IN THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Appeal No. 41 of 2026

Mahesh Kumar son of Bhool Chand **.....Appellant**

Versus

The State and another. **.....Respondents**

Appellant	**:**	**Through Dr. Shahab Imam, advocate**
Respondent No.2	**:**	**Through Syed Asif Ali, Advocate**
Date of hearing	**:**	**31.08.2026.**
Date of Judgment	**:**	**20.10.2026.**

JUDGMENT

Jan Ali Junejo, J. This appeal under section 23 of the Anti-Money Laundering Act, 2010 (the "AMLA") R/w Section 561-A Cr.PC calls into question the legality and propriety of the order dated 18 July 2026 (hereinafter referred to as the *"Impugned Order"*) passed by the learned Special Judge (Customs, Taxation and Anti-Smuggling-I), Karachi, whereby the appellants' applications seeking de-attachment of their properties and bank accounts were dismissed. The attachment originated from order dated 26 December 2025 passed under section 8 of the AMLA in connection with FIR No. 07 of 2025.

2. The prosecution case, as gathered from the FIR and the papers placed before the Court, is that M/s Asian Talc Importer & Exporter and M/s Asian International allegedly adjusted

inadmissible or fake input tax generated through fictitious registered units, resulting in alleged sales-tax evasion of approximately Rs.240,924,972. The appellant Mahesh Kumar is stated to be the proprietor of M/s Asian Talc Importer & Exporter. On the basis of the allegation that the business capital, properties and bank accounts represented proceeds of the alleged offence, the investigating agency obtained an order of provisional attachment under section 8 of the AMLA. The appellants challenged the attachment. Their earlier Special Criminal Appeal No.12 of 2026 was withdrawn before High Court as not pressed with permission to file afresh. The subsequent applications before the learned Special Judge were dismissed on the view that an order under section 8 could be challenged only through the statutory appeal under section 23 and that, after withdrawal of the earlier appeal, the appellants could not seek the same relief by an uncapped application before the Court which had passed the attachment order.

3. Learned counsel for the appellants contended that the impugned order is mechanical, jurisdictionally defective and contrary to the AMLA. It was argued that money laundering cannot be inferred merely from an allegation of tax evasion; there must be material showing a scheduled predicate offence, proceeds of that offence and the appellants' knowing acquisition, conversion, possession, use, transfer, concealment or disguising of such proceeds. The alleged tax liability had neither been finally

determined nor lawfully connected with the attached assets. Counsel further submitted that the prosecution had not produced a reliable money trail, bank reconciliation, transaction-wise analysis or evidence showing that the attached properties were purchased from the alleged evaded tax. It was also argued that the relevant tax proceedings, including proceedings concerning blacklisting and alleged input-tax adjustments, had been annulled, set aside or remained pending before the competent tax fora; hence the predicate offence was not established. The appellants challenged the competence of the investigating agency, relied upon SRO 1301(I)/2018 and SRO 659(I)/2021, and submitted that the FIR itself shifted between sales-tax and income-tax allegations. It was urged that the later comments filed by Respondent No.2 could not cure the absence of the record, and that the attachment had also expired by efflux of the statutory period. The prayer was that the appeal be allowed, the impugned order be set aside, and the attached properties and bank accounts be de-attached.

4. Learned counsel for Respondent No.2 opposed the appeal and prayed for its dismissal. It was submitted that the matter was still under investigation and that section 3, Explanation II, of the AMLA expressly provides that conviction for the predicate offence is not a prerequisite for proving money laundering. According to the department, the record disclosed a tax fraud of about Rs.240 million, adjustment of fake input tax, purchase of properties from the proceeds of the offence and a sufficient basis for the

investigating officer's reasonable belief under section 8. It was argued that the AMLA is a special and overriding law, that the Directorate of Intelligence and Investigation (Inland Revenue) was competent under the relevant notifications, and that the appellants had repeatedly failed to provide the requested record, including bank-account reconciliations and documents concerning eleven flats at Clifton. That a separate AMLA investigation may proceed without awaiting finality of the tax proceedings. The department consequently prayed that the provisional attachment be maintained and the appeal be dismissed.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the material available on record with utmost care. Since the present matter pertains to the Anti-Money Laundering Act, 2010; therefore, it would be appropriate to examine the relevant provisions of law governing the matter in hand. Section 2 of the AMLA defines "attachment" as the prohibition of transfer, conversion, disposition or movement of property by an order issued under section 8. Section 3 provides that a person commits money laundering if he acquires, converts, possesses, uses or transfers property knowing or having reason to believe that it is proceeds of crime; conceals or disguises its true nature, origin, location, disposition, movement or ownership; holds or possesses it for another; or participates in, conspires, attempts, aids, abets, facilitates or counsels any such act. In ordinary terms, therefore, money laundering is the knowing dealing with,

concealment of, or participation in dealing with property derived from criminal activity, together with the requisite statutory mental element.

