

CH: 8 PREVENTION OF MONEY LAUNDERING

Introduction

It involves conversion of black money (tainted money) into white money (untainted money).

SOURCES OF BLACK MONEY:

- Smuggling, Terrorism, drug trafficking, human trafficking, Sex rackets.
- Insider trading, financial scams
- Bribery
- Embezzlement
- Betting

Black money means:

- money earned through crime.
- Income on which tax is not paid.
- Sources of income is unknown.

Impact of money laundering on:

Economic Development

- Negative impact on FDI
- adverse effect on foreign reserve
- Control over govt. policy
- Increase in bribery

on Society

- weaken the social fabric
- organise crime will get motivated
- increase in crime
- criminal may acquire control over large sector of the economy.

PROCESS OF

PROCESS OF MONEY LAUNDERING

(A) PLACEMENT.

- Initial entry of the dirty cash or proceeds of crime into financial system.
- Launderers introduce black money into financial system.

- Launderer introduce black money into financial system by breaking large and into smaller and
- Launderer shall deposit such money into bank or purchase monetary instrument.

(B) Layering:

- It involves series of conversion of the fund.
- In this stage, movement of the fund to the distance from their source.
- Object is to hide the origin of the source by creating multiple layers.

(C) Integration.

- Last stage in which launderer may invest such money into real estate or luxury asset.

OBJECTIVE OF MONEY LAUNDERING:

- a) Prevent money-laundering
- b) To confiscate the property derived from or involved in money laundering
- c) Punish the people involve in money laundering.

Proceeds of crime

- Property derived from criminal activities
- Value of such property
- If such property is taken outside India then the value of such property

Money laundering

- any person who are knowingly a party or actually involved in any process connected w/crime.

→ Involve in concealment, possession or acquisition or use or claiming any property which is tainted shall be ~~tried~~ liable of offence of money laundering.

Punishment of money laundering

↓
Crime related to narcotic
drugs, Epsy psychotropic sub-
stances
min 3 yrs & max 10 yrs & fine.

any other case
↓
min 3 yrs & max 7 yrs
& fine

Penalty amount shall be confiscated by govt.

Attachment of property involved in money laundering.

→ Authority → Director not below the rank of deputy Director.

→ If authority reasons to believe such criminal proceeds are likely to conceal, transfer or dealt with any manner.

→ may attach by order in writing for max period of 180 days.

Adjudication, Authority:

→ appointed by CG

→ Having prescribe rank & experience.

Adjudication

→ Adjudication AA after receipt of complaint from director or any other officer.

→ Serve notice to such person of not less than 30 days.

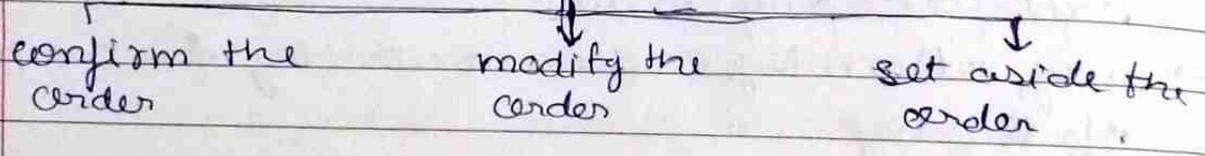
- Such person shall indicate the source of his income.
- A.A. may pass confiscation order & after such confiscation order all the rights vest with CG.

Summon, search, seizure, office may

enter the place place the identification mark on the seized & inspected. seize such property which is ~~seized~~ useful for proceedings.

Appellate Tribunal

- establish by CG
- To hear appeal against the adjudicating authority.
- aggrieved party may refer appeal within 45 days from order.
- Extension → on sufficient ground
- Disposal of appeal within 6 months
- can pass following order

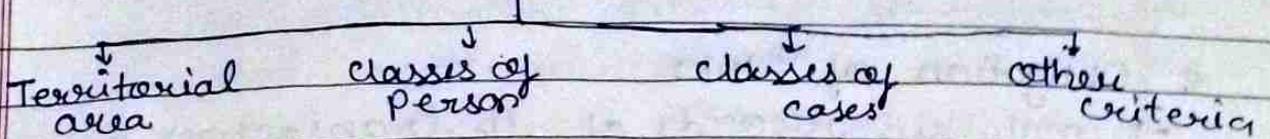


Offences under this act is cognizable & if punishment for a term exceeding 3 yrs, cannot released on bail.

Authorities w/ PMLA:

- Director or AD or ID
- Deputy director
- Asst. Director
- such other officers

Jurisdiction of authorities.



RBI master direction: KYC, AML, CFT guidelines

- Objective is to prevent banks from being used in money laundering.
- also enables banks to know their customer & their financial dealing.
- applies to regulated entities.

Regulated entities:

- Banks
- All India financial institution
- NBFC, misc. NBFC
- All payment system providers.
- All authorised person.

KYC guidelines:

- It applies in following stages
 - (a) opening a new account
 - (b) opening a subsequent account where previously KYC norms is not complied.
 - (c) opening a locker facility.
 - (d) non-account holder applies for high value transaction.

Elements of KYC norms:

- a) customer acceptance policy
- b) customer identification procedure
- c) Monitoring of transaction

d) Risk management

Obligation of Banks

- maintain records of all transactions & their nature & value.
- Furnish the info to director etc & when required.
- maintain records of document evidencing identity of its client.
- maintain records for 5 yrs.

AML & CFT financing Risk assessment

- applicable to regulated entity
- carry out money laundering & terrorist financing risk assessment, exercise periodically
- Risk assessment shall properly documented.
- Outcome of such assessment shall be put before the Board & committee of Board.

Financial intelligence Unit

- Authority for receiving, processing, analyzing & disseminating info relating to suspect financial ~~for~~ transaction
- Independent body reporting to Economical Intelligence Council headed by Financial minister.

Function:

1. Collection of Info → act as reception point for Cash transaction report, NPC report, cross border wire transfer report, suspicious transaction report.

2. Analysis of Info

→ It analysis the info to uncover the pattern of transaction.

3. Sharing of Info:

→ They can share info with National Intelligence authority or other regulating authority.

4. Co-ordination

→ They co-ordinate & share the info with other financial intelligence to combat ML

5. Research & Analysis

Monitor & identify strategic key area on ML.

FATF

→ Establish in 1989

→ Object is to develop & promote the anti-money laundering policies.

→ Inter-governmental body

• Objective (Common for all Global initiative)

→ combat money laundering & terrorist financing

→ Implement measure to counter the use of financial system in money laundering

→ Establish a series of ~~re~~ recommendation up to date anti-money laundering recommendation.

→ monitors the implementation of such policy.

→ Promote the adoption of AML & CFT measures globally.