
FREEZING, ATTACHMENT AND DISPOSAL OF CORPORATE FUNDS IN INDIA: COMPANY LAW REMEDIES AND REGULATORY OVERLAPS

Tanaya Tilekar, Maharashtra National Law University, Chhatrapati Sambhajinagar

ABSTRACT

The freezing, attachment, and disposal of corporate funds has emerged as a crucial preventive mechanism within India's corporate and financial regulatory framework. In cases involving corporate fraud, mismanagement, economic offences, and large-scale financial irregularities, the ability of authorities to restrain the transfer, removal, or dissipation of funds often determines whether investors, creditors, and public institutions can ultimately be protected. Once corporate funds are diverted through layered transactions, shell entities, or cross-border transfers, recovery becomes extremely difficult, if not impossible. Therefore, timely freezing of funds plays a vital role in preserving assets during investigation and adjudication.

Indian law addresses this concern through a combination of company law remedies under the Companies Act, 2013, regulatory powers exercised by the Securities and Exchange Board of India, and attachment and confiscation mechanisms under economic statutes such as the Prevention of Money Laundering Act, 2002 and the Foreign Exchange Management Act, 1999. These legal frameworks collectively empower tribunals and regulatory authorities to intervene at an early stage to prevent the dissipation of corporate assets. However, the practical application of these powers raises significant legal and institutional challenges.

This article undertakes a doctrinal analysis of the statutory framework governing the freezing of corporate funds in India and critically examines how courts and tribunals have exercised these powers in practice. Through an analysis of landmark cases such as the Sahara Group matter, the Satyam Computers scandal, the IL&FS crisis, and the Nirav Modi investigations, the article highlights recurring issues such as overlapping jurisdiction between regulators, procedural delays, lack of inter-agency coordination, and the risk of excessive or disproportionate use of freezing powers.

The article argues that although India possesses robust legal tools to prevent the dissipation of corporate assets, the effectiveness of these tools depends

on their timely and proportionate application. Freezing of funds must be treated as a preventive corporate governance measure rather than a punitive sanction imposed before final adjudication. The article concludes by suggesting targeted reforms, including clearer interim freezing powers for tribunals, time-bound review mechanisms, and structured coordination between regulatory agencies, to ensure that freezing of corporate funds serves its intended protective purpose while safeguarding fairness and legal certainty within the corporate system.

Introduction

This article argues that freezing of funds must be treated as a preventive corporate-governance tool rather than a punitive sanction, and that coordination failures currently undermine its effectiveness.

Companies are at the center of India's economic growth. They collect money from the public, banks, and investors, with the promise that it will be used for business and development. People put their savings in companies because they trust that directors and managers will act responsibly. But Indian history shows that this trust has been broken many times. One of the most famous cases was the Satyam Computers scandal in 2009. The company's chairman, Ramalinga Raju, admitted that the company's accounts had been manipulated for years.¹ On paper, Satyam looked profitable, but in reality, the numbers were fake. Shareholders and employees were badly affected when the truth came out, and crores of rupees were lost. The scandal proved how easy it is for promoters to misuse funds and how hard it is to get money back once it is diverted.

Another major case was the *Sahara* issue. Sahara companies raised more than ₹24,000 crores from small investors through optionally fully convertible debentures (OFCDs).² SEBI found that this was done in violation of securities law. By the time the case reached the Supreme Court, a huge amount of money had already been shifted into different accounts. The Court had to order Sahara to deposit money with SEBI so that refunds could be made to investors.³ The case dragged on for years and showed that unless funds are frozen at the right time, investors suffer.

¹ *Union of India v. Satyam Computer Servs. Ltd.*, (2011) 1 Comp. L.J. 1 (A.P.) (India).

² *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

³ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603, 615 (India)

There are other examples too. In the Harshad Mehta scam of the 1990s, loopholes in the banking system allowed stock market manipulation.⁴ More recently, in the Yes Bank crisis of 2020, the Reserve Bank of India had to step in to protect depositors after large sums were mishandled.⁵ In each case, ordinary people were the worst affected, while the promoters or insiders often managed to move funds through shell companies, benami accounts, or foreign tax havens.

