chief Justice of the Delhi High Court to constitute a bench for this purpose, and listed the matter before itself on May 28, 2026 for an update on the outcome. The dispute originates from a Directorate of Revenue Intelligence investigation launched in 2014 into the alleged undervaluation of alcoholic beverage concentrates imported by Pernod Ricard from its UK affiliate, Chivas Brothers Ltd. During the investigation, Pernod Ricard deposited Rs. 60 crore with the DRI. The Special Valuation Branch subsequently rejected the declared import values and recommended a 67.49% loading on invoice values for imports made from January 1, 2021 onwards. The most recent adjudication order by the Assistant Commissioner of Customs (Import) dated September 12, 2025 is now under challenge before the Delhi High Court. The underlying controversy between the parties has been pending final adjudication since 2011. The Bombay High Court had earlier, in December 2022, rejected Pernod Ricard's challenge to customs authorities' insistence on 100% bank guarantees for provisional assessment of future imports, holding that Section 18(1) of the Customs Act could be invoked following the SVB's findings on undervaluation. The Supreme Court's intervention underscores its willingness to actively manage timelines in high-stakes commercial disputes where prolonged pendency causes disproportionate prejudice. By requesting the Delhi High Court to pre-pone the hearing and decide the matter expeditiously, the Court has signalled that the scale of the alleged duty liability and the duration of the dispute warrant priority adjudication, while expressly refraining from expressing any view on the merits of the valuation controversy.

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# SIGNIFICANT CASE LAWS

## Delhi High Court Sets Aside Appellate Tribunal's Refusal to Release Excess Proceeds of Crime Recovery, Directs Refund Against Bank Guarantee Under PMLA

In *Satyam Caterers Pvt. Limited v. Directorate of Enforcement* (2026), the Delhi High Court set aside an order of the Appellate Tribunal under SAFEMA that had refused to direct the release of an excess amount recovered from the appellant as proceeds of crime under the Prevention of Money Laundering Act, 2002. A bench of Justices Navin Chawla and Ravinder Dudeja held that the Tribunal's reasoning for denying relief was legally unsustainable and directed the ED to release Rs. 1,54,15,300 to the appellant, subject to a bank guarantee of an equivalent amount pending the outcome of the ED's appeal before the Tribunal. The Adjudicating Authority had, by its order dated March 11, 2025, quantified the proceeds of crime attributable to the appellant at Rs. 3,08,30,600. However, a prior order dated December 3, 2018 had already resulted in the recovery of Rs. 4,62,45,900 from the appellant's bank account, creating an excess recovery of Rs. 1,54,15,300. When the appellant approached the Tribunal seeking release of this differential amount, the Tribunal declined on the ground that the ED had separately challenged the March 2025 order and that granting relief to the appellant would render the ED's appeal infructuous. The High Court found this reasoning untenable, noting that the Tribunal had not examined the prima facie merits of the ED's appeal and that such merits could not have been adjudicated in the appellant's own appeal or application. Since the appellant had partly succeeded before the Adjudicating Authority, it was entitled to the consequential relief of release of the excess amount, subject to any contrary order in the ED's proceedings. The ruling clarifies an important procedural principle under the PMLA: where an accused has obtained a partial reduction in the quantification of proceeds of crime, the pendency of a cross-appeal by the ED does not, by itself, justify withholding the consequential relief flowing from that reduction. The Tribunal must independently assess the prima facie merits of the cross-appeal before denying relief, and the mere existence of a parallel challenge is insufficient grounds for refusal. The remaining adjudicated amount of Rs. 3,08,30,600 was directed to be kept in a fixed deposit pending the outcome of appeals by both parties, with the Court expressly refraining from expressing any view on the merits.



# SIGNIFICANT CASE LAWS

## PMLA Appellate Tribunal Remands Freezing Order for Fresh Adjudication, Holds That Pendency of Investigation Alone Cannot Justify Retention of Seized Properties

In the case of Sidhant Gupta & Ors. v. Deputy Director, Directorate of Enforcement (2026), the Appellate Tribunal under SAFEMA set aside an order of the Adjudicating Authority permitting continued freezing of properties of eleven appellants linked to the alleged Kwality Limited bank fraud, and remanded the matter for fresh adjudication within three months. Member V. Anandarajan held that the AA had failed to record independent findings on the appellants' contentions and had allowed retention essentially on the ground that investigation was ongoing, which does not satisfy Section 8(3) of the PMLA. Status quo on the properties was directed in the interim. The case arises from a CBI FIR against Kwality Limited and its directors Sanjay Dhingra and Sidhant Gupta for falsifying books of accounts to defraud a ten-bank consortium led by Bank of India to the tune of Rs. 1,400.62 crore. Following search operations in November and December 2024, the ED sought retention of a wide range of assets including vehicles, bank accounts, fixed deposits, demat accounts, shares, and digital devices belonging to the appellants. Before the Tribunal, the appellants contended that the AA had not satisfied the requirements of Section 17(1A), had passed the order without producing seized documents before it in violation of Section 21(2), and had referenced a non-existent paragraph of its own order, indicating non-application of mind. The ruling clarifies that Section 8(3) of the PMLA mandates a reasoned finding on whether properties are involved in money laundering, arrived at after genuine consideration of both sides. The mere pendency of investigation is insufficient to justify continued deprivation of property, and adjudicatory bodies under the PMLA remain bound to pass speaking orders regardless of the stringency of the statute's substantive provisions.

