

**APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI**

**FPA-PMLA-1806/KOL/2017**

Shri Sheo Dayal Chand, Joint Director,  
Directorate of Enforcement, Kolkata ... Appellant

Versus

M/s Bhide Associates,  
through CEO M.C. Bhide ... Respondent

**Advocates/Authorized Representatives who Argued**

For the Appellants : Ms. Nattasha Garg, Adv.

For the Respondent : None

**CORAM**

SHRI G.C. MISHRA : MEMBER

SHRI RAJESH MALHOTRA : MEMBER

**FINAL ORDER**

**19.03.2025**

**Dictated by:** Rajesh Malhotra

Present appeal under Section 26 of Prevention of Money Laundering Act, 2002 is filed by the appellant ED against the order dated 21.03.2017 passed by the Adjudicating Authority in Original Complaint No.651/2016 vide which the property of the present respondent M/s Bhide Associates attached by ED in PAO dated 29.09.2016 was not confirmed. The detail of the said property is as under: -

*Property at serial no.15 mentioned in table 1 of the moveable properties valuing Rs.3,34,585.89 held in account no.60046165871 in Bank of Maharashtra, THK Marg, Mumbai.*

2. As per the facts of the case, on the complaints received from UCO Bank, Zonal Office, Kolkata against M/s K Lifestyle and Industries Ltd., M/s Global Softech Ltd. and M/s. Tayal Energy Ltd. (hereinafter referred to as Tayal Group of

Companies) and others, CBI, BS&FC, Kolkata registered three FIRs against the said Tayal Group of Companies. Tayal Group of Companies and others defrauded UCO Bank, Flagship Corporate Branch, Kolkata, gist of the said cases are as under:

(a) **FIR No. RCBSK2014E 0004** dated 09.05.2014 registered against S/Shri Navin Rampratap Tayal, Dileep Shankar Kapre, Sanjeev Sharma Vipin Kumar Bhatnagar, Kulvinder Kumar Nayyar, Ajay Ramesh Gupta, Shivpratap Sitaram Jolly, all Directors of M/s K Lifestyle & Industries Ltd., Sh. M. C. Bhide, CEO of M/s. Bhide Associates, Mumbai and unknown officials of UCO Bank for offences under section 120B, 420, 465, 468, 471 of IPC and Sec. 13(2) r/w Sec. 13(1)(d) of PC Act revealed that UCO Bank, FCB, Kolkata disbursed loan on 09.01.09 Rs.49.63 crores and on 20.07.09 Rs.50.37 crores by using DDs in favor of (1) M/s. Vinimay Merchandising Co. Pvt. Ltd. (2) M/s. Sulochana Mercantile Co. Pvt. Ltd. (3) M/s. Vinay Multitrading (4) M/s. Rishi Mercantile Pvt. Ltd and (5) M/s. Babul Trading Co. Pvt. Ltd. which were in fact front entities of Tayal Group, as per request of the company, although, as per sanction terms, the machinery / spare parts were required to be purchased from M/s. Lakshmi Machine Works Ltd., Elgi, Terrot etc. It is also alleged that the said 5 companies had utilized funds from Tayal Group of Companies for purchase of shares of Bank of Rajasthan and the borrower company has diverted / misused the bank fund and has not purchased the machines as per original proposal. The borrower company did

not meet its payment obligations of the loans to the bank for which the accounts were declared NPA on 31.01.2013. Total value of loans sanctioned was Rs.100 Crores. As on the date of NPA, the total outstanding liability was of Rs.126.63 crores.

(b) **FIR No. RCBSK2014E 0003** dated 08.05.2014 registered against S/Sh. Dinesh Jain, Sanjay Kumar Rampratap Tayal, Narayan Ramchandra Ghumatkar, Pradip Soni, all Directors of M/s Global Softech Ltd. Sh. M. C. Bhide, CEO of M/s. Bhide Associates, Mumbai and unknown officials of UCO Bank for offences under section 120B, 420, 465, 468, 471 of IPC and Sec. 13(2) r/w Sec. 13(1) (d) of PC Act, revealed that M/s. Global Softech Ltd. represented by its Directors diverted the funds of Term Loan of Rs.100 crores sanctioned to them by UCO Bank for the purchase of Textile Machinery from M/s. Lakshmi Machine Works, Murata and Elgi. The borrower company further diverted the funds of Rs.45.50 crores sanctioned under cash credit limit to them. M/s. Bhide Associates fraudulently certified the installation of spinning textile machinery of M/s. Lakshmi Machine Works, M/s. Murata and M/s. Elgi in the premises of M/S. Global Softech Ltd. In spite of adverse financial position and information from RBI and SEBI, the officers of the bank enhanced the CC Limit of the company from Rs.35 crores to Rs.45.50 crores. The borrower company fraudulently received an amount of Rs.8.85 crores by way of interest subsidy from Ministry of Textile, Govt. of India under Technology Up-gradation Funds Scheme (TUFs) even though

Borrower company did not purchase machinery under the loan. Total loans sanctioned was Rs.95 Crores and the total outstanding as on the date of NPA was Rs.101.37 Crores.

