

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 220 OF 2014  
WITH  
CRIMINAL APPLICATION (APPA) NO. 377 OF 2014

Dy. Director of Income Tax (Inv.),  
Unit (3) E-2, ARA Centre,  
Jhandewalan Extension, New Delhi

.... Appellant

v/s.

- 1) Mohan India Pvt. Ltd.  
The Company registered with the  
Companies Act, 1956 and having  
registered Office at 354,  
Tarun Enclave Pitampura,  
New Delhi – 110 034.
- 2) Tavishi Enterprises Pvt. Ltd.,  
The Companies Registered under the  
Companies Act, 1956 and having  
registered office at 1A/101,  
Rangrasyan Apartments, Sector – 13,  
Rohini, New Delhi
- 3) Brinda Commodity Pvt. Ltd.,  
The Companies Registered under the  
Companies Act, 1956 and having  
Registered Office at 406, D Mall,  
Pitampura, New Delhi – 110008.
- 4) The State of Maharashtra  
Through EOW, Unit-V, in C.R.No.89/2013.
- 5) National Spot Exchange Ltd. (NSEL)  
F.T. Towers, CTS No.256 and 257,  
4<sup>th</sup> Floor, Surren Road, Chakala,  
Andheri (East), Mumbai – 400 093.
- 6) Enforcement Directorate,  
Mittal Chambers, IInd Floor,  
Nariman Point Mumbai – 400 021.

.... Respondents

**WITH  
CRIMINAL APPLICATION (APPA) NO. 1573 OF 2017  
IN  
CRIMINAL APPEAL NO. 220 OF 2014**

Pankaj Ramnaresh Saraf

Aged : 42 years, residing at 182,  
Venus Apartment, Cuffe Parade,  
Mumbai – 400 005.

.... Applicant

In the matter between :-

Dy. Director of Income Tax (Inv.),  
Unit (3) E-2, ARA Centre,  
Jhandewalan Extension, New Delhi

.... Appellant

v/s.

- 1) Mohan India Pvt. Ltd.  
The Company registered with the  
Companies Act, 1956 and having  
registered Office at 354,  
Tarun Enclave Pitampura,  
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- 3) Brinda Commodity Pvt. Ltd.,  
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- 5) National Spot Exchange Ltd. (NSEL)  
E.T. Towers, CTS No.256 and 257,  
4<sup>th</sup> Floor, Suren Road, Chakala,  
Andheri (East), Mumbai – 400 093.

- 6) Enforcement Directorate,  
Mittal Chambers, IInd Floor,  
Nariman Point Mumbai – 400 021. .... Respondents
- 

Mr. A.K. Saxena for the Appellant.

Mr. Vinay J. Bhanushali a/w. Mr. Abhiraj Rao, Mr. Sanmit Vaze and

Ms. Diksha Sharma for Respondent Nos.1 to 3.

Ms. Leena Patil, Special PP and Smt. P.P. Shinde, APP for Respondent No.4 – State.

Mr. Arvind Lakhawat a/w. Adv. Nimeet Sharma, Mrs. Jalpa Shah, Mr. Vineet Vaidya & Ms. Himani Narula i/b. MZM Legal LLP for Respondent No.5 – NSEL.

Mr. Anil Yadav for Respondent No.6-ED.

Mr. Rahul Landge, API, EOW, Unit – 14, Mumbai, present.

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**CORAM: A.S. GADKARI AND  
SHYAM C. CHANDAK, JJ.**

**RESERVED ON : 24<sup>th</sup> FEBRUARY, 2026  
PRONOUNCED ON : 10<sup>th</sup> MARCH, 2026**

**JUDGMENT : [PER : SHYAM C. CHANDAK, J.] :-**

1) Present Appeal filed under Section 11 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short ‘**MPID Act**’) seeking to quash and set-aside the Order dated 8<sup>th</sup> January, 2014 passed by the learned Special Judge, City Civil Court, Gr. Bombay, allowing the MA/107/2013 filed under Section 9 of the MPID Act in C.R.No.89/2013 registered with EOW, Unit-V Mumbai.

2) Heard Mr. Saxena, learned counsel for Appellant, Mr. Bhanushali, learned counsel for Respondent Nos.1 to 3, Ms. Patil, learned Special PP appearing for Respondent No.4, State, Mr. Lakhawat, learned

counsel for Respondent No.5, NSEL and Mr. Anil Yadav, learned counsel for Respondent No.6, ED.

