



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*learning.*

*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **AMBIT EXTENSION OF PREVENTION OF MONEY LAUNDERING ACT**

AUTHORED BY - HRISHABH DAGA & AASTHA SHARMA

## **Introduction:**

The **Prevention of Money Laundering Act**<sup>1</sup> was enacted in 2002 to combat the crime of legalizing the unlawful activity of obtaining income and profits from sources designated illegal by the country's laws. This statute authorizes the government and other designated authorities to seize any property or funds obtained through illicit means.

Money laundering is the criminal activity mentioned in **Section 3 of the PMLA**<sup>2</sup> and it is the process of converting funds obtained illegally and unlawfully into legal and lawful funds. The money is transferred through various channels and conversions until it finally reaches a legal institution like a bank or corporation, to make it appear as though everything is in accordance with the law of the land. Common ways through which money laundering is practiced include bulk cash smuggling, round-tripping, gambling, and fake invoicing.

From its enactment until the recent notification, the PMLA mainly imposed duties on financial institutions like banks and corporations. These duties include, but are not limited to:

- Maintaining records of every transaction and amount, regardless of any aspect with an internal connection, within thirty days.
- Reporting any transaction that was suspicious directly to the director appointed in accordance with the PMLA within the stipulated time.
- Confirming the identity of their client with the authorities.
- Storing the records of the client for five years from the date of the transaction

---

<sup>1</sup> Prevention of Money Laundering Act, 2002

<sup>2</sup> Prevention of Money Laundering Act 2002, S 3

Besides the statute, several anti-money laundering policies have been implemented to combat this crime. The government and the financial institutions keep searching for new and novel ways to combat this crime. Financial institutions play a critical role in fighting any kind of financial crime. The employees of the banks receive training on how to recognize them and what actions should be taken once they are recognized. The law also states that once any suspicion is even hinted at, the bank must inform the required authorities to act. However, despite the training and an existing statute, the issue of money laundering has not been curbed, and banks fail to recognize various such instances; hence, another step is taken by the government to curb this issue.<sup>3</sup>

### **The Latest Amendment:**

The Prevention of Money Laundering Act (PMLA)<sup>4</sup> is perhaps the most crucial piece of Indian legislation to combat the financial crime of money laundering. This section of the blog examines the recent modifications to the PMLA, whereby the Finance Ministry of our country has amended **Section 2(1) (sa) of the Act**<sup>5</sup>, and it now includes Chartered Accountants (CA) and Company Secretaries (CS) to follow the same set of financial duties as banks and financial institutions and will be subjected to the provisions of the Act. This has been one of the most significant changes in the process of combating financial crimes, as it has expanded the scope of reporting any transaction that is suspicious in any way.<sup>6</sup>

### **Quick Background:**

The Chinese Apps Scams are the impetus behind the recent amendment to the PMLA of 2002<sup>7</sup>. Accounting experts assisted a Chinese program in establishing shell companies in India. They used their current office address to establish the new companies and were appointed as directors. The Chinese apps, on the other hand, offered instant loans, which enticed individuals to fall for the trap and led to the compromise of a great deal of personal information.

---

<sup>3</sup> Corpseed Team, 'PMLA Amendment 2023 for Ca, CS, and CWA under the Prevention of Money Laundering Act' (CORPSEED ITES PRIVATE LIMITED, 2023) <https://www.corpseed.com/knowledge-centre/pmla-amendment-for-ca-cs-and-cwa-under-the-prevention-of-money-laundering-act>

<sup>4</sup> Prevention of Money Laundering Act, 2002

<sup>5</sup> Prevention of Money Laundering Act 2002, S 2(1) (sa)

<sup>6</sup> Sharad Sharma C, 'PMLA Covers Transactions by Ca, CS & CMA on Behalf of Their Client' (TaxGuru, 24 May 2023) <https://taxguru.in/chartered-accountant/pmla-covers-transactions-ca-cs-cma-client.html>

<sup>7</sup> Prevention of Money Laundering Act, 2002

### **Application after the Amendment:**

The retention period for records has been increased from five to ten years because of the amendment. Consequently, the amendment requires financial professionals to maintain records of all transactions for a period of ten years. This is done to ensure that there is transparency and that the records are available whenever needed. Professional infractions may result in a fine of up to 10 lakh Rupees.

