WCC WATCH

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

AUG 2026

COVER STORY

SIGNIFICANT CASE LAWS

TRAINING AND EVENTS

PIVOTAL ISSUES

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Editor's Note

First Things First, our cover story this month examines the Supreme Court's reaffirmation that a mandatory statutory notice is not a procedural formality but a condition precedent to prosecution under FERA. We unpack why compliance with statutory safeguards remains fundamental to the validity of criminal proceedings.

This edition's pivotal issues explore significant developments across the white collar crime landscape. We analyse the limits of invoking Section 482 to reopen concluded cheque dishonour proceedings, the continuing judicial scrutiny of attempts to invoke the PMLA in disputes that are fundamentally civil or commercial in nature, and the legal principles governing the continued retention of seized property under the PMLA.

We also examine the evolving interface between the IBC and the PMLA, where the NCLAT has reaffirmed that while the insolvency moratorium restrains creditors, it does not curtail the Enforcement Directorate's statutory powers.

Across these developments, courts continue to emphasise procedural safeguards, statutory discipline, and the careful demarcation of criminal, civil, and regulatory jurisdictions.

To cap it off, this edition brings you key case law developments together with curated events and training programmes shaping white collar crime practice.

Let's dive in.

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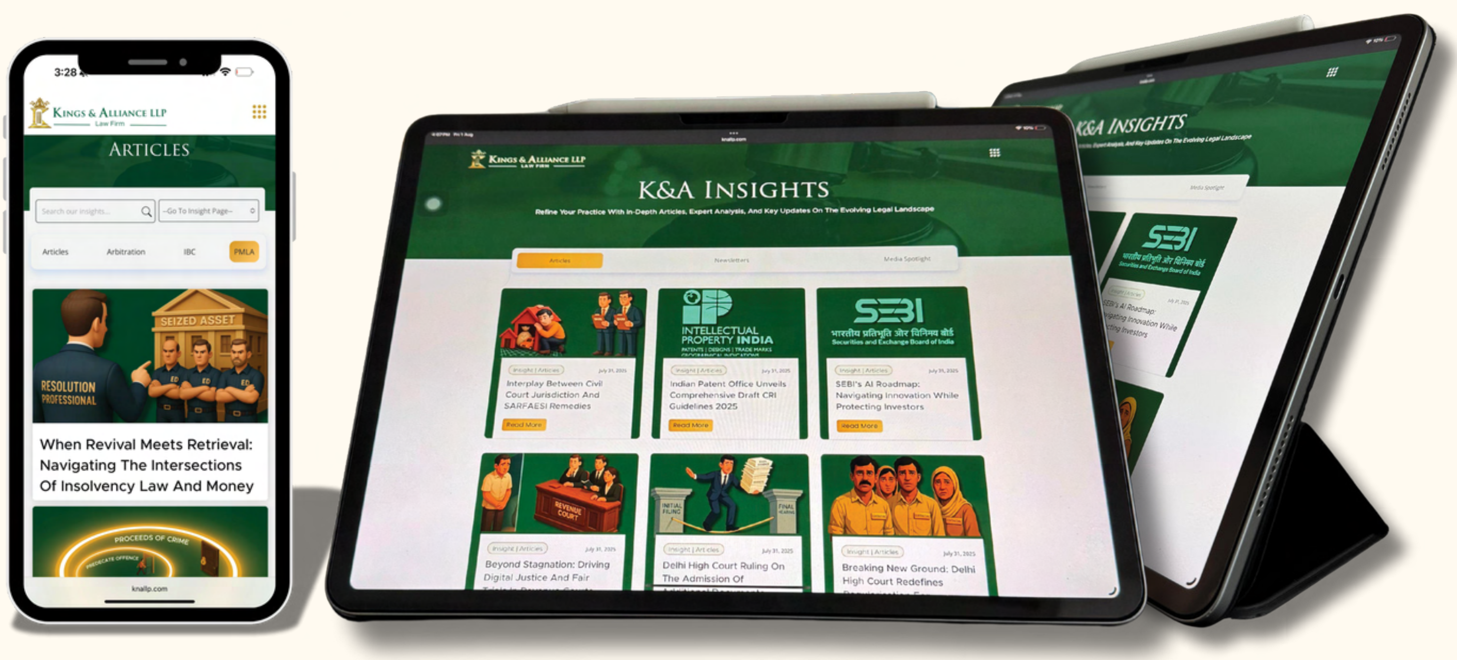

