

**IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE**

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 5043 of 2026

Dipak De

Vs.

Union of India & Ors.

Mr. Raj Mohan Chatteraj, Sr. Adv.

Mr. Sankar Prasad Dolopati

Mr. Rohan Dwaipayan Bhowmick

Ms. Debapriya Ghosh

Ms. Ankita Das

Ms. Priyanka Yadav

...For the petitioner.

Mr. Vipul Kundalia, Sr. Adv.

Mr. Soumen Bhattacharjee

Mr. Dhirodatto Chaudhuri

.... For the U.O.I.

Mr. Dhiraj Trivedi, Ld. D.S.G.I.

Mr. Bhaskar Prosad Banerjee

.... For the E.D.

Hearing Concluded On : 09.03.2026

Judgment on : 16.03.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition praying for a direction upon the respondents for supply of all “Relied Upon Documents” (RUDs) and for quashing of the impugned show cause notice dated 25th November, 2025, issued under Section 8(1) of the Prevention of Money-laundering Act, 2002 (PMLA, 2002).
2. On receipt of an application filed by the Deputy Director, Enforcement Directorate under Sub-Section 4 of Section 17 of the PMLA, 2002, the Adjudicating Authority had issued show cause notice to the petitioner on 27th November, 2025, calling upon the petitioner to show cause as to why the retention under Sections 20 and 21 of the PMLA, 2002 of movable properties in the form of cash, digital devices and documents/ records seized, shall not be permitted to be retained by the Enforcement Directorate in terms of 17(4) of the Act of 2002.
3. On receipt of the notice, the petitioner through his Advocate sent a notice to the Deputy Director, Enforcement Directorate on 16th December, 2025 and the copy of the said notice was also sent to the Registrar of the Adjudicating Authority informing that the “Relied Upon Documents” have not been received by the petitioner and thus requested to provide the documents to the petitioner. On receipt of the notice, the Registrar of the Adjudicating Authority by an e-mail dated

18th December, 2025, requested the Enforcement Directorate for necessary action and to submit proof of service of documents. The Learned Advocate for the petitioner by an email dated 21st December, 2025, informed the Registrar of the Adjudicating Authority that the Enforcement Directorate has not complied with the direction and no documents have been supplied to the petitioner.

4. On 24th December, 2025, the petitioner has received a copy of Original Application in PDF file which was signed by the Deputy Director of the Enforcement Director on 13th November, 2025. On 24th December, 2025, the petitioner received a PDF file being named as “RUD-1” being copy of the ECIR/KLZO-II/15/2023 dated 11th May, 2023. The petitioner has further received three (3) PDF files being “RUD-2A”, “RUD-2B” and “RUD-3” dated 24th December, 2025.
5. On 4th January, 2026, the petitioner has sent a legal notice to the Adjudicating Authority informing that inspite of several requests made by the petitioner, no records as mandated under Rule 13(2), has been supplied to the petitioner and requested to extend time to file reply subject to supply of documents as provided under Rule 13(2) of the Adjudicating Authority (Procedure) Regulations, 2013. The Adjudicating Authority has extended the time till 25th January, 2026. The Learned Advocate for the petitioner again sent a notice to the Adjudicating Authority on 5th January, 2026 informing that the petitioner has not received documents and requested to extend the time to file reply and also direct the Enforcement Directorate to supply documents in

compliance with the provisions of Rule 13(2) of the Adjudicating Authority (Procedure) Regulations, 2013.

6. On 23rd January, 2026, the petitioner has again sent a notice through his Learned Advocate through email by giving details of the documents which are the “Relied Upon Documents” but not served to the petitioner and requested for supply of documents and extension of time to reply the show cause notice.
7. The petitioner has not received any further document inspite of request made to the Adjudicating Authority, the petitioner has sent para wise comments by an email through his Learned Advocate on 25th January, 2026, without prejudiced to his rights and contentions with the request to withdraw the show cause notice dated 25th November, 2025. The petitioner again on 29th January, 2026, by an email through his Learned Advocate informed the Adjudicating Authority to the “Relied Upon Documents” supplied to the petitioner are actually not the “Relied Upon Documents” and the Enforcement Directorate misrepresented by suppressing the original documents and by misleading have obtained an order of reason to believe.
8. Mr. Raj Mohan Chatteraj, Learned Senior Advocate representing the petitioner submits that in spite of several requests made by the petitioner, no “Relied Upon Documents” have been served upon the petitioner in compliance with Rule 13(2) of the Adjudicating Authority (Procedure) Regulations, 2013.