That is why the concept of freezing of funds is so important. Freezing means putting a legal lock on money or property so that it cannot be transferred, hidden, or disposed of until a proper investigation is completed. It is not a punishment but a protective measure. Freezing of corporate funds ensures preservation of assets pending investigation and adjudication, thereby preventing irreversible dissipation before final determination by courts or tribunals. This step is vital because financial misconduct often works very fast. In the age of online banking and cross-border transfers, crores can be moved in minutes. If authorities wait too long, the money may already be out of reach. Once it goes into foreign shell companies or secret accounts, recovery becomes almost impossible. Freezing helps to stop the flow at the right time and ensures justice is not defeated by delay.

Indian laws recognise this. The Companies Act, 2013 allows the National Company Law Tribunal (NCLT) under sections 241–242 to restrain companies from transferring funds if they are being misused.⁶ The SEBI Act, 1992 empowers SEBI to freeze accounts or securities in cases of fraud or insider trading.⁷ The Prevention of Money Laundering Act, 2002 (PMLA) allows the Enforcement Directorate (ED) to attach and freeze assets linked to crime. Even the Foreign Exchange Management Act, 1999 (FEMA) can be used to stop illegal transfers abroad.

Despite these provisions, practice shows serious problems. Agencies sometimes overlap, creating confusion about who has the power to freeze. Court procedures take time, and companies often move funds before freezing orders are effective. In simple words, In essence,

⁴ DEBASHIS BASU & SUCHETA DALAL, *THE SCAM: FROM HARSHAD MEHTA TO KETAN PAREKH* 52–53 (2001).

⁵ Reserve Bank of India, *Press Release: Reconstruction Scheme for Yes Bank Ltd.* (Mar. 13, 2020), https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=49528.

⁶ Abhay Sharma, *Prevention of Money Laundering Act, 2002: Its Implications and Challenges in India* 14 (2021) (unpublished LL.M. dissertation, Nat'l Law Univ.),

<http://137.97.123.100:8071/jspui/bitstream/123456789/574/1/ABHAY%20SHARMA.pdf>.

⁷ Securities and Exchange Board of India Act, No. 15 of 1992, § 11(4)(b) (India).

freezing of funds operates as a preventive interim safeguard rather than a punitive sanction. If used on time, it prevents a crash. If delayed, the damage is too big to fix.

Legal Framework under Company Law

Relevant Provisions under the Companies Act, 2013

The following provisions are most relevant to freezing of funds:

Section 241 – Right to Apply Against Oppression and Mismanagement

- Shareholders can approach the NCLT if they feel that the company’s affairs are being carried out in a way that harms them, is oppressive, or goes against the public interest.⁸
- For example, if directors are diverting funds to private accounts or entering into sham transactions, members can seek relief under this section.

Section 242 – Powers of Tribunal

- This is the key section. It gives the NCLT wide powers to issue orders to bring an end to oppressive or prejudicial conduct.⁹
- Orders can include:
 - Stopping directors from transferring or removing funds.
 - Regulating the conduct of the company’s affairs in future.
 - Removing directors found guilty of misusing company property.
- Section 242 has been described as a “safety valve” that allows courts to act quickly before greater damage occurs.

Section 221 – Freezing of Assets

- This provision specifically allows the Tribunal to restrain a company from transferring,

⁸ Companies Act, No. 18 of 2013, § 241 (India).

⁹ Companies Act, No. 18 of 2013, § 242 (India).

removing, or disposing of funds, securities, or property.¹⁰

- It is almost like a direct freezing power.
- This section is often used when there is a fear that funds will be siphoned off during investigation.

Sections 337–341 – Fraudulent Conduct and Misfeasance

- These provisions deal with fraudulent conduct of business, especially during winding up.¹¹
- Section 337 makes it an offence if company officers conduct business with intent to defraud creditors.
- Section 339 allows tribunals to declare that persons guilty of fraudulent trading will be personally liable for the company's debts.
- Sections 340 and 341 deal with misfeasance (misuse of funds) and recovery from guilty directors.
- These provisions are important because they allow tribunals not only to punish fraud but also to protect creditors by attaching funds.