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Examining the Supreme Court's Ruling on Mandatory Notice Before FERA Prosecution

For twenty-three years, two foreign-exchange prosecutions remained stuck at the stage of summons. The underlying transaction was more than three decades old, the alleged pre-prosecution notice had never been produced, and the Enforcement Directorate could not even identify when it had been issued.

That was the record before the Supreme Court in Standard Chartered Bank v. Enforcement Officer, Ministry of Home Affairs, decided on 21 July 2026. The Court, through a Division Bench comprising Justice J.B. Pardiwala and Justice Manoj Misra, quashed the complaints after holding that the opportunity required before instituting a prosecution under FERA was a mandatory statutory condition. A bare assertion that notice had been served could not substitute for the notice itself, proof of service or the Magistrate's satisfaction that the condition had been fulfilled.

The Court also held that the availability of revision under Section 397 of the Code of Criminal Procedure, 1973 ("CrPC") did not bar the High Court from exercising its inherent jurisdiction under Section 482,and that allowing the prosecution to continue after decades of unexplained inactivity would offend the right to a speedy trial under Article 21 of the Constitution. The judgment therefore raises a question that extends beyond a repealed foreign-exchange statute: when the law prescribes a step that must precede prosecution, can the State proceed to the merits without first proving that the threshold was crossed?...

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PIVOTAL ISSUES

Can Section 482 Reopen a Concluded Cheque Bounce Case?

Can a person convicted in cheque-dishonour proceedings return to the High Court years later and seek quashing of the original complaints under Section 482 of the Code of Criminal Procedure, 1973 ("CrPC"), after the ordinary challenge to the conviction has become time-barred?

The Delhi High Court confronted this question in Rajpal Naurang Yadav & Anr. v. M/s Murli Projects Pvt. Ltd. & Anr., a batch of twenty-one petitions arising from seven complaints under Section 138 of the Negotiable Instruments Act, 1881 ("NI Act").[1] The dispute began with the financing of the film Ata Pata Lapata. Murli Projects Private Limited advanced ₹5 crore to the film's production company. The repayment obligation was revised through successive agreements, and post-dated cheques were issued. Seven cheques were subsequently dishonoured, leading to seven criminal complaints and the conviction of the petitioners in 2018. Their appeals were dismissed in January 2019. The convictions were not challenged before the High Court within limitation. Revision petitions were eventually filed in 2024 with a delay of 1,894 days. Alongside those revisions, the petitioners invoked Section 482 CrPC to seek quashing of the complaints from which the convictions had arisen. By then, the case was no longer principally about whether the cheques had been issued as security, whether the underlying transaction was an investment or a loan, or whether the parties had subsequently entered into a settlement. The larger legal issue was whether the High Court's inherent jurisdiction could be used to reopen...