6. A predicate offence is the underlying scheduled criminal offence from which the property alleged to be “proceeds of crime” is derived. Under section 2 of the AMLA, read with the applicable Schedule, the offence must be one specified in the Schedule or otherwise brought within the statutory description. A predicate offence is not synonymous with a mere departmental irregularity or an unadjudicated suspicion. It requires material identifying the criminal conduct, the person responsible, the property or benefit obtained from it and the legal provision which makes that conduct a scheduled offence.

7. Section 3, Explanation II, states that conviction of the accused for the respective predicate offence is not required for proving an offence under section 3. That provision is important but limited. It permits the AMLA court to determine the money-laundering charge without waiting for a prior conviction. It does not mean that the investigating agency may dispense with identifying a scheduled predicate offence, or that every disputed tax demand automatically becomes proceeds of crime. At the stage of provisional attachment, the agency must still show a rational and demonstrable basis for its belief that the property is involved in money laundering.

8. Section 8 authorises provisional attachment where the investigating officer, on the basis of the report in his possession and with prior permission of the Court, reasonably believes that property is involved in money laundering. The attachment is for a period not exceeding 180 days, subject to the statutory power of extension. The word "provisional" does not make the power unreviewable. It describes the temporary nature of the restraint and requires strict compliance with the conditions, duration and safeguards of the AMLA. Section 23 provides the appellate remedy against a final decision or order of the AMLA Court and is the proper statutory route for examining an adverse order concerning rights in attached property. The existence of that remedy, however, does not authorise the court below to reject a challenge without deciding whether the statutory restraint is still alive and lawful. In case of ***Arshad Aziz Abbasi and others v. The Special Judge, Customs, Taxation and Anti-Smuggling-I, Karachi and another (2026 SCMR 775)***, the Honourable Supreme Court of Pakistan considered the question whether an order of provisional attachment passed under Section 8 of the AMLA could be challenged in appeal under Section 23 of the AMLA. The Honourable Supreme Court held that, notwithstanding its interim nature, an order of provisional attachment is subject to appellate scrutiny. It was observed that merely because the attachment is provisional does not place it beyond judicial review, particularly where such restraint affects valuable property rights. The Honourable Supreme Court further held that the appellate remedy

provided by the statute should receive a liberal construction so as to ensure that the power of provisional attachment is not exercised arbitrarily or allowed to continue indefinitely. At the same time, the Apex Court emphasized that the exercise of power under Section 8 is subject to certain statutory safeguards, including the existence of a report in the possession of the investigating officer, prior permission of the Court, and a reasonable belief that the property is involved in money laundering. These requirements must be shown to have been duly satisfied, and the appellate forum is competent to examine whether the statutory preconditions and safeguards for making the provisional attachment were, in fact, complied with.

9. The earlier appeal was withdrawn as not pressed with permission to file afresh. Such withdrawal did not amount to an adjudication on the legality of the attachment, nor did it confer perpetual validity upon an order which was provisional and time-bound.

10. The learned Court below was required to distinguish between two matters: first, whether it could recall its own order under section 8; and second, whether, on the date of the applications, the attachment continued to have legal effect or had satisfied the requirements for extension and adjudication under the AMLA. By deciding only the first matter and refusing to examine the second, the learned Special Judge failed to exercise jurisdiction vested in

the Court under the statutory scheme. The appeal is therefore competent to that limited but decisive extent.

11. The allegation of adjustment of inadmissible or fake input tax, if proved in accordance with the Sales Tax Act, 1990 and if it falls within the applicable Schedule to the AMLA, may constitute the underlying criminal conduct for AMLA purposes. The legal possibility that a sales-tax fraud can serve as a predicate offence is therefore not rejected. Nor is a prior conviction an indispensable condition for commencing an AMLA investigation.

