

INCOME TAX APPELLATE TRIBUNAL BAR ASSOCIATION, NEW DELHI

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Date: 15.04.2026

Dear Members,

The next meeting of Study Circle 2026 shall take place as per programme below:

DAY & DATE: - **(Friday) 24th April, 2026**

TIME: - 03:30 PM TO 06:00 PM

VENUE: - **Main Conference Hall,
First Floor,
Civil Services Officers Institute,
Kasturba Gandhi Marg,
New Delhi- 110001**

We will be deliberating on several important legal issues that frequently arise in the course of our professional work:

I. Applicability of the Benami Law to Accommodation Entry Transactions: Emerging Issues and Concerns

In recent weeks, it has been observed that a number of assesseees are being subjected to proceedings under the *Prohibition of Benami Property Transactions Act, 1988*, particularly in cases involving so-called “accommodation entries”.

The common pattern emerging from these notices is that cash is allegedly provided by one person (treated as the beneficial owner), and in lieu thereof, a cheque is issued by another person (treated as the benamidar). The amount reflected in the cheque is then sought to be characterised as “benami property”. In several cases, this is followed by initiation of provisional attachment proceedings not only in the hands of the alleged benamidar but also against the alleged beneficial owner.

These developments raise certain foundational legal and jurisdictional concerns. The core issue is whether such accommodation entry transactions, even if assumed to be correct on facts, can at all be brought within the statutory framework of a “benami transaction” as defined under the Act. Equally important is the question whether coercive measures such as provisional attachment can be sustained where the underlying transaction itself stands reversed or squared up prior to initiation of proceedings.

In light of the increasing frequency of such actions, it is proposed that these issues, along with other allied aspects, be examined in a structured and interactive manner. The discussion will focus on the statutory scheme, essential ingredients of a benami transaction, scope of the definition under Section 2(9), and the manner in which these provisions are currently being invoked in practice. The endeavour would be to combine doctrinal clarity with practical insights relevant to ongoing matters.

Issues for Discussion

1. Whether accommodation entry transactions (cash-for-cheque arrangements) can at all fall within the definition of “benami transaction” under Section 2(9) of the Act.
2. Whether the cheque amount itself can be regarded as “benami property”, particularly when there is no identifiable property held in a benami capacity.
3. Whether simultaneous proceedings against both the alleged beneficial owner and the alleged benamidar are legally sustainable under the scheme of the Act.
4. Whether provisional attachment under Section 24(3) can be validly initiated in cases where the transaction stands reversed or squared up prior to issuance of notice.
5. Whether proceedings under the Benami Act are being used as a substitute for addressing alleged accommodation entries, which are otherwise covered under the Income-tax Act.

II. Revisiting Benami Jurisprudence Post Ganpati Dealcom Recall: Limits of Review Jurisdiction

The controversy arising from ***Ganpati Dealcom*** has now entered a second and more complicated stage. Earlier, many benami matters involving pre-amendment transactions were being decided on the strength of the Supreme Court's view in *Ganpati Dealcom*. In that phase, courts were treating the issue as covered, and even special leave petitions were dismissed on that basis, as seen in the earlier order in *Virendra Amrutbhai Patel 2023 (10) TMI 1562*, where the Supreme Court recorded that the issues were covered by *Ganpati Dealcom* and dismissed the petition.

The position appeared to change when the Supreme Court later recalled *Ganpati Dealcom*. The recall order was understood to mean that where other proceedings had been disposed of by relying on the earlier *Ganpati Dealcom* judgment, the aggrieved party could seek review. This created an impression that the revenue could now reopen a large number of matters that had already attained finality.

However, the subsequent orders in ***Kokilaben Chhaganbhai Patel 2025 (5) TMI 1634 - SC Order*** and ***Virendra Amrutbhai Patel 2025 (11) TMI 978***, indicate that the matter is not so simple. In both cases, the Supreme Court expressly recorded its inability to agree with the observation in the *Ganpati Dealcom* recall order which granted general liberty to seek review in other disposed matters. The reason given is important. The Court relied on the earlier three-Judge Bench decision in ***Government of NCT of Delhi v. K.L. Rathi Steels Ltd. 2024 (7) TMI 811 - SUPREME COURT***, and in particular on the Explanation to Order XLVII Rule 1 of the Code of Civil Procedure, 1908, which states that a judgment cannot be reviewed merely because the legal position on which it was based has later been reversed or modified in another case. Following that principle, the Court declined liberty to seek review and dismissed the review petitions.