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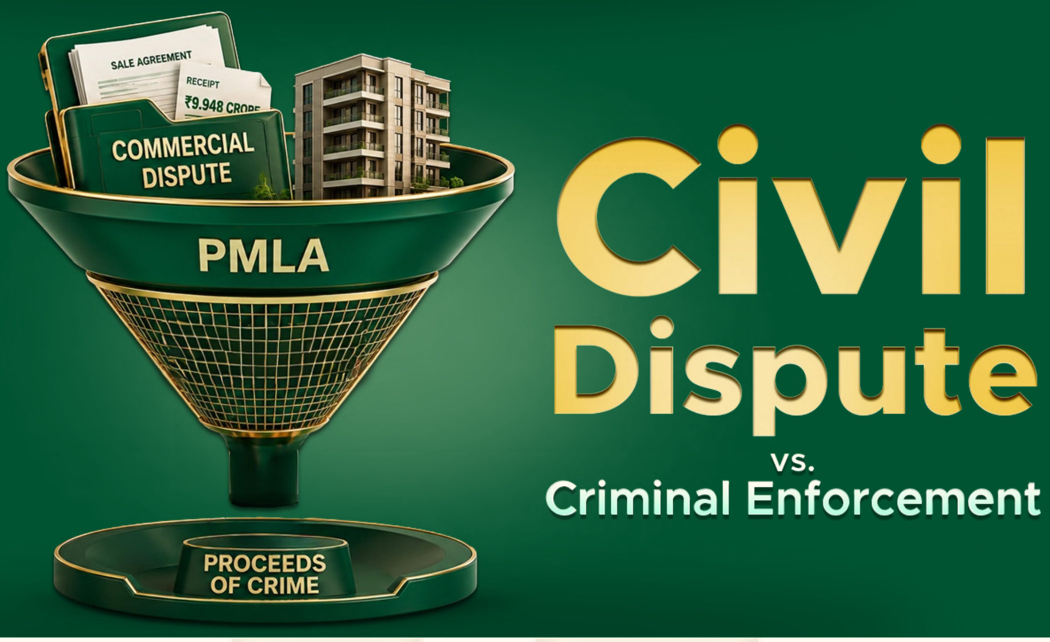
Can the Prevention of Money Laundering Act, 2002 ("PMLA")[1] be used to prosecute what is, at its core, a civil or commercial dispute?



The question becomes difficult because the PMLA does not begin with the underlying dispute. It begins one step later. Once an FIR alleges a scheduled offence, the Enforcement Directorate ("ED") may investigate whether property generated by that criminal activity constitutes "proceeds of crime".[2] The danger lies in the sequence being reversed: a disputed commercial transaction is first given a criminal colour, and the money involved is then treated as criminal proceeds.

That was the concern before the Allahabad High Court in Tulsiani Construction and Developers Ltd. v. State of U.P. The ED had initiated PMLA proceedings on the basis of multiple FIRs arising from disputes involving a real estate developer, a bank and flat buyers. The Special Court subsequently took cognizance of offences under Sections 3 and 4 of the PMLA. The High Court quashed the proceedings. Its reasoning turned on a foundational limit within the PMLA: the existence of a scheduled-offence FIR does not, by itself, create "proceeds of crime". There must be property derived or obtained as a result of criminal activity relating to the scheduled offence. The ED's case arose from FIRs alleging, among other things, failure to complete projects, deliver flats, execute sale deeds and meet financial obligations. One of the principal FIRs had been lodged by Punjab National Bank in relation to four home loans. The ED also relied on other FIRs involving flat buyers and alleged that approximately ₹9.948 crore constituted proceeds of crime. The High Court did not treat the mere existence of these FIRs as conclusive of the PMLA question. It examined the nature of...

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PIVOTAL ISSUES

The Life of a Seizure: Telangana High Court Reaffirms the Test for Continued Retention under the PMLA

Search and seizure under the Prevention of Money Laundering Act, 2002 ("PMLA") do not, by themselves, permit indefinite retention of the property seized. Continued retention must satisfy the requirements prescribed by the Act.