To add on, the government has introduced a new system of Know Your Customer (KYC), which includes verification of the threshold for transactions at 2.5 Lakh Rupees instead of the previous 5 Lakh rupee limit. Again, the ulterior motive is to enhance the accuracy of information and prevent any possibility of money laundering at the grass-roots level since the transaction amount limit has been lowered.

So, with the new PMLA regulations<sup>8</sup>, the stage is set—the financial professionals must start with ensuring robust systems for identifying any suspicious transactions. Following which, the professionals must maintain accurate and comprehensive records of their clients, which include their identities and transactions, for 10 whole years. After the fulfilment of this step, the new KYC policy must be followed, and this will be done by PAN card verification.

Excluding the inclusion of financial professionals within the scope of the PMLA, the government's most recent amendment also includes express trust trustees, or those who perform functions analogous to those of a trustee. Since trustees have been included in the ambit, they will be required to monitor their transactions and disclose any suspicious activity to the authorities; otherwise, they risk suffering severe reputational harm and fines.<sup>9</sup>

### **Major Contention:**

Despite the great idea behind the amendment, various scholars have pointed out that the major contention of this new amendment is that why would an employee (financial professional) of a company or organization snitch on any suspicious actions of his employer or the company

---

<sup>8</sup> Prevention of Money Laundering Act, 2002

<sup>9</sup> Taxmann Publications, 'Analyzing Recent PMLA Amendment for Stronger Anti-Money Laundering Measures' (Taxmann Blog, 22 May 2023) <https://www.taxmann.com/post/blog/analyzing-recent-pmla-amendment-for-stronger-anti-money-laundering-measures>

(Section 70 of the PMLA<sup>10</sup>) that he is working for and jeopardize his position or job?

The response to this lies in the fact that if the professional or trustee does not comply with the regulations and is found guilty, they will be subjected to a penalty of up to 10 lakh rupees, which is far more than the person who has committed the crime as the person who has committed the actual crime of money laundering in accordance with Section 4 of the PMLA<sup>11</sup> and drawing inference from the case of *Sanjay Kumar Choudhary v. Government of India*<sup>12</sup> with a punishment of rigorous imprisonment that can lead up to 7 years with a fine of up to only 5 lakh rupees, which is less than what the professionals would have to pay if they fail to comply with the recent notification.

### **Conclusion:**

In conclusion, the central government's notification regarding the incorporation of professionals within the scope of the PMLA 2002<sup>13</sup> has expanded the scope by imposing obligations on individuals, who are the foundation of any organization. The government took this action to combat financial offenses such as money laundering by emphasizing the need to place the spotlight on the individual accountability of employees who interact directly with the company's finances. Consequently, this modification makes it imperative for financial professionals to comply with the existing law and increase the transparency of ongoing financial transactions.

In the author's opinion, the inclusion of professionals such as CAs and CSs has merely widened the scope of reporting even the tiniest of suspicions, as the most effective way to combat crime is to identify and thwart it at the earliest or most formative stage of the process; otherwise, it will become extremely complicated in the future. Money laundering is a pervasive and complex issue in the Indian economy that needs to be addressed. A straightforward amendment will not eliminate such a pernicious problem, but it will help us take the first step toward combating money laundering.

---

<sup>10</sup> Prevention of Money Laundering Act 2002, S 70

<sup>11</sup> Prevention of Money Laundering Act 2002, S 4

<sup>12</sup> *Sanjay Kumar Choudhary v. Government of India* W.P.(Cr.) No.419 of 2009

<sup>13</sup> Prevention of Money Laundering Act, 2002