Section 246 – Application of Fraud Provisions to Oppression Cases

- This section makes it clear that the provisions on fraudulent conduct (sections 337–341) also apply to cases of oppression and mismanagement.¹²
- This strengthens the powers of tribunals to freeze funds in a wider range of cases.

Together, these provisions create a strong framework under company law for protecting investors through freezing of funds.

¹⁰ Companies Act, No. 18 of 2013, § 221 (India).

¹¹ Companies Act, No. 18 of 2013, § 337-339 (India).

¹² Companies Act, No. 18 of 2013, § 246 (India).

Role of NCLT and NCLAT

The NCLT is like a special court for company disputes. It has benches across India and deals with cases of mismanagement, oppression, fraud, and insolvency. Its role in freezing funds is crucial.

- **Preventive Powers:** The NCLT can pass interim orders under section 242 or section 221 to restrain directors from moving money until the case is decided.
- **Speed:** Compared to civil courts, the NCLT is meant to act faster. This speed is essential because money can disappear quickly.
- **Checks and Balances:** Appeals against NCLT orders can be taken to the NCLAT, and further to the Supreme Court, ensuring fairness.

Case Example – IL&FS Case (2018):

When Infrastructure Leasing & Financial Services (IL&FS), a systemically important company, faced a crisis with debts of over ₹90,000 crores, the government approached the NCLT. The Tribunal restrained IL&FS and its subsidiaries from transferring or disposing of assets. This freezing protected creditors and prevented a complete financial collapse.

Forensic Audits and SFIO

Freezing orders require evidence. Two tools play a major role:

Forensic Audits

- These are special audits conducted to trace unusual transactions.
- They go beyond normal accounting and look for signs of fund diversion, layering, or fraud.
- In cases like *Satyam*, forensic audits were ordered to understand how money had been moved.¹³

¹³ *Union of India v. Satyam Computer Servs. Ltd.*, (2011) 1 Comp LJ 1, 7 (AP) (India)

Serious Fraud Investigation Office (SFIO)

- The SFIO was set up under section 212 of the Companies Act to investigate serious frauds.¹⁴
- Once the SFIO uncovers fraudulent transfers, the NCLT can freeze funds based on its findings.
- SFIO investigations often involve coordination with SEBI, RBI, and other regulators.

Case Law under Company Law

1. **Satyam Computers Case (2009):**

After the scam, the government moved quickly to prevent promoters from moving assets. The NCLT and courts supported interim protection measures.¹⁵

2. **IL&FS Case (2018):**

As mentioned, the NCLT restrained IL&FS and subsidiaries from transferring assets, showing the importance of freezing in large corporate defaults.¹⁶

Critical Observations

While the Companies Act provides strong powers, practice shows some gaps:

- **Delay in Proceedings:** Even at NCLT, cases often take months. By then, money may already be moved.
- **Overlapping Powers:** Sometimes SEBI, SFIO, and ED act simultaneously, leading to confusion about whose order applies.
- **Lack of Coordination:** Agencies do not always share information in time, which weakens freezing.

¹⁴ Companies Act, No. 18 of 2013, § 212 (India).

¹⁵ *Union of India v. Satyam Computer Servs. Ltd.*, (2011) 1 Comp LJ 1, 7 (AP) (India).

¹⁶ *Union of India v. Infrastructure Leasing & Fin. Servs. Ltd.*, NCLT Mumbai Bench, Order dated Oct. 1, 2018.

- **Risk of Misuse:** Freezing powers can sometimes be misused to harass companies, so balance is needed.

The *Companies Act, 2013* gives tribunals wide powers to freeze or restrain funds in cases of fraud, oppression, or mismanagement. Sections 241–242, 221, and 337–341 are especially important. The NCLT and NCLAT play the central role, supported by forensic audits and SFIO investigations. Case law like *Satyam* and *IL&FS* confirms that freezing is essential to protect investors and creditors.

