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LEGAL OBLIGATION FOR COMBATING MONEY LAUNDERING

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INTRODUCTION

The prevention of money laundering ACT (PMLA) is a significant legal framework enacted by the Indian government to address the escalating issue of money laundering & related financial crimes. Money laundering is a process used by criminals to make money that comes from illegal activities like drug trafficking, corruption, fraud or organized crime like it came from legal sources. In other words, it is a way for criminals to "clean" their dirty money (black money) so they can use it without attracting attention. This kind of activity is not safe as it allows criminals to continue breaking the law, and it also hurts a country's economy.

To Stop Such kinds of activities all over the world governments have created rules and laws that every individual must follow. These rules are often based on international standards set by the organization like the Financial Action Task Force (FATF). The reason behind its establishment is to make it much harder for people committing such crimes to move illegal money and to make sure that financial systems are safe and trustworthy. Many different individuals and organizations are subject to the legal requirements to combat money laundering. This covers financial institutions like banks, insurance providers, real estate brokers, attorneys, accountants, Casinos, cryptocurrency platforms, and even some businesses that handle large amounts of cash. These organizations are called "regulated entities" or "reporting entities" because they have a legal responsibility to help detect & prevent money laundering.

The key legislative framework for the prosecution of money laundering is provided by the Prevention of Money Laundering Act, 2002 (PMLA), and the rules issued thereunder (PML Rules). ENFORCEMENT DIRECTORATE The primary central agency investigating and prosecuting money laundering (ML) offences under the PMLA is the Directorate of Enforcement (ED), part of the Department of Revenue under the Union Ministry of Finance. Beyond this, sectoral regulators like the Reserve Bank of India (RBI), the Securities and

Exchange Board of India (SEBI) and the Insurance Regulatory and Development Authority of India (IRDAI) have powers to address matters on money laundering activities and prescribe guidelines on anti-money laundering (AML) standards. These guidelines, when read along with the provisions of the PMLA and PML Rules, would create a framework.

PROCESS OF MONEY LAUNDERING

Even though it is considered as one process, it can be broken down into three stages: The Placement stage, The Layering stage, and The Integration stage for better understanding.

PLACEMENT STAGE: It is the first step of the money laundering process. In this stage dirty money or illegal money is somehow put in the financial system to make it look like legal money. This illegal money is often in Cash form and it is put in banks or Other financial systems. As this money is illegal, putting it into banks is not safe. Large amounts of transactions are noticeable so they break down the money to do the process smoothly. They use the broken-down money directly into banks or they use it through purchasing checks, money orders, bearer instruments, other forms of currency, etc which are collected and deposited in another place.

LAYERING STAGE: This is the second step in the money laundering process. This stage of money laundering involves using many different financial steps and middlemen to make it harder for authorities to track the money. All these transactions are done in such a way that makes them look from illegal to legal. This stage is the most complicated part of the money laundering process. This process usually includes moving illegal money through wire transfers and using different banks. People who do such kinds of fraud use different types of tricks and ideas to make it legal, like breaking the amount and then transferring it to different accounts, banks, Countries, fake companies, or trusts to hide its originality. Sometimes it is sent to real business to Make it more trustworthy. In this kind of difficult process the best way is, The Electronic Transfer of money. It is more helpful as it allows the transfer of money into many accounts as well as countries within a few hours. Electronic transfer of money is an easier and faster process.

INTEGRATION STAGE: This is the final stage of this process. In this stage all the dirty or illegal hidden money Re-enters the mainstream financial system as a legitimate transaction. This is done in the form of business investment, purchase, sale of an asset bought during the layering, bank notes, shares of cheques and it appears to come from clean sources. Once the

money becomes legal, it can be sent back to the home country and shown as legal income. If this process fails, the government can freeze or take away the money and bank accounts involved.

TYPES OF TRANSACTIONS:

STRUCTURING (SMURFING): Structuring is also known as smurfing is one of the types of money laundering. It is a process in which large financial transactions are broken down into small transactions to avoid reporting requirements and is spread over many different accounts.

GAMING AND GAMBLING SECTORS: These sectors are more likely to be used for money laundering. Sometimes they use Casino transactions to launder money. It involves a lot of transactions and Sometimes hides who is really behind them so it is very important to have strong anti-money laundering (AML) rules in such places.

BUYING AND SELLING: In this process they use the illegal money for quick turnaround investment in assets like real Estate, Cars, and luxury items. By reselling these assets, people involved in these crimes can generate clean money from their illicit activities.

MULES OR CASH SMUGGLERS: A money mule is someone who accepts & transfers illegally. money from the criminals to smuggle it across borders and they deposit the dirty money into foreign accounts. They know that they are doing illegal activity, but some are not aware of it.

SHELL COMPANIES: Shell companies are businesses that exist only on paper they are not real business. Criminals use it to hide and move their illegal money. People who commit such types of crimes make these companies look like real, legal businesses, so it becomes hard to detect who is behind it. These companies are usually set up in places known as tax havens or offshore financial centres, where rules on business are weak. This makes it easier for criminals to hide stolen or dirty money.

ANTI-MONEY LAUNDERING LAWS AND REGULATIONS IN INDIA

When someone attempts to indulge in helping, or is by any chance connected to illegal money by helping to hide it, use it, or try to make it look like legal money they are guilty of money

laundering. A person found guilty of this crime is punished with imprisonment for 3 to 7 years, with the possibility of extending up to 10 years for severe offenses. Monetary penalties are imposed on the guilty person which can vary based on the severity of the offense. The proceeds of crime can be confiscated. The authorities can freeze the bank accounts and properties involved in money laundering. A person who commits this Crime on repeat may have to face harsh penalties. These penalties are outlined under THE PREVENTION OF MONEY LAUNDERING ACT, 2002(PMLA), which establish stringent measures against money laundering activities. The Prevention of Money Laundering Act, 2002 (PMLA) along with the prevention of money Laundering (Maintenance of Records) Rules, 2005 are the principal laws Enacted to prevent money laundering activities in India.

CONCLUSION

The offence of money laundering is the Conversion of illegal money into legal money. Money laundering is thus, not a local crime but a serious offence which should not be taken lightly. The Prevention of Money Laundering Act of 2002 was enacted by the legislature as an umbrella legislation to curb the increasing issue of the offence of money laundering. The offence of money Laundering threatens the government and it also destroys international relation. It also possesses a serious threat to the banking system. There are various Anti-Money laundering measures taken in India but there are some loopholes which are not fulfilling the purpose. A proper strict policy with respect to anti-money laundering is the need not only in India but all over the world.

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