3) Facts giving rise to this Appeal are that, a survey action under Section 133A of the Income Tax Act, 1961 (for short 'I.T. Act') was carried out by the Appellant-Deputy Director of Income Tax, New Delhi on the business premises of Respondent No.1-M/s. Mohan India Pvt. Ltd and Respondent No.2-M/s. Tavishi Enterprises Pvt. Ltd. on 22<sup>nd</sup> August 2013. A search action under Section 132 of I.T. Act was carried out in the cases of Respondent Nos.1, 3-Brinda Commodity Pvt. Ltd. and one Mr. Ram Awadh Sharma on 26<sup>th</sup> August 2013. During that search, unexplained money totaling to Rs.59.53 Crores in the form of bank deposits were seized. According to the Appellant, said money was required for recovering any liability likely to arise after completion of the assessment under Section 153A of I.T. Act and as provided under Section 132B of I.T. Act.

3.1) In this background, initially, Respondent Nos.1 to 3 had preferred a Miscellaneous Application No.98/2013 before the Special Court and claimed following reliefs :-

- a) Stay to attachment against EOW.*
- b) To restrain EOW for not taking coercive action.*
- c) Permission to sell properties of respondent nos.1 to 3.*
- d) Releasing the bank account bearing No.912020033806451 in Axis Bank, Rohini West Branch, Delhi.*
- e) Directing EOW to desal various godowns and permission to sell the stock of sugar.*
- f) Directing the Income Tax Department, Delhi to release the cash of Rs.60.15 Crore.*

3.2) In said MA/98/2013 Respondent Nos.1 to 3 had asserted that, pursuant to a conciliation process initiated under Section 73 of the Arbitration and Conciliation Act, 1996 a settlement dated 30<sup>th</sup> October 2013 was arrived at amongst Respondent Nos.1 to 3 and Respondent No.5. In view of said settlement, Respondent Nos.1 to 3 had paid an amount of Rs.11 Crores to the Respondent No.5 and said Respondents were under obligation to comply with the terms and conditions of said settlement. Respondent No.4-EOW, Mumbai had also initiated an investigation by registering C.R.No.89/2013. During investigation, Respondent No.4 has sealed certain bank accounts with Axis Bank, Delhi and the godowns at *Khasra* No.106/255 Khera Kalan, Delhi and *Khasra* No.398/2 Hamidpur, Delhi on 2<sup>nd</sup> October 2013. Respondent Nos.1 to 3 submitted that, sugar stored in the godowns was perishable and it may be ruined. The Respondent No.4 had also issued notices to the Tahsildar concerned to secure properties of Respondent Nos.1 to 3 for the purpose of attachment. Respondent Nos.1 to 3 wanted to honour their obligations under the Settlement Award dated 30<sup>th</sup> October 2013 and intending to pay Rs.771 Crores to Respondent No.5 which would protect the interest of the depositors. If the amount of Rs.60.15 Crores would be released, it will be deposited with the Respondent No.5. Therefore, they prayed for the said reliefs.

3.3) Respondent No.4 filed its reply in said MA/98/2013 and

contended that, the Respondent No.5 had accepted the deposits of Rs.5,660 Crores from 13,000 investors and cheated them. As a result, C.R.No.89/2013 was registered by Respondent No.4 under Sections 465, 467, 468, 471, 474, 477(a), 409 read with 120B of the Indian Penal Code (for short 'IPC') and Sections 3 and 4 of the MPID Act. About 25 member companies of NSEL had not repaid any amount to Respondent No.5 and have misappropriated it. Respondent No.1 was set up in 2010 and Respondent Nos.2 and 3 were set up in 2013 to deal in real estate and commodity trading. These companies had received an amount of Rs.929.40 Crores from Respondent No.5. The said amount was not invested to purchase sugar but to purchase various properties in Delhi, Gurgaon and Haryana. Therefore, the said settlement was not legal. Accordingly, it had prayed for rejection of the Application.

3.4) Respondent No.5 also filed its reply and has admitted that, it had entered into the Settlement Agreement dated 30<sup>th</sup> October, 2013. Thereunder, Respondent Nos.1 to 3 had undertaken to pay Rs.771 Crores within 14 months from 30<sup>th</sup> October 2013. Therefore, the Respondent No.5 has no objection to allow the Application.