At the same time, the system needs improvement in terms of speed, clarity of jurisdiction, and better coordination. Freezing of funds should remain a protective tool, used carefully but decisively to preserve justice and trust in corporate governance.

Regulatory and Economic Laws Interface

Freezing of funds in India is not only done under the *Companies Act, 2013*. In reality, financial fraud is rarely limited to company management alone. Many times, it involves stock market frauds, money laundering through illegal channels, and movement of funds abroad. Because of this, regulators such as SEBI (Securities and Exchange Board of India), the Enforcement Directorate (ED) under the Prevention of Money Laundering Act, 2002 (PMLA), and also the ED under the Foreign Exchange Management Act, 1999 (FEMA) play a very big role.

All of these bodies have powers to stop and freeze money when they feel it is being misused. But the challenge is that these regulators sometimes work at the same time, and their powers overlap. This creates an “interface” between company law and regulatory laws. Sometimes this interface works smoothly and helps protect investors quickly. But in many cases, it creates confusion, delays, and even conflicts between different authorities.

Role of SEBI in Freezing Funds

SEBI is India’s main securities regulator. It was created in 1992 because the stock market was growing fast, and there were many scams where small investors were losing their savings. SEBI’s job is to make sure the market is fair and transparent.

One of SEBI’s most important tools is its power to **freeze accounts and funds**. Section 11 of

the SEBI Act gives it very wide powers to act in the interest of investors.¹⁷ Section 11(4)(b) specifically allows SEBI to **freeze bank accounts, demat accounts, and securities** of companies or individuals if it believes they are involved in wrongdoing.¹⁸

This is very important in stock markets because money moves very fast. If SEBI waits until a long case is finished, the money will be gone. Freezing allows SEBI to stop things in their tracks.

Take **insider trading** as an example. Suppose a company director knows that his company is about to announce very high profits. If he secretly buys shares before the news is public, he can make huge unfair profits. In such cases, SEBI often freezes the accounts of the director so he cannot enjoy those profits. Similarly, in cases where brokers manipulate share prices by creating fake demand, SEBI freezes their accounts and stops them from trading.

The **Sahara case** is the most famous example. Sahara collected over ₹24,000 crores from millions of small investors through debentures. SEBI found that this was illegal and ordered Sahara to stop raising money. It also froze Sahara's accounts. Later, the Supreme Court confirmed SEBI's action and ordered Sahara to refund the money.¹⁹ This showed that even big and powerful companies are not above the law when it comes to investor protection.

The strength of SEBI's freezing powers is that they are **fast and preventive**. SEBI can pass interim orders immediately and continue the investigation later. But the weakness is that SEBI's jurisdiction is limited to listed companies and securities markets. Fraud in private companies or non-securities areas may escape its reach. Also, many SEBI orders are challenged before the Securities Appellate Tribunal (SAT) or High Courts, which delays the final outcome.

Freezing under PMLA, 2002

The Prevention of Money Laundering Act, 2002 (PMLA) is India's main law to deal with money laundering. The ED enforces it. Money laundering means hiding or "washing" money that comes from illegal activity, so that it looks clean.

PMLA is very powerful because it allows the ED to **attach and freeze property even at the**

¹⁷ Securities and Exchange Board of India Act, No. 15 of 1992, § 11 (India).

¹⁸ Securities and Exchange Board of India Act, No. 15 of 1992, § 11 (India).

¹⁹ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603, 615 (India).

suspicion stage. Section 5 allows the ED to provisionally attach property suspected to be “proceeds of crime.”²⁰ Section 17 allows search and seizure, and Section 8 confirms attachment by the Adjudicating Authority.

This law has been used in many high-profile corporate cases. For example:

- In the **Satyam scandal**, ED froze properties and accounts linked to fraud.
- In the **Vijay Mallya case**, ED attached properties worth thousands of crores, stopping him from moving money abroad.²¹
- In the **Nirav Modi case**, ED froze both Indian and foreign accounts, preventing further transfer of funds from the Punjab National Bank scam.²²

The strength of PMLA is that it covers even private companies and individuals, not just listed ones. But the weakness is that its powers are very wide. ED can freeze assets even before proving guilt. This sometimes leads to criticism that freezing under PMLA is used too aggressively.