9. Mr. Chatteraj submits that the petitioner has submitted details of the documents which the petitioner requires for submission of reply to the show cause notice but the respondents have not supplied the same and have violated the provisions of Rule 13(2) of the Adjudicating Authority (Procedure) Regulations, 2013. He submits that the petitioner by an email dated 23rd January, 2026, requested the Registrar for inspection of records of the case and by an email dated 5th February, 2026, the Registrar has allowed the inspection of the records on 10th February, 2026. The petitioner has submitted challan and also applied for certified copy of the records of the Original Application.
10. Mr. Chatteraj submits that the Original Application received by the petitioner from the Adjudicating Authority on 24th December, 2025 from which it reveals that the said application was filed on 13th November, 2025, but in the show cause notice dated 27th November, 2025, it is recorded that the application was filed on 8th November, 2025. To ascertain the same, the petitioner has applied certified copy of the same but it was not provided to the petitioner.
11. Mr. Chatteraj in support of his submission, has relied upon the following judgment:
- (i) ***Natwar Singh vs. Director of Enforcement and Another*** reported in (2010) 13 SCC 255.
 - (ii) ***Excel Powmin Ltd. vs. Union of India and Another*** reported in 2020 SCC OnLine Cal 384.

(iii) **J. Sekar vs. Union of India and Others** reported in **2018 SCC OnLine Del 13481**.

(iv) **Naresh Jain vs. Deputy Director Directorate of Enforcement, Delhi** reported in **2019 SCC OnLine Del 11877**.

- 12.** Mr. Dhiraj Trivedi, Learned D.S.G.I representing the Enforcement Directorate submits that show cause notice was issued to the petitioner but the petitioner failed to submit any reply to the show cause notice. He submits that as per Section 8(2) of the PMLA, 2002, considering the reply, if any, to the notice issued under Section 8(1) and after hearing the person and the applicant and after taking into consideration the materials on record, the Adjudicating Authority will decide whether the properties referred are involved in the money laundering or not.
- 13.** Mr. Trivedi submits that the petitioner has disclosed that “Relied Upon Documents” being RUD-1, RUD-2A, RUD-2B and RUD-3 are served upon the petitioner. He relied upon Sub-Rule (11) of Rule 13 of the Adjudicating Authority (Procedure) Regulations, 2013 and submits that the Act provides communication through electronics mode and it was communicated to the petitioner through PDF by mail and the same was received by the petitioner but the petitioner has raised the only contention that as per Sub-Rule (2) of Rule 13 of the Adjudicating Authority (Procedure) Regulations, 2013, the complete relied upon documents was not served in a bound paper book.

- 14.** Mr. Trivedi submits that as per Rule 15 of the Adjudicating Authority (Procedure) Regulations, 2013, the petitioner has to file reply before the date of hearing but the petitioner has not filed any reply. He further relied upon Rule 21 of the Adjudicating Authority (Procedure) Regulations, 2013 and submits that the petitioner is at liberty to examine his witness before the Adjudicating Authority. He submits that if the petitioner is aggrieved with the order, if any, passed by the Adjudicating Authority, the petitioner is at liberty to file appeal under Section 26 of the PMLA, 2002.
- 15.** Mr. Trivedi submits that an amount of Rs. 25,50,000/- in cash was recovered from the house of the petitioner at the time of search and the petitioner has to show the justification of the said amount but the petitioner failed to justify the same and accordingly the matter was referred to the Adjudicating Authority. He further submits that the Adjudicating Authority has the power to summons, production of documents and evidences and if the petitioner intends to produce evidence or any document is required to be produced, the petitioner can take appropriate steps before the Adjudicating Authority for production of documents and recording of evidences.
- 16.** Mr. Vipul Kundalia, Learned Senior Advocate representing the Union of India by adopting the submission of Mr. Trivedi submits that the petitioner can raise all the issues before the Adjudicating Authority as the authority has all the power to decide the issue, if any, raised by the petitioner and if the petitioner is aggrieved with the order of the

Adjudicating Authority, the petitioner can prefer an appeal under Section 26 of the PMLA, 2002.

17. Heard the Learned Counsel for the respective parties, perused the materials on record and the judgments relied by the petitioner. The main issue raised by the petitioner in the present writ petition that the respondents have not supplied the complete “Relied Upon Documents” in a bound paper book in terms of Sub-Rule (2) of Rule 13 of the Adjudicating Authority (Procedure) Regulations, 2013.