3.5) After hearing the parties and considering the record, the trial court held that, the settlement arrived at between the parties was lawful. Respondent Nos.1 to 3 were entitled for the reliefs in terms of prayer clauses (a) to (e) in MA/98/2013. However, for not arraying the

Appellant-I.T. Authority, Delhi as a 'party' to the Application, the trial court declined to grant the prayer clause (f), i.e., direction to the Appellant to release the seized amount of Rs.60.15 Crores and thus, partly allowed the MA/98/2013.

4) It is in this background Respondent Nos.1 to 3 had preferred MA/107/2013 under Section 9 of the MPID Act. Therein they asserted that, the entire amount of Rs.60.15 Crores was received by them from Respondent No.5. No tax liability was assessed by the Appellant in respect of said amount. In case such a liability would accrue in the future, Respondent Nos.1 to 3 alone would discharge the same. In view of Section 14, the MPID Act has overriding effect on I.T. Act. The Respondents have no objection if that amount is transferred to the Escrow Account maintained by Respondent No.5 for the benefit of the investors. Therefore, it was prayed to direct (i) the Appellant to deposit the said amount of Rs.60.15 Crores with the Respondent No.5, (ii) Respondent No.4 not to take any coercive action including but not limited to attachment of any property/assets of Respondent Nos.1 to 3, etc. and (iii) to direct Respondent No.4 to return the original title documents of their properties, permit them to sell the properties and to deposit the sale proceeds into the Escrow Account of Respondent No.5 for the benefit of depositors.

5) Respondent No.5 responded the MA/107/2013 with its reply.

The Respondent No.5 has conceded about execution of the Agreement dated 30<sup>th</sup> October 2013. It was contended that Respondent Nos.1 to 3 had to pay Rs.59 Crores to the Respondent No.5 on or before 2<sup>nd</sup> December 2013, as 2<sup>nd</sup> installment of the settlement agreement. In case of delay in payment of said installment, the 1<sup>st</sup> installment of Rs.11 Crores was liable to be forfeited as per said settlement. Cheques drawn in favour of the Respondent No.5 towards the settlement were dishonoured. Therefore, it was necessary to direct the Appellant to release the amount of Rs.59 Crores and credit that amount in the Escrow Account of the Respondent No.5. Accordingly, the Order dated 2<sup>nd</sup> December 2013 in MA/98/2013 may be modified.

6) The Appellant contested the Application with its reply contending that, the seized bank deposits are worth Rs.59.53 Crores. Said deposits have been seized under the provisions of the I.T. Act. The amount is required for recovering any liability likely to arise after completion of assessment under Section 153 A of I.T. Act, as provided by Section 132 B of the I.T. Act. The seized cash was not in the name of any of the Respondent Nos.1 to 3 but in the name of the following concerns/persons :-

SR No.	Name of Holder of Bank Account	Balance in bank account (Rs.)	Seized (Rs.)
1.	Worldwin Consultant India Pvt. Ltd., Axis Bank, D-81, Malviya Nagar, New Delhi	5,50,00,000/-	5,50,00,000/-

2.	Sh. Jai Shankar Srivastava, Axis Bank, Deepali Enclave, Pitampura, Outer Ring Road, New Delhi	33,93,195/-	33,93,195/-
3.	Sh. Jag Mohan, Axis Bank, D Mall, Rohini, New Delhi	16,29,985/-	16,29,985/-
4.	Sh. Ram Awadh Sharma Axis Bank, Deepali Enclave, Pitampura, Outer Ring Road, New Delhi	7,81,293/-	7,81,293/-
5.	Sh. Ram Awadh Sharma Axis Bank, Deepali Enclave, Pitampura, Outer Ring Road, New Delhi	53,45,00,000/-	53,45,00,000/-

6.1) Investigation in respect of Respondent No.1 revealed an Axis bank account belonging to one Mr. Ram Awadh Sharma with transactions running into several crores. In his statement recorded on oath under Section 132(4) of I.T. Act, Mr. Ram Awadh Sharma has stated that, he was not aware of the said Axis Bank account in his name, nor he knew from where said funds were received and were utilized. Twice statement of Mr. Jai Shanker Srivastava, Director of Respondent Nos.1 and 3 was recorded but he also could not explain the transactions in said bank account nor could he give the necessary details. Since no explanation was given by the parties concerned, the Appellant was bound to seize the amount of Rs.53.45 Crores. The inquiry as to the Directors of M/s. Worldwin Consultants India Private Limited did not reveal any fruitful information about its Directors Mr. Devesh Singh and Bhipender Singh. Mr. Jai Shanker Srivastava was not related to M/s. Worldwin Consultants India Private Limited. No books of accounts were found in case of

