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MONEY LAUNDERING:
A CURTAIL TO NATIONAL INCOME

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ABSTRACT

The economy of the any country is well supported by the money flow of that county not in home currency of that country but also in the currency of foreign country that comes in any country. The whole economic system whether it is supported by the Banking or Export and import or foreign trade even the domestic trade, its business policies, foreign policies and many more are standing on the pillar of flow of Money. In case there are any flaws in the flow of money through some legal sources or activities or some other illegal means, the entire structure breaks down for a while and same need to be restructured. This could involve the detection of culprit and punishing him in the way that the same does not happen again. The Money laundering is that activity which makes hole in the economic structure of any country. Almost all the countries in the world are encountering the situation and bearing the pain of money laundering in their country. Although they all have strict provisions and enforcements of laws for the purpose of preventing the money laundering over the long period but still in involvement of large business house and business persons including the well known politicians and celebrities makes it more difficult to enforce the laws with its true intention. Every year thousands or perhaps crores of the rupees just become the part of money laundering activity. This article is enlightening the various provisions enforced for making the country free form ruining because of money laundering.

Keywords: *Money Laundering, Culprits, Indian Economy, Enforcement, Trade and World Economy.*

Introduction

The government of India has passed a statue named "The Money Laundering Act, 2002" in year 2002 with the intention to prevent the offence of money laundering. Commonly also known as "Hawala" which perhaps the biggest issue any country is facing now a days specially those whose economy is developing one and has a direct intervention of the currency of a developed country or countries for example India. Our trade policy and system, our business structure is such that we do have number of export and import activities with some of developed countries in the world including unite states, Japan, France, Russia and others. The exchange gain or loss benefit make it more attractive for the culprits to entered into the system of money laundering to earn huge amount of illegal gain by making crores of worth rupees loss every year to the country. The problem is becoming vast with the increase in trade. In case there are any flaws in the flow of money through some legal sources or activities or some other illegal means, the entire structure breaks down for a while and same need to be restructured. Sometimes few businesses person got attracted in the trap of such money launderers just for the benefit of a small amount of money and suffers a huge loss along with imprisonment and permanent closure of their business and loss of reputation too. Hence a system to prevent the entire structure is very necessary which is not possible only through having the legislation but also with the strict enforcement of the same.

Concept of Money Laundering

The term 'money laundering' is not a single offence like theft. It covers a variety range of illegal activities which have been undertaken with the intention to hide and combat the identity of the source of criminal proceeds. The purpose of money laundering is to disguise the illegal origin of money and to convert it and pretend it as clean or legal money. In activity of Money Laundering, generally three stages are involved:

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- **Setting aside the Money:** This is the first stage of the money laundering process and involves keeping aside the proceeds of criminal activity into a bank account or other source. This may be a simple cash transaction where the proceeds of crime in the form of cash are deposited into a bank account. Various techniques are used by money launderers to avoid detection of such illegal money or money created through illegal source. These may involve splitting the whole proceeds into small cash bunches and depositing the same into number of different accounts or structuring the same to pretend the same in as legal one.
- **Covering the Original Transaction:** it involves activities of the money launderer to making distance from the criminal origination of illegal money. Thus a series of transactions is carried out to move funds from the original source to a large number of accounts across banks, geographical locations or entities so as to disguise the origin of these funds. The basic reason of doing such transactions are make an end of audit trail so that in case of investigation it will be very difficult to detect the same.
- **Integration** This is generally the last stage of the money laundering cycle and implies successful completion of placement and layering stage. This involves legitimizing the proceeds of criminal money and making the part of the economy. Thus by using the same in making assets of varied nature such as investing in real estate or gold or silver or shares or cars or other assets.

However, as per the Prevention of Money laundering Act, 2002, definition of the money laundering is little wide to cover the all possible activities which has been undertaken with the intention of doing money laundering. According to it "if any person who is directly or indirectly involves or intentionally assists or intentionally becomes a party or is actually involved in any activity which is connected with the proceeds of money laundering crime and pretending it as legal property shall deemed to be guilty of offence of money laundering." If any person found guilty of money laundering activity or commits offence of money laundering, he shall be punishable with an imprisonment of three years to seven years and also with a fine up to five lakh rupees. The imprisonment of seven years can be extended up to ten years in specific circumstances. The punishment is not limited only for imprisonment and fine. The attachment of property involved in money-laundering is also done. Where the Director or Deputy Director or other officer above to Deputy Director, authorized by the Director, has reason to believe, on the basis of material in his possession, that any person is having the proceeds of crime and such person may conceal or transfer or dealt in any other manner with such proceeds of crime in such a manner that it may impact other proceedings relating to the confiscation of the proceeds of the crime, or If such property involved in money-laundering is not attached immediately, the non-attachment of the property may create an obstacle for any proceeding under this Act. Hence he may, issue an order for provisionally attaching such property but not for a period of 180 days from the date of the order. Immediately after attachment of Property, officer shall forward a copy of the order, along with the material in his possession, to the Adjudicating Authority, in a sealed envelope, shall keep such order and material for such defined period only. Every such order of making attachment of the proceeds of the crime shall end after the expiry of the period for which it was mentioned in the act or on the date when order is made whichever is earlier. However nothing contained in this section shall stop any person or his interest in the enjoyment of the immovable property attached from such enjoyment.