18. Rule 13 of the Adjudicating Authority (Procedure) Regulations, 2013 reads as follows:

“13. Issue of Summons and Notice- (1) *Every summon or notice shall be issued in Form 3 or Form 4 or Form 5 or Form 6, as the case may be, and signed by the Registrar or Administrative Officer.*

(2) *Every summon and notice shall be served by the complainant or applicant upon the defendant or respondent along with complete relied upon documents in a bound paper book and an affidavit of service along with proof of service shall be filed by the person affecting such service.*

(3)(a) *The service of summon or notice upon the defendant or respondent may ordinarily be made by,-*

(i) Dasti i.e. delivering or tendering personally; or

(ii) registered post acknowledgement due (AD), or by speed post or courier service; or

(iii) Electronic mail (e-mail) or by fax message.

(iv) If any summon or notice, when tendered, is refused or if the person on

whom the summon to be served refuses to sign an acknowledgment of service, then the complainant or applicant shall make a report to this effect and in such event, such summon or notice shall be deemed to have been served.

- (4)** *If for any reason the such summon or notice can not be served personally, the complainant or applicant may serve the same by affixing a copy of the summon on the outer door or some other conspicuous part of the house or office in which the defendant/ respondent resides or carries on business or personally works for gain, and shall then return the original to the Registrar or Administrative Officer, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, in whose presence the copy was affixed and the Authority issuing the summon or notice shall in that event declare that the summon has been duly served on the defendants or respondents.*
- (5)** *Where the notice is to be served upon a company, corporation or firm, it may be served upon the Secretary, Director or other principal officer of the company or corporation at its registered office or the concerned corporate office or upon the proprietor or partner of the firm at the address of the firm.*
- (6)** *In a proceeding relating to any business or work against a person who does not reside within the jurisdiction of the Adjudicating Authority the service of summon or notice may be made on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, which shall be deemed good service.*
- (7)** *Where the defendant or respondent is confined in a prison, the summon or notice shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the defendant or respondent.*

- (8)** *Where the defendant or respondent resides out of India and has no agent in India empowered to accept service, the summon shall be addressed to the defendant or respondent at the place where he is residing and sent to him by post or by courier or by email or by fax.*
- (9)** *Where the Central Government has, by notification in the Official Gazette, declared in respect of any foreign territory that summon or notice to be served on defendants or respondents actually and voluntarily residing or carrying on business or personally working for gain in that foreign territory may be sent to an officer of the Government of the foreign territory specified by the Central Government the summon or notice may be sent to such officer, through the Ministry of the Government of India dealing with foreign affairs or in such other manner as may be specified by the Central Government; and if such officer returns, any such summon or notice with an endorsement purporting to have been made by him that the summon or notice has been served on the defendant, such endorsement shall be deemed to be evidence of service.*
- (10)** *Where a counsel accepts the summon or notice on behalf of any defendant or respondent and files, the vakalatnama or authority on his behalf, service of summon or notice upon such defendant or respondent shall be dispensed with.*
- (11)** *Notwithstanding anything in sub-regulation (3), a summon or notice may be communicated through electronic mode as provided in section 13 of the Information Technology Act, 2000 (21 of 2000) and transmission of such communication shall be regarded as valid service.”*

19. The allegation against the petitioner is that on 10th October, 2025, during the search proceeding conducted at the residential premises of the petitioner cash amount of Rs. 25,50,000/- was seized and the petitioner failed to produce any documentary evidence of its source of

the said amount. In his statement, the petitioner stated that the said amount is of the sale proceeds of restaurants, namely, Shanghai-Flavours of China Town Restaurants, Saltanat King of Biryani and North Indian Restaurants during Durga Puja but the petitioner failed to produce any sale receipts, invoices and entries in the account nor has produce any bank deposit details.

20. The petitioner by his letter dated 23rd January, 2026, requested for supply of 34 documents. As per the provision of Sub-Section (2) of Section 13 of the Adjudicating Authority (Procedure) Regulations, 2013, complete relied upon documents in a bound paper book and an affidavit of service along with the proof of service has to be filed by the person affecting such service. Sub-Section 3(iii) that the service of summons or notices can also be served through electronic mail (e-mail) or by fax message. In the present case, notice was served upon the petitioner through email. As per Sub Section 11 of Section 13 summons or notice served through electronic mode as provided under Section 13 of the Information Technology Act, 2000 has been regarded as valid service. Thus, there is no doubt that service of notice upon the petitioner through email is valid.