Another big problem is the clash between PMLA and insolvency law (IBC). If a company goes bankrupt, creditors want to use its assets. But ED may have already frozen them under PMLA. Courts have struggled to decide who should get control in such situations.²³

Freezing under FEMA, 1999

The Foreign Exchange Management Act, 1999 (FEMA) is about regulating foreign exchange and cross-border money. It is civil in nature, unlike PMLA which is criminal. But FEMA is very important in cases of corporate fraud because promoters often try to send money abroad through shell companies or illegal remittances.

Section 37 of FEMA gives the ED powers to investigate and stop foreign transactions that

²⁰ Prevention of Money Laundering Act, No. 15 of 2003, § 5 (India).

²¹ Enforcement Directorate v. Vijay Mallya, Special Court, Mumbai, Order dated June 8, 2016.

²² Enforcement Directorate v. Nirav Modi, PMLA Special Court, Mumbai, Order dated Mar. 2018.

²³ Laboni Bhakta, IBC vis-à-vis PMLA: Understanding the Conundrum Between the Two, at 6 (2022), <https://www.researchgate.net/publication/379640269>

break the rules.²⁴ Under this, the ED can freeze bank accounts or stop remittances.

For example, in the Nirav Modi scam, FEMA was used to block outward transfers to shell firms in Hong Kong and Dubai.²⁵ FEMA is also used to stop hawala transactions where black money is moved abroad in the guise of trade.

The strength of FEMA is that it covers cross-border frauds. But the weakness is that penalties are mostly civil and monetary, so its deterrent effect is weaker compared to PMLA.

Coordination Between Regulators

The biggest challenge in freezing of funds is not absence of law, but too many overlapping laws.

- SEBI protects investors in securities markets.
- NCLT under the *Companies Act* protects shareholders and creditors.
- ED under PMLA attaches proceeds of crime.
- ED under FEMA checks illegal foreign transfers.

In many frauds, all these bodies act at the same time. This leads to confusion and turf wars.

For example, in the Nirav Modi scam, SEBI, ED, and NCLT all issued freezing orders. This created problems because banks and creditors were not sure whose order to follow.

Courts have tried to reduce this confusion. In *Sahara v. SEBI*, the Supreme Court supported SEBI but also ensured coordination with Court directions.²⁶ In *Bhushan Steel*, NCLAT had to balance between insolvency proceedings and PMLA attachment.

(SEBI for investors, PMLA for crime, FEMA for foreign transfers), they often end up freezing the same assets twice or thrice.¹⁴ This is sometimes called “double freezing,” which leaves

²⁴ Foreign Exchange Management Act, No. 42 of 1999, § 37 (India).

²⁵ Enforcement Directorate v. Nirav Modi, supra note 8.

²⁶ Sahara India Real Estate Corp. Ltd. v. SEBI, 3, at 620.

companies unable to function and creditors unable to recover.²⁷

Critical Issues

Overlapping Jurisdictions – Too many authorities acting together creates confusion.

Procedural Delays – Agencies sometimes wait for each other, leading to loss of time.

Risk of Misuse – ED's very wide powers under PMLA can sometimes be used unfairly.

Lack of Speed – Fraud is fast, but freezing is often slow. By the time orders come, funds may already be gone.

SEBI, PMLA, and FEMA add an important outer layer to company law. They give India a strong set of tools to freeze funds in securities markets, in cases of crime money, and in cross-border transfers.

But the effectiveness of freezing depends on how well these regulators coordinate. If they act together and quickly, freezing saves investors and preserves justice. But if they delay or overlap, funds vanish and investors lose confidence.

For freezing to be effective in India, what is needed is not more laws, but better cooperation, faster orders, and clarity of jurisdiction.

Judicial Approach and Case Studies

Courts and tribunals in India have played a very important role in shaping the law on freezing of funds. Laws like the Companies Act, 2013, SEBI Act, PMLA, and FEMA give the power to freeze assets, but it is the courts and tribunals that decide when and how these powers should be used.