(c) **FIR No. RCBSK2014E 0005** dated 09.05.2014 registered against S/Sh. Saurabh Pravin Tayal, Dhrindrer Tayal, Ajay Ramesh Gupta and Farindra Bihari Bhubaneswar Rai all Directors of M/s. Tayal Energy Ltd. and Sh. M. C. Bhide, CEO of M/s. Bhide Associates, Mumbai and unknown officials of UCO Bank for offences under section 120B, 420, 465, 468, 471 of IPC and Sec. 13(2) r/w Sec. 13(1)(d) of PC Act, revealed that relying on Project completion report submitted by Lender's Engineer, Sh. M. C. Bhide of M/s. Bhide Associates for proper utilization of Term Loan funds, UCO Bank, FCB, Kolkata released loan through RTGS on 25.04.08 (18.75) 05.07.08 (14.87), 13.10.08 (05.82) & 29.10.08 (07.50) all in crore = Rs.46.94 crore to Punjab National Bank, the lead Bank and the said funds were diverted by the Directors of the company to several intermediary companies and did not use the funds for which it was sanctioned. Total loan sanctioned was Rs.46.94 Crores. Due to non-payment of the obligation to the Bank, the accounts of the company were declared as NPA on 31.02.2013 with outstanding liabilities of Rs.68.25 crores.

Accordingly, the Directorate of Enforcement, Kolkata recorded ECIR No.05/KLZO/2014 dated 22.09.2014 against the Tayal Group of Companies in the said FIR's for initiating investigation for the offence of money laundering. During

investigation ED recorded the statements of the suspects/accused persons and the other persons on different dates under Section 50 of PMLA and also collected the documents from the various sources and the investigation agency conducted the investigation for the predicate offence. On the basis of the material on record the Joint Director, ED formed the reason to believe for commission of offence of money laundering, and accordingly, he passed the Provisional Attachment Order 29.09.2016, and thereafter, filed the Original Complaint No.651/2016 before the Adjudicating Authority along with relied upon documents and statements.

The Adjudicating Authority being satisfied with the allegations mentioned in the OC along with the relied upon documents and statements, issued the Show Cause Notice dated 28.10.2016 to the defendants. After receiving their respective replies and hearing the rival submissions, the Adjudicating Authority confirmed the PAO vide order dated 31.03.2017, however, some properties including the account of present respondent M/s Bhide Associates, as mentioned in para no. 1 above was not confirmed.

Aggrieved by the said order appellant ED filed the present appeal against the present respondent, for not confirming the PAO qua its account.

3. During the arguments Ld. Counsel for the appellant ED submitted that the Adjudicating Authority wrongly not confirmed the PAO qua the account of present respondent

without appreciating the incriminating evidence against M/s Bhide Associates (defendant No.11).She pointed out the specific allegations against M/s Bhide Associates in the three FIR's registered by the CBI, (as reproduced in para no.2 above). She further pointed out the statement of **Shri Dalip Stayendra Mehta**, CA wherein on 09.09.2016 he stated before ED that he purchased/formed number of companies. Further, in his statement dated 19.09.2016 **Sh. Mehta**, stated that he had purchased/formed nos. of companies which were subsequently sold to Mr. P. K. Tayal of Tayal Group of Companies which was subsequently used by them for transfer of fund from one company to others; that for this purpose he received total professional fee of Rs.8,00,000/- for formation/buying of companies. He submitted total 84 pages containing trail of funds within Tayal group of Companies and its modus operandi (11 pages) which shows movement of fund within the companies of Tayal. This trail show the modus operandi which was adopted by said Tayal Group of companies. Most of the companies' Directors were the people of Mr. P. K. Tayal (Praveen Kumar Tayal).From the statements of **Shri Dilip Mehta**, it is evident that a number of fictitious companies were used to launder the proceeds of crime acquired out of commission of scheduled offence by the said Tayal group of Companies. Vide letter dated 15.12.2015 and statement dated 06.07.2016 **Shri Madhav Chintaman Bhide**, CEO of Bhide Associates (herein respondent) stated about the details of payment received from Tayal Group of Companies

along with copy of bills, as regards copy of certificate dated 06.06.2009 regarding purchase of machineries from M/s. Lakshmi Machine Works Ltd. to M/s. K. Life Style & Industries Ltd., he stated that all these reports which had been kept in the office cupboard had got spoiled and further submitted that only Xerox copies of the invoices for machinery were supplied by the party which were put in the reports. When they had asked to see the originals, the party used to state that they were with their Chartered Accountant to A. F. Khasgiwala & Co. for preparing C.A. Certificate. The documents relating to correspondences shared with Tayal Group of companies were spoiled.

