

# Depositors' law not applicable to NSEL: Bombay High Court

Our Bureau Mumbai | Updated on August 22, 2019 | Published on August 22, 2019

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## High Court orders release of assets seized by police

The Bombay High Court on Thursday quashed the attachment of bank accounts and properties belonging to 63 moons technologies (formally Financial Technologies) and its promoter Jignesh Shah under the Maharashtra Protection of Interest of Depositors (MPID) Act. In all, assets worth around ₹8,500 crore were attached by police under MPID, which will have to be released now.

The HC rejected the application of MPID in the case involving the ₹5,500-crore NSEL payments fiasco of 2013. It also rejected a plea for stay on the judgment directing the release of assets, a copy of the judgment with *BusinessLine* shows. NSEL was a commodity spot exchange that went bust six years ago after it was found that goods in the warehouse were woefully short against the demand for delivery or trading on the exchange platform.

“Clients trading on the NSEL platform did not invest in the form of fixed deposits, equity or debentures of NSEL, but they traded commodities on the platform of the exchange. The respondent authorities (police and Maharashtra government) proceeded on the assumption that NSEL is a financial establishment and the entire course of action (asset attachments) was based on these assumptions. We have no hesitation in concluding that NSEL is not a financial establishment and, resultantly, its promoter cannot be proceeded under the provisions of the MPID Act,” said the judgment delivered by Justice Bharati Dangre and Ranjit More.

The police imposed MIDP on NSEL mainly to recover the lost money of traders by way of attaching promoter assets. The judgment said jurisdictional facts exist for the imposition of law.

## Seizure of assets

The Economic Offences Wing of Mumbai police had booked NSEL, its officials and 24 borrowers (counter parties on the exchange platform) as accused under the MPID Act. The Act, which came into force in 1999, aims to curb fly-by-night operators who collect money from the public by offering higher returns. It allows the police to seize the moveable and immovable assets of the accused and auction them to recover the lost money.

The Act cannot be applied with regard to any credit given by a seller to a buyer for moveable or immovable property or in the ordinary course of business on security deposit, dealership deposit, earnest money, advance against order for goods or services.

The NSEL had to shut operations after authorities found out that it was dealing in forward commodity contracts when it had permission to function only as a spot exchange. There was a fraud as goods fell short against contract notes issued.

**PTI reports:** Enthused by the order quashing the attachment of assets of 63 moons, Jignesh Shah on Thursday said in a statement all lies are being nailed one after another through court orders and he is committed to “rise like Japan did after Hiroshima and Nagasaki”.

The judgment is a signature of God, he added.

Published on August 22, 2019

NSEL

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