Through case law, we can see how freezing of funds is used not as punishment, but as a protective step to preserve money until justice is done. The following cases show how the judiciary has approached this issue.

²⁷ Directorate of Enforcement v. Bhushan Steel Ltd., NCLAT, Order dated May 2019

Satyam Computers Scandal (2009)

Facts: Satyam Computers was one of India's biggest IT companies. In 2009, its chairman, Ramalinga Raju, admitted that the company's accounts were manipulated. The profits and assets shown in the books were fake. Shareholders and banks were shocked, and crores of rupees were at risk.

Court's Approach: The government moved quickly, and the NCLT and courts ordered protection of Satyam's assets. SEBI also stepped in to prevent trading abuses. Freezing of funds ensured that the promoters could not transfer assets while investigations were going on.²⁸

Importance: This case showed that freezing is necessary in corporate frauds to protect investors and creditors. If assets had not been frozen, recovery would have been impossible.

Sahara Case (2012)

Facts: Sahara companies collected over ₹24,000 crores from millions of small investors through debentures. SEBI found that this was illegal. By the time the case reached the courts, a huge amount of money was already raised.

Court's Approach: SEBI passed freezing orders to stop Sahara from raising more money and froze accounts to preserve funds. The Supreme Court later confirmed SEBI's action and ordered Sahara to refund the money to investors.²⁹

Importance: This case showed that freezing powers can be used even against large corporations when public money is at stake. The Court treated freezing as a tool to protect common investors.

IL&FS Crisis (2018)

Facts: Infrastructure Leasing & Financial Services (IL&FS), a systemically important company, collapsed under debt of over ₹90,000 crores. There was a fear that the company and its many subsidiaries would sell or move assets, making recovery impossible.

²⁸ Union of India v. Satyam Computer Servs. Ltd., (2011) 1 Comp LJ 1, 7 (AP) (India).

²⁹ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603, 615 (India).

Court's Approach: The government approached the NCLT. The Tribunal ordered that IL&FS and its group companies should not transfer or dispose of assets without approval.³⁰ This was a form of freezing, keeping assets locked until restructuring was done.

Importance: This case showed that freezing is not only for fraud, but also for protecting creditors in corporate failures. It demonstrated the preventive and protective role of freezing.

Nirav Modi Scam (2018)

Facts: Nirav Modi, a jeweller, was accused in the Punjab National Bank scam of more than ₹13,000 crores. Money was being transferred abroad through fake letters of undertaking and shell firms.

Court's Approach: The Enforcement Directorate used its powers under PMLA and FEMA to freeze bank accounts and attach properties in India and abroad.³¹ This ensured that the accused could not move or hide the funds.

Importance: The case showed how freezing under economic laws works in practice. It also highlighted the problem of overlapping orders, because NCLT, ED, and even foreign courts were involved at the same time.

Judicial Approach in General

From these cases, a clear judicial pattern emerges:

Freezing is used as a preventive measure to preserve assets.

Courts emphasise speed and timing. Delay makes freezing useless.

The focus is always on protecting investors, creditors, and public interest, rather than punishing companies in advance.

The judiciary in India has consistently supported freezing of funds as a necessary tool. Whether it was in *Satyam* to protect shareholders, in *Sahara* to safeguard investors, in IL&FS to preserve

³⁰ Union of India v. Infrastructure Leasing & Fin. Servs. Ltd., NCLT Mumbai Bench, Order dated Oct. 1, 2018.

³¹ Enforcement Directorate v. Nirav Modi, PMLA Special Court, Mumbai, Order dated Mar. 2018.

assets for creditors, or in Nirav Modi to stop money laundering, freezing has always been treated as an emergency brake.

The approach of courts and tribunals shows that freezing is not about proving guilt immediately. Instead, it is about making sure that when the case is finally decided, the money is still there.

Challenges and Policy Recommendations

Even though India has strong laws like the Companies Act, 2013, SEBI Act, PMLA, and FEMA, the freezing of funds is still not always effective. The problem is not that there are no powers, but that these powers are sometimes slow, overlapping, or misused.