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# SIGNIFICANT CASE LAWS

## Judicial Restraint in PMLA Investigations: Reaffirming the Primacy of Statutory Powers Over Premature Constitutional Challenges

In *Rishu Shree v. Union of India & Ors.* (2026), the Patna High Court dismissed a writ petition challenging the Enforcement Directorate's proceedings under the PMLA, delivering a firm reminder that constitutional courts will not intervene in statutory investigations before charges are framed. The petitioner, a contractor accused of tender manipulation and bribery of Bihar government officials, sought to quash ECIR-13, restrain further ED action, and nullify statements recorded under Section 50, arguing coercion, violation of Article 20(3), and that ECIR-13 was merely a re-investigation of facts already covered under an earlier ECIR. The Court rejected every relief. It reaffirmed that an ECIR is an internal departmental document with no statutory basis under the PMLA, and is not amenable to quashing unless the underlying predicate offences have themselves been quashed. On self-incrimination, it held that Article 20(3) protections and Section 164(4) CrPC safeguards apply only post-arrest or formal arraignment, not during Section 50 statement recording, where the person is neither an accused nor in custody. The challenge to summons was dismissed as premature, and the ED's communications under Section 66(2) were upheld as a mandatory statutory duty rather than harassment. For practitioners advising clients under ED scrutiny, this judgment consolidates the position that challenges to ECIR registration, statement admissibility, and investigative summons must await trial, the writ window remains narrow and exceptional.

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# SIGNIFICANT CASE LAWS

## Supreme Court Grants Interim Relief to Personal Guarantor: Examining Whether IBC's Interim Moratorium Shields Against NI Act Prosecutions

In the significant development of *Karan Bhatia v. Tata Capital Limited & Ors.* (2026), the Supreme Court has issued notice and granted interim protection against coercive steps in a petition raising a consequential question, whether the interim moratorium under Section 96 of the Insolvency and Bankruptcy Code bars continuation of proceedings under Section 138 of the Negotiable Instruments Act against personal guarantors undergoing insolvency proceedings. The petitioner, a suspended director and personal guarantor facing cheque dishonour prosecutions arising from alleged defaults of approximately Rs. 19.23 crore, argued that parallel criminal proceedings mechanically pursued during insolvency effectively foreclose any meaningful opportunity for restructuring, thereby defeating the IBC's rehabilitative objectives. A Bench of Chief Justice Surya Kant, Justice Joymalya Bagchi, and Justice Vipul M. Pancholi directed that no coercive steps be taken against the petitioner in pending NI Act proceedings, and tagged the matter with a similar pending petition. The petition squarely challenges the recent ruling in *Rakesh Kumar Bhanot v. Gurdas Agro Pvt Ltd*, which treated cheque bounce prosecutions as purely criminal in nature, arguing it conflicts with the earlier binding precedent in *P. Mohanraj v. Shah Brothers Ispat Pvt Ltd*, which recognized such proceedings as compensatory and thus amenable to moratorium protection. The Court's ultimate ruling on this question will carry far-reaching consequences for lenders, insolvency practitioners, and personal guarantors alike, potentially redrawing the boundary between criminal enforcement and insolvency resolution in multi-creditor default scenarios.

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## MOHIT CHAUDHARY

### FOUNDER AND MANAGING PARTNER

Former AAG for State of J&K at Supreme Court of India  
Advocate on Record, Supreme Court of India

+91 98106 63997

mohit@knallp.com

mohitchaudhary2020@gmail.com



## KUNAL SACHDEVA

### PARTNER

+91 99536 55270

kunal@knallp.com

kunalsachdeva826@gmail.com



## PUJA CHAUDHARY

### PARTNER

+91 98106 22198

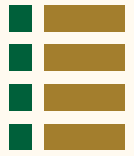
puja@knallp.com

pujabhaskar1@rediffmail.com

# EXPOSITORS

**Associate**  
Adv. Aparna Shukla

**Associate**  
Adv. Jahnobi Paul



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 +91 981 981 5818

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

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



**Kings & Alliance LLP**

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

WhatsApp Business Account



## LOCATIONS

### **CORPORATE OFFICE**

13 Ring Road, Lajpat Nagar IV,  
New Delhi - 110024

### **CHAMBER**

511, Ad. Complex, Supreme Court  
of India, New Delhi - 110001

### **IPR OFFICE**

T 518, Sector 99, Supreme Tower,  
Noida, Uttar Pradesh - 201303

### **INSIGHT DIVISION**

62/6, Channi Himmat  
(Green Belt), Jammu - 180015

### **MUMBAI**

Chamber No.3, Block No.23, 02nd Floor,  
Bell Building, Sir Phirozshah, Mehta Road,  
Fort, Mumbai - 400 001



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**Corporate Office** - 13 Ring Road, Lajpat Nagar IV, New Delhi - 110024

**Chamber** - 511, Ad. Complex, Supreme Court of India, New Delhi - 110001

 +91 981 981 5818

 [INFO@KNALLP.COM](mailto:INFO@KNALLP.COM)

 [WWW.KNALLP.COM](http://WWW.KNALLP.COM)