That question reached the Telangana High Court in M/s. Musaddilal Gems and Jewels India Private Limited v. Deputy Director, Directorate of Enforcement. The Enforcement Directorate ("ED") had conducted searches in October 2022 at premises connected with MBS Jewellers, Musaddilal Gems and their directors, seizing cash, jewellery, precious stones, documents and electronic devices. The investigation arose from allegations that the MBS Group had obtained gold bullion from MMTC Limited under the Buyer's Credit Scheme without making full payment and that the proceeds were subsequently moved through connected persons and entities. The ED applied under Section 17(4) of the PMLA for retention of the seized property and records. The Adjudicating Authority under the PMLA, in O.A. No. 757 of 2022, allowed the application on 22 August 2023. The Appellate Tribunal under SAFEMA at New Delhi, exercising appellate jurisdiction under the PMLA, affirmed that order in FPA-PMLA-765/HYB/2024 on 28 October 2024. Musaddilal Gems then filed an appeal before the Telangana High Court under Section 42 of the PMLA. The appeal raised three connected questions. Did the material before the authorities justify the "reasons to believe" recorded for retention? Could the appellant rely on an earlier judgment quashing the ECIR when the Supreme Court had stayed the operation of that judgment? And had the...

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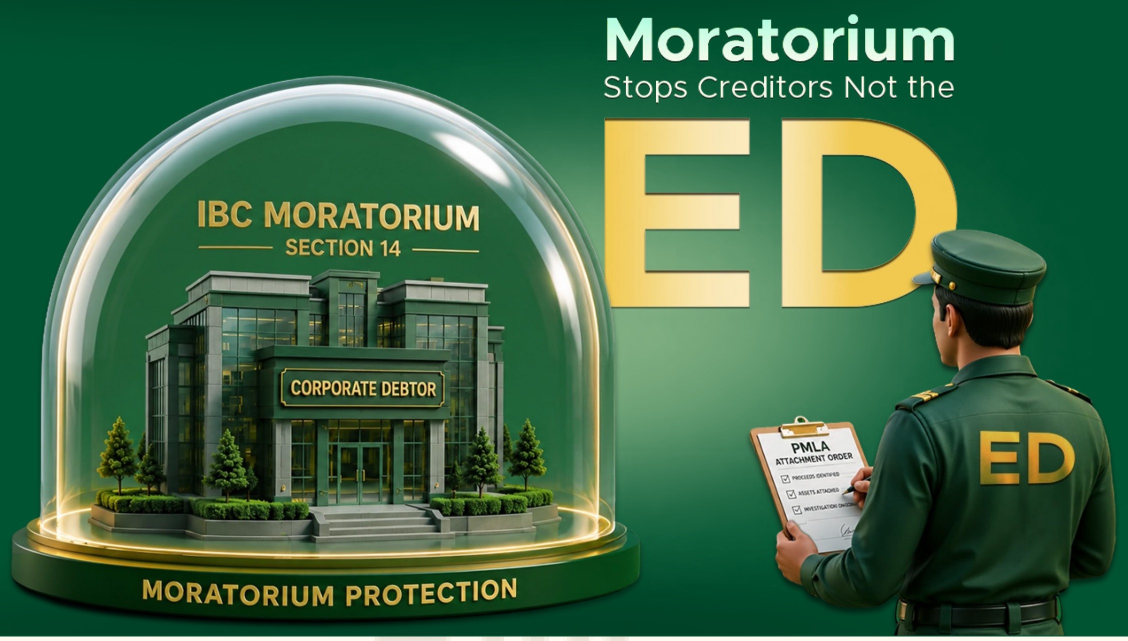
IBC Moratorium Does Not Bar PMLA Attachment: NCLAT Clarifies the Divide in Value Wise Consultanc



India's corporate restructuring landscape has played host to a quiet but fierce turf war between two powerful pieces of legislation. On one side stands the Insolvency and Bankruptcy Code, 2016 (IBC) the commercial savior, designed to rescue distressed companies and maximize asset value under a protective umbrella. On the other stands the Prevention of Money Laundering Act, 2002 (PMLA) the state's relentless asset hunter, empowered to track, freeze, and confiscate properties deemed to be the "proceeds of crime."