12. The question before this Court is different: whether the predicate offence and its proceeds have been established on the material presently relied upon to justify continuation of the attachment. On the record supplied, the prosecution has identified an alleged amount of Rs.240,924,972 and has asserted that fake input tax was adjusted through fictitious units. Those assertions are serious and warrant investigation. They are not, without more, proof that the particular properties and bank accounts of the appellants were acquired from that amount or were used to conceal, convert or transfer it. The necessary bridge requires at least a transaction-wise account of the alleged inadmissible input, identification of the persons and invoices involved, a legally sustainable determination that the conduct constitutes the scheduled offence, and a money trail connecting the alleged proceeds to each property or account attached.

13. The department's complaint that the appellants did not provide all requested records may be relevant to the investigation and may, where legally applicable, support an evidentiary presumption. It cannot replace the agency's initial obligation to place the foundational material before the Court. A presumption is not a substitute for proof of the facts from which the presumption arises. Likewise, the fact that the tax proceedings are pending does not bar an AMLA investigation, but pendency alone does not establish the criminal predicate or the nexus with attached property.

14. The record also contains the appellants' assertion that the adverse tax and blacklisting proceedings were annulled, set aside, or remained under challenge. However, the learned Special Judge neither examined the effect of those orders nor ascertained the current status of the relevant tax proceedings or determined whether the alleged conduct constituted a scheduled offence under the AMLA. This omission is material to the determination of the legality of the continued attachment. It is clarified that this Court is neither finally acquitting the appellants of the alleged tax offence nor determining their tax liability in the present appeal. The finding is confined to the conclusion that, on the material presently available on record, the predicate offence and the requisite nexus between the alleged proceeds of crime and the attached properties have not been established with sufficient clarity to justify the continuation of the attachment.

15. The order of attachment is dated 26 December 2025. The impugned order is dated 18 July 2026. A period of 180 days from 26 December 2025 expired, at the latest, on 24 June 2026, subject to any valid order of extension made within the statutory framework. The impugned order does not, on the supplied record, identify a lawful extension, its duration, the reasons supporting it, or compliance with the statutory procedure for continuation and adjudication. This is not a technical objection. The 180-day limitation protects property rights against indefinite executive restraint and gives effect to the provisional character of section 8. If a valid extension had been granted, the department was required to produce it and demonstrate its legal basis. If no such extension existed, the attachment ceased to operate by force of the statute. A Court cannot maintain an expired attachment merely because an investigation remains pending.

16. The impugned order is therefore defective for two independent reasons. First, it treated the withdrawal of the earlier appeal as a complete bar without deciding whether a live and lawful attachment existed. Second, it did not examine the foundational material showing the predicate offence and the nexus between the alleged proceeds and the attached properties. In doing so, it failed to test the legality and propriety of the restraint under the AMLA.

17. For the foregoing reasons, the present Special Criminal Appeal is allowed. The order dated 18 July 2026 passed by the

learned Special Judge (Customs, Taxation and Anti-Smuggling-I), Karachi, is set aside. The applications filed by the appellants shall be treated as maintainable objections to the continuation of the section 8 restraint. The provisional attachment dated 26 December 2025 shall not continue unless the respondents demonstrate, before the competent AMLA Court, a valid statutory extension or a subsequent lawful order founded upon the material required by the AMLA. In the absence of such valid extension or order, the attachment shall stand discharged and the concerned banks and authorities shall release the restraint upon production of this judgment.

18. Before parting with this Judgment, it is clarified that the observations made herein shall not prejudice or otherwise impede any lawful investigation or trial in respect of the alleged sales-tax offence or any separate offence falling within the ambit of the AMLA. The investigating agency shall remain at liberty to proceed in accordance with law, subject to the applicable provisions of the AMLA and the safeguards prescribed thereunder. Consequently, the present Special Criminal Appeal stands allowed in the above terms.

JUDGE

Before parting with this Judgment, it is clarified that the observations made herein shall not prejudice or otherwise impede any lawful investigation or trial in respect of the alleged sales-tax offence or any separate offence falling within the ambit of the AMLA. The investigating agency shall remain at liberty to proceed in accordance with law; however, an unadjudicated tax allegation shall not, by itself, be treated as conclusive proof of a predicate offence, nor shall any property be retained beyond the period or without observance of the safeguards prescribed under the AMLA. In the event the matter is placed before the competent Court afresh, it shall adjudicate the same independently, after affording the parties an effective opportunity of hearing and requiring the prosecution to place on record the FIR, relevant tax record, the specific schedule provision relied upon, the orders of attachment and extension, and the material tracing the alleged proceeds to each of the attached assets. Consequently, the present Special Criminal Appeal stands allowed in the above terms.