Responsibilities of Banking Companies, Financial Institutions

Every Banking Company and Financial Institution shall maintain a Record of All those Transactions, the Nature and Value of which may be prescribed by authority. These transaction may include either a single transaction or a long list or series of transaction which are connected with each other in such a manner that they all took place in a month, furnish information of transactions to the Director within prescribed time, Verify and maintain the records of the identity of all its clients, in such manner as may be prescribed.

Role of Financial Action Task Force

The Financial Action Task Force is an international organization established in 1989 by a G-7 Summit in Paris. It was initially established to examine and develop measures to combat money laundering. In 2001 it also included the activities of terror funding in its scope. Its objectives is to set out the standards and ensure implementation of legal, regulatory and operational measures for preventing the money laundering, terrorist financing and other associated activities. It issues number of Recommendations which are recognized as the international standard for preventing the money laundering and terrorist financing. These guidelines was first issued in 1990, and then revised in 1996, 2001, 2003 and lastly in 2012 to ensure that they remain up to date and relevant.

The FATF closely monitors the progress of its member countries in implementing necessary measures, and also reviews their measures adopted by them for prevention of money laundering and terrorist financing techniques. Presently, it has 34 member jurisdictions and 2 regional organizations which work as major financial centers for the whole world. Moreover, certain international bodies viz. World bank, International Monitory Fund (IMF), Asia Pacific Group (APG), United Nations (UN) are the observers of FATF which have, among other functions, a specific anti-money laundering mission or function. Various regulatory agencies involved in the enforcing AML framework in Indian securities market include SEBI (Securities and Exchange Board of India), RBI (Reserve Bank of India), FIU (Financial Intelligence Unit) of Govt. of India. The Prevention of Money Laundering Act, 2002 came into force in India in July 2005 and financial sectors Rules and Regulations in this regard came into force much after (starting from the year 2006).

Role of Securities Market in Prevention of Money Laundering

Undoubtedly the role of Stock market in prevention of money laundering activities is necessity. On the one hand securities markets generate proceeds of crime (such as insider trading and fraudulent and manipulative trades). On the other hand, securities markets also provide an avenue for not only setting aside and covering the original one but also in the process, providing opportunities increasing the profits and gains through such illegal and invalid proceeds. Since securities markets, world over have moved towards screen based trading where human intervention is now minimum and which provides the facilities of anonymity, there is tremendous scope of using the sector for such nefarious schemes.

Considering the all pervasive nature of money laundering and significant efforts being made both at national and international level, there is a need to take strict action and critically examine the international legislature to prevent money laundering. There is also a need to have a look at the role of financial sector especially securities market in preventing money laundering. This becomes more important in case of India as it is a developing country. The study will aim to provide some typologies for potential abuse of securities sector for money laundering and how policy makers and standard setters can make the system safer and more secure through suitable policy interventions. The study is not going to end in one day rather it is an iterative process that continues for the long time. Every day new methods are adopted and evolved which breaks the rule. The study is aimed at throwing light on how anti money laundering framework has developed in various jurisdictions and what are the specific areas where implementation efforts need to be stepped up. The above study has also focused on more aspect of financial sector, more particularly the securities market and its role in preventing and combating money laundering, with the special reference to Indian market.

Conclusion

Even though the various measures has been adopted by the countries for restricting as well as ensuring that the money laundering do not enrich in the country. A number of enactments has also been introduced and amended on time to time, making it more strict, but still the governments are not able to establishment of strong mechanism to come out from the problem of money laundering. The reason could vary. One of the biggest reason is involvement of large business house and business persons including the well known politicians and celebrities makes it more difficult to enforce the laws with its true intention. The engagement of few government official in bribe activities, who are responsible for prevention of money laundering and redtapism is the another big reason for it. Hence it is undoubtedly accepted that unless this kind of serious obstacles are not removed, it won’t be possible for any country to stop the money laundering. Hence a strict action is not required only on the actually involved culprits of the money laundering offence, at the same time a strict action is also required on those who are the supports of such offenders. Only than the true purpose will get fulfilled with which money laundering act has been set up the govt. of India in 2002.

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