For years, the IBC ecosystem has debated the spatial limits of the moratorium, the NCLAT in a judgement pronounced on June 30, 2026 in Value Wise Consultancy Pvt. Ltd. v. Deputy Director, Directorate of Enforcement addresses the same. The Tribunal (Justice N. Seshasayee (Judicial Member), Mr. Arun Baroka (Technical Member) and Mr. Indevar Pandey (Technical Member) held that the commencement of insolvency does not automatically suspend PMLA attachment proceedings and that challenges to such proceedings must be pursued through the statutory framework under the PMLA. The early jurisprudence treated the IBC and the PMLA as operating in distinct fields. In Varrsana Ispat Ltd. v. Deputy Director, Directorate of Enforcement The NCLAT held that the Section 14 moratorium does not prevent penal proceedings under the PMLA. The Delhi High Court adopted a similar position in Deputy Director, Directorate of Enforcement v. Axis Bank holding that attachment under the PMLA is not a debt-recovery mechanism. Its purpose is to prevent the enjoyment...

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Reconsideration of Sanction Order Without Fresh Material Impermissible Under PC Act

In State of Rajasthan & Ors. vs. Dev Kant Meena (Supreme Court of India, 29 July 2026, authored by Justice J.B. Pardiwala) This matter concerns a appeal filed by the State challenging the quashing of a sanction order issued under the Prevention of Corruption Act, 1988. The Supreme Court dismissed the appeal with costs, holding that an order refusing sanction to prosecute a public servant cannot be subsequently reviewed or reconsidered by the competent authority on the exact same materials without fresh evidence. The court observed that prosecution sanction cannot be reopened at political dictates or due to a mere administrative change of opinion.

VIEW JUDGEMENT

Apex Court Cautions Enforcement Agencies Against Routine Challenges to Bail Orders

In Directorate of Enforcement vs. Chaitanya Baghel (Supreme Court of India, 22 July 2026, authored by Chief Justice Surya Kant) This matter involves appeals filed by the ED challenging the grant of bail to the accused in a multi-crore liquor scam money laundering case. The Supreme Court dismissed the appeals, holding that routine challenges to bail orders by investigative agencies are uncalled for where trial delay and lesser degree of involvement are established. The court observed that minor procedural defects in a High Court bail order do not justify revoking an accused person's liberty.

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SIT Ordered in Commercial Insurance Fraud Case Following Staged Fire and Fabricated Invoices

In United India Insurance Co. Ltd. vs. Sayona Colors Pvt. Ltd. (Supreme Court of India, 17 July 2026, authored by Justice J.B. Pardiwala and Justice Manoj Misra) This appeal arose from a National Consumer Disputes Redressal Commission (NCDRC) order awarding partial compensation for fire damages. The Supreme Court set aside the consumer forum's order and quashed the claim in its entirety, reaffirming the settled principle that fraud vitiates all solemn acts. Evaluating forensic findings of externally introduced accelerants (kerosene) alongside fabricated supplier invoices, the Court held that staged incidents and fraudulent insurance claims forfeit all entitlement to equitable or partial relief. Invoking its plenary powers under Article 142 of the Constitution, the Supreme Court took the rare step of directing the Commissioner of Police to constitute a Special Investigation Team (SIT) to initiate criminal prosecution against the insured entity's management.

VIEW JUDGEMENT

Special Court Jurisdiction Determined by Location of Concealed Proceeds of Crime

In Amit Katyal vs. Union of India & Anr. (Supreme Court of India, 14 July 2026, authored by Chief Justice Surya Kant) This transfer petition sought the shift of a real estate money laundering prosecution complaint from Gurugram to Delhi. The Supreme Court allowed the transfer to the Special PMLA Court at New Delhi, holding that under Section 4 of the PMLA, territorial jurisdiction extends to any place where a portion of the offence including the concealment or possession of attached proceeds of crime takes place.

VIEW JUDGEMENT

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Organized By: Future Crime Research Foundation (FCRF)

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