21. Considering the reply, if any, to the notice issued under Sub-Section 1 of Section 8, after hearing the aggrieved person and the Director or any other officer authorized and taking into account all the relevant materials placed on record, the Adjudicating Authority shall record a

finding whether all or any properties referred to in the notice are involved in money laundering.

- 22.** As per Section 11 of the Act, the Adjudicating Authority shall have the same powers as vested in a Civil Court under the Code of Civil Procedure, 1908. The Adjudicating Authority has the power to allow the parties for discovery and inspection of documents, enforcing the attendance of any person, including any officer of a banking company, and examining him on oath, compelling the production of records, receiving evidence on affidavits, issuing commission for examination of witness and documents and any other matter which may be prescribed.
- 23.** Rule 16 of the Regulations of 2013 provides for inspection of records and Rule 21 provides for examination of witness and issuance of commission.
- 24.** In the present case, the main grievance of the petitioner is that relied upon documents has not served upon the petitioner thus, the petitioner is not a position to give proper reply to the show cause notice issued under Section 8(1) of the Act. The petitioner is also apprehending that in the notice dated 20th February, 2026, it is mentioned that the Adjudicating Authority has fixed the matter for final argument on 9th March, 2026, thus the petitioner will not get any further opportunity of hearing.

25. In the case of ***Naresh Jain Vs. Deputy Director of Enforcement Delhi*** reported in ***2019 SCC OnLine Del 11877***, the Hon'ble Division Bench of the Delhi High Court held that:

“62. The guidelines of recording the reason to believe have been laid down in various judgements of Apex Court and High Courts. It is held time and again by the said Hon'ble Courts directing that the approach should be not the subjective satisfaction of the officer concerned. Such power given to the officer concerned is not an arbitrary power and has to be exercised in accordance with the restraints imposed by law. The belief must be that of an honest and reasonable person based upon reasonable grounds, the officer concerned may act on direct or circumstantial evidence but not on mere suspicion or the allegations mentioned in the FIR or charge-sheet so that the same can be scrutinized in order to verify whether they are relevant and germane or not.”

26. In the present case along with show cause notice recoding of reasons under Section 8(1) of the PMLA, 2002 by the Adjudicating Authority is served to the petitioner. In the reasons to believe the Adjudicating Authority recorded that:

“8. Upon prima facie perusal of the facts, and upon reviewing the RUDs, it is noted that in relation to the scheduled offence, the respondents are involved in the process of money laundering as defined under section 3 of the PMLA, 2002. The role of the respondents (s) and the involvement of movable properties in the form of cash, digital devices & documents/records seized in the generation, concealment, layering, or placement of the proceeds of crime, along with analysis and investigation, have been mentioned on pages 15-46 of the OA.

9. Since, there is a scheduled offence under PMLA and the role of the respondents in money laundering has been described in the application,

therefore, there are prima facie reasons to believe that M/s. Chinese Quisine Restaurant & Ors. are involved in the offence of money laundering. However, the final view shall be taken after receiving responses from both sides and granting an opportunity for a hearing to both parties, as per the schedule mentioned in the show cause notice u/s 8(1) of the PMLA. Therefore, the prayer made by the applicant for the retention of movable properties in the form of cash, digital devices & documents/records seized during searches conducted on 10.10.2025, 11.10.2025, 28.10.2025 & 29.10.2025 is justified and needs to be considered.”

Considering the above, this Court did not find any illegality in recording the reasons to believe by the Adjudicating Authority.

27. In the case of **J. Sekar Vs. Union of India & Others** reported in **2018 SCC OnLine Del 13481**, the Hon'ble Division Bench of the Delhi High Court held that:

“26. To complete the scheme of the PMLA, after the provisional attachment order is passed under Section 5(1) PMLA, the officer making such order will immediately forward a copy thereof to the AA in a sealed envelope, as stipulated under Section 5(2) PMLA.

27. Section 5 (3) PMLA states that the provisional attachment order shall cease to have effect on the expiry of the period specified in Section 5 (1) or on the date when the AA makes an order under Section 8 (2) PMLA, whichever is earlier. As already noted, under Section 5(5) PMLA, the officer making such order must file a complaint before the AA within 30 days of the order of provisional attachment being made.

28. As far as the AA is concerned, under Section 8(1), once such a complaint is received and if the AA “has a reason to believe that any person

has committed an offence under section 3 or is in possession of the proceeds of crime”, the AA may serve a notice (SCN) of not less than 30 days on such person calling upon him to indicate the sources of his income, earning or assets or by means of which he has acquired the property attached under Section 5(1) PMLA or seized or frozen under Sections 17 or 18 PMLA.