The doctrinal importance of these later orders is substantial. They shift the debate away from the benami law issue alone and bring in a procedural-constitutional question: ***can a final judgment be reopened merely because the precedent on which it rested has later been recalled or altered?*** The later Supreme Court orders suggest that the

answer is no, at least not as a matter of general rule. A party seeking review must still satisfy the strict limits of review jurisdiction; it cannot rely only on a subsequent change in law or on a later decision in another case.

Therefore, the practical effect of the Ganpati Dealcom recall appears narrower than first assumed. The recall may have unsettled the substantive ratio of the earlier Ganpati Dealcom decision, but it does not automatically confer a right to reopen every concluded matter that had followed it. The later two-Judge orders strongly indicate that concluded cases cannot be routinely revived through review merely because Ganpati Dealcom itself was recalled. That makes the present position highly nuanced. On the substantive side, the benami issue may still be open. On the procedural side, however, the avenue of review in already-disposed matters appears significantly restricted by K.L. Rathi Steels and the Explanation to Order XLVII Rule 1 CPC.

In that sense, the real significance of the recent orders is that they curb the expansive fallout of the Ganpati Dealcom recall. They preserve finality of litigation and reaffirm that review is a narrow remedy. For tax and benami practitioners, this means that one must distinguish between pending matters, where the substantive issue may still be argued, and concluded matters, where reopening by review now faces a serious procedural bar.

Issues for discussion

1. Whether the recall of Ganpati Dealcom automatically affects concluded judgments, or whether such judgments continue to hold the field unless independently set aside.
2. Whether the liberty to seek review granted in paragraph 7 of the Ganpati Dealcom recall order can survive in view of K.L. Rathi Steels and the Explanation to Order XLVII Rule 1 CPC.
3. Whether the later Supreme Court orders in Kokilaben and Virendra amount to an implied dilution or overruling (in effect) of the Ganpati Dealcom recall order.
4. Whether a distinction must be drawn between pending proceedings and concluded proceedings while applying the post-recall legal position.

5. Whether refusal to grant liberty for review implies a complete bar on reopening concluded matters, or only reinforces that review must strictly satisfy the limited parameters under Order XLVII CPC.

III. Pavana Dibbur vs Vijay Madanlal: Can Tribunals Choose Between Supreme Court Judgments

A significant controversy has arisen under the Prevention of Money Laundering Act, 2002 (PMLA) concerning the scope of “proceeds of crime” and the requirement of nexus between property and the scheduled offence.

In ***Vijay Madanlal Choudhary***, the Supreme Court adopted a wide interpretation of “proceeds of crime”, including the concept of “value thereof”, thereby enabling attachment of equivalent value properties. However, in ***Pavana Dibbur***, the Supreme Court clarified that a property acquired prior to the commission of the scheduled offence cannot, ex facie, be treated as proceeds of crime, thereby emphasizing the requirement of a **live nexus** between the property and the alleged criminal activity.

Recently, instances have emerged where the PMLA Tribunal has declined to follow *Pavana Dibbur*, on the ground that certain paragraphs of *Vijay Madanlal* were not noticed in that judgment. This raises serious questions relating not only to interpretation of PMLA but also to **judicial discipline, binding precedent, and the hierarchy of courts**.

Issues for Discussion

1. Whether *Pavana Dibbur* lays down a binding requirement of a live nexus between property and scheduled offence, thereby limiting the scope of “proceeds of crime”.
2. How the “value of proceeds of crime” concept in para 298 of *Vijay Madanlal* is to be understood, whether it permits attachment of properties having no direct nexus with the alleged offence.
3. Whether *Pavana Dibbur* is a clarification/interpretation of *Vijay Madanlal*, or whether there exists a conflict between the two judgments.
4. Whether a Tribunal or lower forum can refuse to follow a later Supreme Court judgment (*Pavana Dibbur*) on the ground that it did not consider certain aspects of an earlier judgment (*Vijay Madanlal*).

5. What is the correct approach for lower forums when faced with alleged inconsistencies between two Supreme Court judgments of coordinate strength—application, reconciliation, or reference.

The key speakers are Shri G.S. Pannu, Former Vice President, ITAT, Delhi Zone, Shri Ashwani Taneja, Advocate and Shri R.K. Gupta, CIT DR Retired to share their insights on these topics.

YOU ARE REQUESTED TO NOTE THE DATE & ATTEND PUNCTUALLY.

The fee towards membership of Study Circle for the year 2026-27 has been fixed at Rupees 2500/- (Two Thousand Five Hundred Only). You are requested to remit the fee for the year 2026-27 (if not remitted by way of Cheque in favour of **"ITAT Bar Association, New Delhi"**)

The meeting is also open to non-study group members of ITAT Bar Association, New Delhi on a payment of Rs. 850/-.

With my best wishes and warm regards,

Ravinder Singh Ahuja
Vice President