Respondent Nos.1 to 3. Despite repeatedly asked by the Appellant, Respondent Nos.1 to 3 were evasive as to utilisation of the funds received from Respondent No.5. As alleged, Mr. Ram Awadh Sharma had received the funds from Respondent No.3 but according to Respondent No.5, Respondent No.3 was not a defaulter. In the backdrop, it cannot be maintained that the seized amount was received from Respondent No.5 and it belonged to Respondent Nos.1 to 3. This was a clear case of embezzlement and therefore subject to income tax proceedings under Sections 153A/143 (2) read with Section 68 of I.T. Act. The said amount was lawfully seized under the provisions of Section 132 of I.T. Act. The provisions of MPID Act are not applicable to such seizure. In the backdrop, Respondent Nos.1 to 3 shall take recourse to Section 132 B of I.T. Act. Hence, the Application may be rejected.

7) Respondent No.6 also filed its Reply and opposed the Application with contentions that, a case of predicate offences was made out against the NSEL and its defaulter members. Consequently, FIR was registered against them by Respondent No.6 under the IPC and PMLA Act. Pursuant to the settlement, Respondent No.1 was liable to pay Rs.921.40 Crores to NSEL. That, provisional attachment Order was obtained against certain properties of Respondent Nos.1 to 3 under Section 5 of PMLA Act. The PMLA Act being later in point of time and in view of Section 71 thereof, it has an overriding effect over all other

enactments. Therefore, the Application was liable to be rejected.

8) After hearing the parties and considering the record, the learned Judge of the trial Court observed that Respondent No.5 has not disputed that the subject matter 'money' belonged to the investors which Respondent Nos.1 to 3 had received from Respondent No.5. The statement of accounts filed by the Appellant also indicate the said fact. The MPID Act has received the assent of the President on 21 January 2000 and then it was published in the official gazette. The PMLA Act is later in point of time. In view of Articles 254 of the Constitution of India, Section 4 & 14 of the MPID Act and the decision in case of *K.K. Baskaran v. State rep. by its Secretary, Tamil Nadu & Ors.*, reported in (2011) 3 SCC 793, the MPID Act has overriding effect on the other Acts. The provisions of Section 5 (3), 6 and 7 of the MPID Act has provided that the trial Court has jurisdiction and powers to decide the controversy in the matter and pass necessary order for release of the assets to satisfy the investors. The settlement arrived between Respondent Nos.1 to 3 and the Respondent No.5 was lawful and it intended to protect the interest of the investors who are the ultimate victims of the crime. In wake of above, the learned Judge accepted the case of Respondent Nos.1 to 3 and allowed the Application.

9) Mr. Saxena, learned counsel for Appellant submitted that the trial Court has failed to consider that the subject matter 'money' was

seized under the provisions of I.T. Act. Said money was not provisionally attached under Section 4 of MPID Act. Respondent Nos.1 to 3 were not defaulters of Respondent No.5 as provided in Section 3 of MPID Act. Therefore, the trial Court had no jurisdiction to decide the subject Application. The assessment proceedings initiated after seizure of the money were decided against Respondent Nos.1 to 3. In this background, the trial Court had no jurisdiction to adjudicate the question of release of the money and only I.T. Authority was competent to decide that question. Lastly, looking at the facts of the case, the PMLA Act and I.T. Act has overriding effect on the case. For these reasons the impugned Order is not sustainable in law. To buttress these submissions he has relied upon the decision in *Jalgaon District Central Coop. Bank Ltd. v. State of Maharashtra and Ors* reported in *2025 SCCOnline SC 2513*.

10) In reply, Mr. Bhanushali for Respondent Nos.1 to 3, Ms. Patil, learned Special PP for Respondent No.4 – State, Mr. Lakhawat, learned counsel for Respondent No.5 – NSEL and Mr. Yadav, learned counsel for Respondent No.6-ED have maintained the stand which they had taken in their Application and say filed before the trial Court. Additionally, Mr. Lakhawat submitted that in the facts and law, the MPID Act has overriding effect on the other laws applicable here.