29. *The above SCN would require the noticee to produce evidence on which he relies and other relevant information and particulars to show cause why all or any of the property “should not be declared to be the properties involved in money-laundering and confiscated by the Central Government”.*

30. *Section 8 (2) requires the AA to consider the reply to the SCN issued under Section 8(1) PMLA; to hear the aggrieved person as well as the officer issuing the order of provisional attachment and also taken to account “all relevant materials placed on record before the AA”. After following the above procedure, the AA will record its finding whether all the properties referred to in the SCN are involved in money-laundering.*

31. *If the AA is satisfied that any such property is in fact involved in money-laundering the AA will confirm the attachment of such property and record a finding to that effect. Thereupon, the attachment of such property will continue during the pendency of the criminal proceedings. It will become final after an order of confiscation is passed either under Section 8(5) or 8(7) PMLA, or Section 58B PMLA or Section 60(2A) PMLA by the special court constituted for trial of the offences under the PMLA. Under Section 8 (4) PMLA, upon confirmation of the order of provisional attachment, the Director or other officer authorized by him shall “forthwith take the possession of property attached”.*

32. *Section 8 (5) PMLA states that upon conclusion of the trial where the special court finds that the offence of money-laundering has been committed, it shall order that the property involved in money-laundering shall stand confiscated to the*

Central Government. If it finds to the contrary, then under Section 8 (6) it shall order the release of the property to the person entitled to receive it.

33. *The order of the AA is subject to appeal before the Appellate Tribunal (AT) constituted under Section 25 of the PMLA. Thus, the AA is not the final authority under the PMLA as far as the attachment of proceeds of crime is concerned. Appeals can be filed to the AT both by the Director and by the person aggrieved by the order of the AA. The limitation for filing such an appeal under Section 26(3) PMLA is 45 days from the date on which a copy of the order of the AA is received. Section 26(4) envisages the AT giving a hearing to the parties and passing orders either “confirming, modifying or setting aside” the order of the AA.*

34. *Against the order of the AT, there is yet another appeal provided for which is to be made before the High Court under Section 42 PMLA. This appeal would be on “any question of law or fact” arising out of the order of the AT.*

35. *Chapter VII separately deals with the Special Courts constituted to try the offences under the PMLA. The order of the Special Court is subject to appeal and revision by the High Court under Section 47 of the PMLA read with the corresponding provisions of Chapters 29 and 30 of the CrPC, as the case may be.*

36. *There are, therefore, two parallel streams - (i) criminal proceedings before the Special Court for trial of the offences under Section 3 read with Section 4 PMLA and; (ii) the departmental proceedings before the authorities instituted under the PMLA, i.e. the Director, the AA, and the AT, the orders of which are subject to appeal before the High Court.”*

28. The Adjudicating Authority issued Show Cause notice to the petitioner along with the copy of Original Application. Relied Upon Documents

were also sent to the petitioner through USB by email. The petitioner is not satisfied with the Relied Upon Documents served upon the petitioner. The petitioner has submitted his request to the Adjudicating Authority for supply of further Relied Upon Documents. By notice dated 23rd January, 2026, the petitioner has again requested for supply of Relied Upon Documents and also filed para wise comments before the Adjudicating Authority without prejudice to his rights and contentions.

29. This Court finds that the petitioner has filed his para wise comments to the Adjudicating Authority and also requested for supply of relied upon documents. It is upon the Adjudicating Authority to decide whether the documents which have already supplied to the petitioner are the only “Relied Upon Documents” or the complete “Relied Upon Documents” are not served upon the petitioner.

30. Considering the above, the writ petition is disposed of with the following directions:

a. *The Adjudicating Authority shall first decide whether the documents which the petitioner has requested to supply the same are the relied upon documents and if the same are relied upon documents, and not served upon the petitioner, before taking up the matter for further hearing to direct the ED to supply the same to the petitioner within two weeks.*

b. *If any order is passed for supply of further relied upon documents to the petitioner, the petitioner shall be given an opportunity to file supplementary reply dealing with the further relied upon documents within two weeks from the date of supply of documents, if any, by the E.D.*

- c. If any of the party is aggrieved with the order of Adjudicating Authority with respect to supply of Relied Upon Documents, the parties shall be at liberty to take appropriate steps in accordance with Section 26 of the PMLA, 2002.*

31. With the above direction, **WPA No. 5043 of 2026** is **disposed of**.

Interim order stands vacated.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)