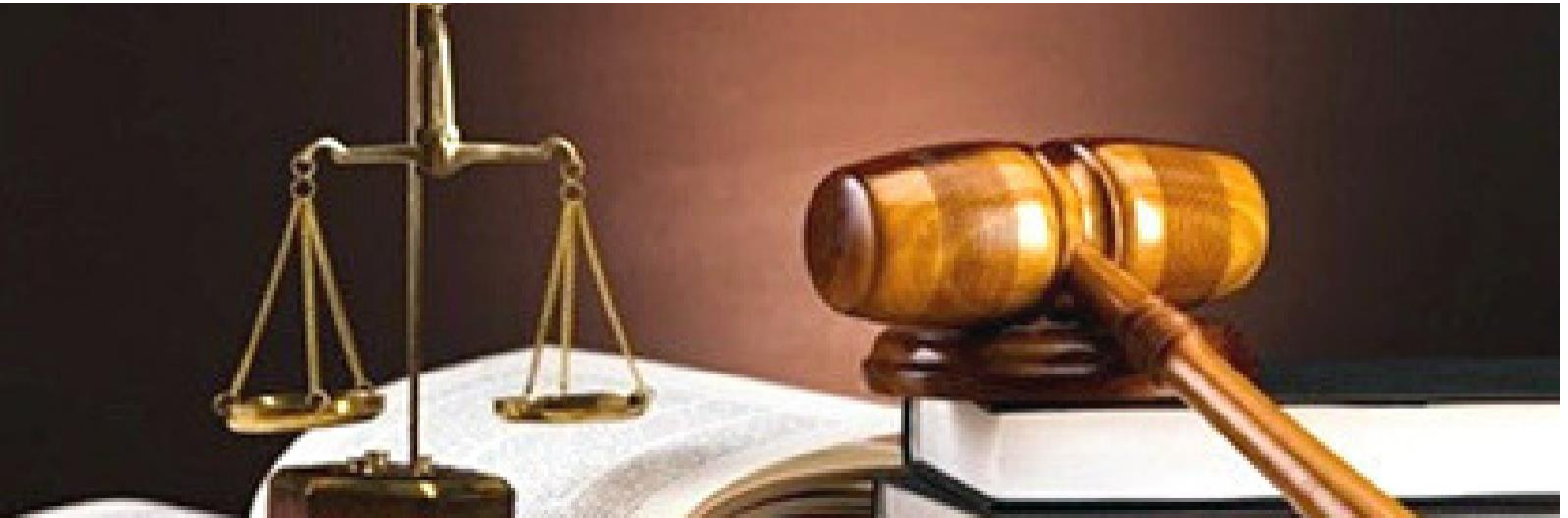


IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



The Deputy Director Directorate of Enforcement Delhi vs Axis Bank and Ors.

Brief Facts

The question of law in the abovementioned case concerns the sovereign authority of the State to take away and confiscate the property which has been acquired by a person through criminal activity as against the lawful claim of a third party to reach out to such property to recover, in accordance with law, what is due by attachment and sale of the very property.

Decision

- a.** The Delhi High Court ruled that debt recovery legislations like SARFAESI, and the Code does not prevail over the provisions of PMLA. **[Para 147].**
- b.** The provisions of the special acts like PMLA and the Code must be harmonically construed. **[Para 165].**

- c. The court reiterated that the attachment proceedings under PMLA are civil sanctions, which runs concurrent to criminal investigation vis-à-vis the offence of money laundering. **[Para 102, 153 & 171].**

- d. Moratorium imposed under Section 14 of the Code would not come in way of proceedings under PMLA; especially in cases, where the CD is deprived of those assets and properties, which are obtained from proceeds of crime. **[Para 146].**

- e. The court clarified that the CD indulging in money-laundering cannot be permitted to avail of the proceeds of crime to get a discharge for his civil liability towards his creditors **[Para 146].**

Link of the Order

https://ibbi.gov.in/webadmin/pdf/order/2019/Apr/RKG02042019CRLA1432018_2019-04-03%2013:20:34.pdf



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