Challenges

Delays in Action

Fraud and misuse of funds usually happen very fast. Money can be transferred in seconds through online banking. But freezing orders from courts or regulators often take weeks or even months. By the time the order comes, the money is already gone.

Overlapping Jurisdiction

In big scams, SEBI, ED (under PMLA), ED (under FEMA), and NCLT all try to freeze funds at the same time. This leads to confusion. Sometimes, the same property is frozen twice or thrice. Creditors, investors, and banks then do not know which order to follow.

Misuse of Powers

Freezing is meant to be a protective tool, not punishment. But sometimes, regulators may use freezing orders to put pressure on companies or individuals even before wrongdoing is fully proved. This creates an impression of unfairness.

Lack of Coordination

Different regulators do not always share information with each other. This creates gaps. For example, SEBI may not know what ED has frozen, and vice versa. This duplication weakens

the system.

Long Litigation

Even after funds are frozen, cases drag on in courts for years. Investors and creditors often have to wait a long time before they can get their money back.

Suggestions

Faster Action

Regulators and tribunals should act within strict timelines. For example, freezing orders should ideally be passed within days of detection, not months later.

Better Coordination Between Regulators

There should be a single platform where SEBI, ED, RBI, and NCLT can update which assets are frozen. This would prevent duplication and confusion.

Clear Division of Powers

Laws should clearly say who has first claim in case of overlap. For example, if a company is in insolvency, creditors should not be blocked by PMLA freezing unless the money is directly linked to crime.

Safeguards Against Misuse

There should be checks so that freezing is not used unfairly. For example, provisional freezing could be reviewed by an independent authority within a short time.

Awareness and Training

Officials in SEBI, ED, and NCLT need proper training in modern financial systems, forensic audits, and cyber banking. This will help them act quickly and effectively.

Conclusion

Freezing of funds is like an emergency brake in corporate law. It is not meant to punish in

advance, but to protect money until the case is decided. India has several strong laws — the Companies Act, 2013, the SEBI Act, PMLA, and FEMA. Courts and regulators have used these powers in big cases like Satyam, Sahara, IL&FS, and Nirav Modi. These cases show that freezing can save investors and creditors from losing everything.

At the same time, the system still faces problems: delays, overlapping powers, lack of coordination, and sometimes misuse. To make freezing effective, India needs quicker action, better cooperation between regulators, and clear rules on jurisdiction. If these steps are taken, freezing of funds will not only protect investors and creditors but also strengthen trust in India's corporate system. This trust is the foundation of economic growth and fair governance.

BIBLIOGRAPHY

Statutes

- Companies Act, No. 18 of 2013 (India).
- Securities and Exchange Board of India Act, No. 15 of 1992 (India).
- Prevention of Money Laundering Act, No. 15 of 2003 (India).
- Foreign Exchange Management Act, No. 42 of 1999 (India).

Cases

- *Sahara India Real Estate Corp. Ltd. v. Securities & Exchange Board of India*, (2012) 10 S.C.C. 603 (India).
- *Union of India v. Infrastructure Leasing & Financial Services Ltd.*, NCLT Mumbai Bench, Order dated Oct. 1, 2018 (India).
- *Union of India v. Satyam Computer Services Ltd.*, (2011) 1 Comp. L.J. 1 (A.P.) (India).
- *Enforcement Directorate v. Nirav Modi*, PMLA Special Court, Mumbai, Order dated Mar. 2018 (India).
- *Enforcement Directorate v. Vijay Mallya*, PMLA Special Court, Mumbai, Order dated June 8, 2016 (India).

Books

- AVTAR SINGH, *COMPANY LAW* (17th ed. 2018).

Articles & Reports

- Abhay Sharma, *Prevention of Money Laundering Act, 2002: Its Implications and Challenges in India* (2021) (unpublished LL.M. dissertation, National Law University).
- Laboni Bhakta, *IBC vis-à-vis PMLA: Understanding the Conundrum Between the Two*

(2022).

- Reserve Bank of India, Press Release, *Reconstruction Scheme for Yes Bank Ltd.* (Mar. 13, 2020).