In his statement, **M.C. Bhide stated** that since the matter pertains to the year 2008/2009 he could not recollect how he submitted the Project Progress Report and Project Completion Report to UCO Bank on which basis the Bank disbursed loans to M/s. K. Lifestyle & Industries Ltd., M/s. Global Softech Limited and M/s. Tayal Energy Limited. His Engineer verified the completion of Project of the said three companies. He did not supply any fabricated pro-forma invoices of M/s. Lakshmi Machine Works Limited in support of his certificate. The documents supplied by the office bearers of Tayal Group of companies were included in project progress report as well as project completion report and he issued certificate in good faith. The bank appointed him as Chartered Engineer in consultation with the companies.

Thus, Shri Bhide appears to have given a false report in connivance with the management of the said Tayal group of Companies on the basis of which the loan amounts were disbursed.

During his statement Shri MC Bhide submitted that the amount of Rs.3,34,589.89 in the current account of the firm is only professional income earned by Bhide Associates and all of them by cheques. Every rupee according to him is hard earned professional income for which Income Tax Returns are filed. There is no doubt that Defendants no. 11 and 13 are the accused persons in respect of the scheduled offences. Their contribution in the commission of the scheduled offences is well evident. At this stage merits of their liability as to schedule offence cannot be looked into by this Authority. Prima facie they are liable for the scheduled offences to the extent as specified in charge sheet. The Provisional Attachment Order specifically concludes "in view of the above statements and trail of money, it is evident that funds received from the banks by the said Tayal group of companies for a specific purpose were siphoned off through a maze of fictitious companies and ultimately reached the entities of Tayal Group of Companies and from there unknown destinations. The persons involved with the affairs of the company did not disclose the same during the course of investigation under PMLA. The utilization of funds, as claimed by the said Tayal group of companies through its representatives were found to be fictitious. From the trail of

funds, it is abundantly clear that the said funds were laundered through its group companies. Nevertheless, the said Tayal group of Companies despite having a large amount of liabilities to banks, acquired a number of properties and also placed huge amounts in bank accounts, which are believed to represent the value of the proceeds of crime. Thus the proceeds of crime have gone to the Tayal group of company and utilized by Tayal group of company. There is nothing to show that the Defendants 11 to 13 have received any proceeds of crime emerging from the receipts of the amounts received from the banks by Tayal group of companies. The Defendants 11 and 13 having not received any proceeds of crime, cannot be made liable for attachment by invoking the provisions of "value thereof" or equivalent value of proceeds of crime, in the absence of any reasons in this regard. There is no reason assigned by the Joint Director as to the liability of bank accounts of D-11 to D-13 as to attachment as value of the proceeds of crime. The amount of Rs.334589.89 in the name of D-11 lying in Bank of Maharashtra; amount of Rs.1709.45/- lying in the bank account with corporation Bank of D-13 and amount of Rs.80603.09/- lying in the Central Bank of India in the name of D-12, thus cannot be covered under the definition of proceeds of crime and hence the attachment in respect thereof cannot be confirmed. Accordingly, argued that in spite of the above incriminating material on record the Adjudicating Authority has not confirmed the attachment of account of present respondent/defendant No.11 M/s Bhide Associates. Prayer is accordingly made to allow the present

appeal and thereby set aside the impugned order qua the present respondent.

4. None appeared on behalf of respondent to contest the present appeal. Accordingly, ex parte arguments were heard.

5. Respondent MC Bhide of M/s Bhide Associates, stated that he did not supply any fabricated pro-forma invoices of M/s. Lakshmi Machine Works Limited in support of his certificate. The documents supplied by the office bearers of Tayal Group of companies were included in project progress report as well as project completion report and he issued certificate in good faith. We fail to understand that how a Chartered Accountant can be so negligent to issue project progress report and project completion report by relying upon the documents tendered by the party who is taking huge loan from the bank. Just because of negligence of the respondent, the Tayal Group of Companies were able to commit the fraud UCO Bank. The said conduct on the part of the respondent cannot be termed as an act done in good faith, but either in blind faith or inclusion with the accused persons. By committing professional negligence, he cannot take the plea that the said attached amount was in fact his professional fees. The ED by taking a lenient view towards this respondent attached his account only for the meagre amount of the Rs.3,34,585.89/- held in account no.60046165871 in Bank of Maharashtra, THK Marg, Mumbai. The Adjudicating Authority failed to confirm this particular account on the pretext of professional fees, without looking into

the professional negligence on the part of respondent, which resulted in bank fraud. Accordingly, we are of the considered view that present appeal needs to be allowed qua the said account of the respondent by modifying the order passed by the Adjudicating Authority.

**5.** In sequel of our discussion in preceding para the present appeal is hereby allowed and the order dated 21.03.2017 passed by the Adjudicating Authority is modified, qua the account of the present respondent as mentioned in para no. 1 above, which is hereby confirmed for attachment.

**Appeal allowed.**

Pronounced on 19<sup>th</sup> day of March, 2025.

**(Rajesh Malhotra)**  
**Member**

'PS'

**(G. C. Mishra)**  
**Member**