

ODISHA POLICE  
C.I.D. CRIME BRANCH, CUTTACK.

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C.B. Circular No. 3 of 2012

Investigation of Money Laundering offences

**(1) Introduction:** - The goal of many criminal activities is to generate profit for the individual or group that carries out the criminal acts. Money laundering is the processing of the criminal proceeds to disguise their illegal origin. Original criminal act from which the criminal proceeds are generated is called predicate offence, where as the activity of disguising the criminal origins of the proceeds of crime is called money laundering.

Money laundering in India is criminalized presently under PML Act as well as NDPS Act. (laundering of drug money was criminalised by insertion of section 8A in NDPS Act 2001. Police is authorized to investigate offences u/s 8A of NDPS Act). However, police is not authorized to investigate offences under PML Act. As per Sections 48 & 49 of the PMLA, only Directorate of Enforcement officers have been given powers to investigate offence of Money Laundering. The Enforcement Directorate officers have also been authorized to initiate proceedings for attachment of property under PML Act.

**(2) Some unique features of PML Act.**

(a) The statement recorded before the Investigating Officer under PMLA is admissible evidence in the Court.

(b) When a person is accused of having committed the money laundering offence under section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused. (Section 24).

(c) Property derived or obtained as a result of a scheduled offence can be attached. The attached properties may be confiscated and disposed off as per prescribed procedure. (Sections 5 & 8).

**(3) Definitions. :- Money Laundering, Proceeds of Crime, Property and Attachment** has been defined as follows under PML Act.

"Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of **money laundering**. (Section 3 of PMLA))

"**Proceeds of crime**" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property (Sec(1)(u) of PMLA))

"**Property**" means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located [(Section 2(v))]

"**Attachment**" means prohibition of transfer, conversion, disposition or movement of property by an order issued under Chapter III of the Act ,(Section 2(d))

**(4) List of predicate offences**

Under PML Act money laundering investigation can only be launched if the predicate offence is listed in schedule of the PML Act.. This Schedule of the PML Act was earlier restrictive and very small number of offences were listed. By a recent amendment of PML Act in 2009, the list of predicate offence has been expanded manifold. (A bill has been introduced in Parliament to further expand list of predicate offences).

The offences listed in the Schedule to the Prevention of Money Laundering Act, 2002 are scheduled offences in terms of Section 2(1)(y) of the PML Act. The scheduled offences are divided into three parts - Part A, Part B, & Part C.

In Part A, certain serious offences such as those connected with waging war against the Nation, circulation of Fake Indian Currency Notes, offences relating to Narcotic drugs, etc. have been included.

For offences listed in Part 'B' of the schedule, the value involved should be Rs 30 Lakhs or more for money laundering provisions under PMLA to be attracted..

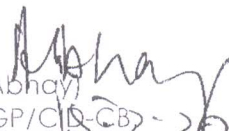
Part 'C' of the Schedule deals with trans-border crimes.

All three parts of schedule of PMLA are printed below as annexure.

#### **(5) Referring Money Laundering offences to Enforcement Directorate.**

Dist Ss.P. have been repeatedly asked to provide relevant information and refer money laundering offences to Enforcement Directorate by this office letter No.30619/CID-SR-EO dtd.15.10.2009, No.33328/CID-SR-EO dtd.13.11.2009 and Memo No.576/CID-SR-EO dtd.5.1.2010. But results have not been satisfactory.

Hence this circular is being issued to explain the matter in some detail. Dist Ss.P. may devise mechanisms at his/her office so that relevant information is sent to Crime Branch. **Police Station officers should be sensitized so that information about organized criminals and their ill gotten property (proceeds of crime) is collected, documented and forwarded to Crime Branch** for further reference to Enforcement Directorate.

  
(Abhay)  
ADGP/CID-CB-2012

Annexure :- Schedule to PMLA Act listing predicate offences.

#### **SCHEDULE – PART 'A'**

The Indian Penal Code (Section 121,121A,489A,489B)

The Narcotic Drugs & Psychotropic Substances Act, 1985 (Section 15,16,17,18,19,20,21,22,23,24,25A,27A,29).

The Explosives Substances Act 1908 (Section 3,4,5)

Unlawful Activities (Prevention) Act,1967 (Section 10 read with 3, 11 read with 3&7, 13 read with 3, 16 read with 15, 16A, 17,18,18A, 18B,19,20, 21,38,39 & 40).

#### **SCHEDULE – PART 'B'**

The Indian Penal Code (Section 1200,255, 257, 258, 259, 260, 302,304, 307, 308, 327, 329, 364A, 384 to 389, 392 to 402, 411, 412, 413, 414, 417, 418, 419, 420, 421, 422, 423, 424, 467 471, 472 & 475 & 476, 481, 482, 483,484,485,486,487,488).

The Anus Act, 1959 (Section 25,26,27,25,29 d30)

The Wildlife (Protection) Act, 1972 (Section 51 read with 9, 51 read with 17A, 51 read with 39, 51 read with 44, 51 read with 48, 51 read with 49B)

Immoral Traffic (Prevention) Act, 1956 (Section 5,6,8,9)

The Prevention of Corruption Act, 1958 (Section 7,8,9,10 d 13)

The Explosives Act 1884. (Section 9B, 9C)

The Antiquities and Arts Treasures Act 1972 (Section 25 read with 3, 28)