11) We have carefully considered these submissions and perused the record.

12) It was the specific case of Respondent Nos.1 to 3 that they had received the subject matter 'money' from the Respondent No.5. The latter has not denied the said fact in its reply. According to Respondent No.4, an amount of Rs.929.40 Crores was received by Respondent Nos.1 to 3 from the Respondent No.5. Pursuant to the settlement, Respondent No.1 had acknowledged the liability of Rs.921.40 Crores to Respondent No.5 and undertaken to pay Rs.771 Crores within 14 months from the settlement date 30<sup>th</sup> October, 2013. Therefore, the trial Court has held that the subject matter 'money' was received from the NSEL. This finding of the trial Court is not disputed by the Appellant.

13) As held in case of *National Spot Exchange Ltd. v. Union of India* reported in *2025 SCC OnLine 1137*, merely because the SARFAESI Act and RDB Act which are enacted in respect of the subject matter falling in List-I and having been enacted by Parliament, they could not be permitted to override the MPID Act, which is validly enacted for the subject matter falling in List-II – State List. If such an interpretation is permitted to be made, it would amount to denuding the State of its legislative power to enact and enforce legislation, which is within the exclusive domain of the State and it would offend the very principle of Federal Structure set out in Article 246 of the Constitution of India, held to be a part of the basic structure of Constitution of India.

13.1) Therefore, we are in agreement with the findings of the trial

court that, the MPID Act has overriding effect on the PMLA Act and the provisions of the I.T. Act under which subject matter 'money' was seized and consequently, it was within its jurisdiction to decide the question of releasing the subject money.

14) The settlement agreement was executed between the Respondent No.5, Respondent Nos.1 to 3 and seven other parties. It was specifically prayed by Respondent Nos.1 to 3 that in case the subject matter 'money' is released, it be credited to the Escrow Account of the Respondent No.5 so as to further transfer it to the investors in view of the settlement. Since the money was received fraudulently in violation of the law, the related scheme and by dishonest means, and therefore it was necessary to release that money. For these reasons the trial Court has allowed the MA/107/2013. In the facts and circumstances of the case, said reasons are justifiable.

15) Mr. Lakhawat, learned counsel submitted that, MA/452/2016 filed by Respondent No.4 to make absolute the attachment of the properties of Respondent Nos.1 to 3, was allowed by the trial Court. This Court has passed an Order and permitted the Respondent No.5 to enforce and execute the said Settlement Agreement against Respondent Nos. 1 to 3 as an Arbitral Award. Said Agreement has been held as lawful by the Hon'ble Supreme Court when it rejected the objection filed by Respondent Nos.1 to 3 in the execution proceedings. In *National Spot Exchange Ltd* (supra),

the Apex Court observed that vide Order dated 4<sup>th</sup> May 2022 Supreme Court Committee was constituted and Order was made to transfer the execution proceedings of all the decrees/orders/awards obtained by the Respondent No.5 against the defaulters including Respondent Nos.1 to 3. Further, said Committee has been empowered to execute the said decrees.

16) In the wake of above, we do not find that impugned Order is erroneous either on facts or in law and calls for an interference by this Court. In the result, the Appeal fails and it is liable to be dismissed.

Hence, the following Order :-

16.1) Appeal is dismissed.

16.2) As a result, pending Applications do not survive and are accordingly disposed off.

**(SHYAM C. CHANDAK, J.)**

**(A.S. GADKARI, J.)**

17) At this stage, Mr. Saxena, learned Advocate appearing for the Appellant requested this Court to continue the ad-interim relief granted earlier, for a period of four weeks, to enable the Appellant to question the correctness of this Judgment before the Hon'ble Supreme Court.

17.1) It be noted here that, present Appeal is pending for last 12 years. As noted in the body of the Judgment, it is the investors/victims who are the ultimate sufferers in the present crime. We are of the view

that, as per the intention of legislature in enacting the MPID Act the interest of the investors/victims of the crime is to be given more importance than the claim of the Government entities. Ultimately, the said Act is enacted with an avowed object for protecting the interest of the depositors and not for protecting the interest of other entities.

18) In view thereof and for the reasons stated in the Judgment the said request is rejected.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)