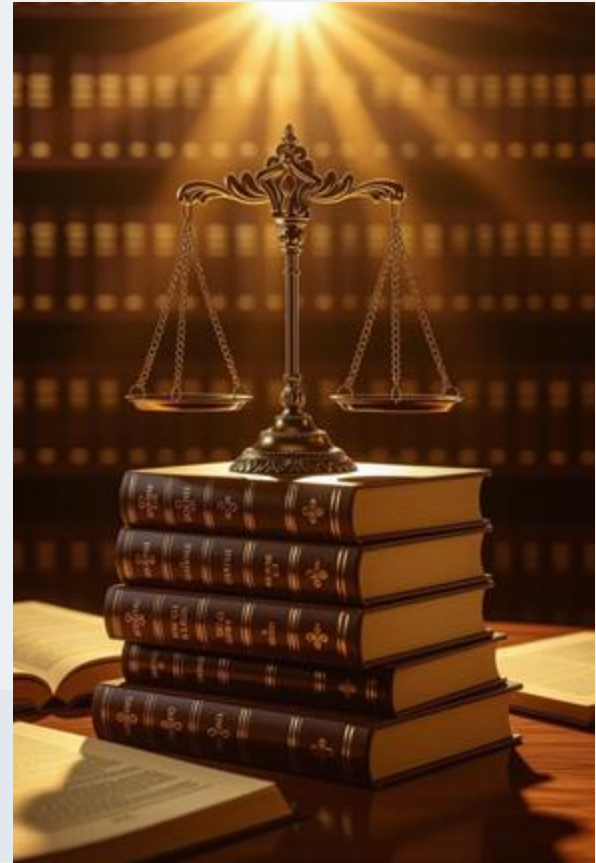


Prevention of Money Laundering Act (PMLA)

—E Venkata Siddhartha
Advocate



Reason For Enactment Of PMLA

The Prevention of Money Laundering Act (PMLA) was enacted to fulfill international obligations and address India's specific need for a robust legal framework against money laundering.

- International Commitments: India is a signatory to international conventions, including the 1988 Vienna Convention, which mandates criminalizing the laundering of drug-related proceeds.
- FATF Guidelines: The Financial Action Task Force (FATF) recommendations require member states to implement comprehensive anti-money laundering (AML) measures.
- Pre-PMLA Gap: Before the PMLA's enactment in 2002 and enforcement in 2005, India lacked a comprehensive law to tackle money laundering effectively. The absence of such legislation hindered international cooperation and compliance with global standards.



When Did PMLA Come Into Force

1998



The PMLA was initially introduced in 1998, marking the early recognition of the need for specific anti-money laundering legislation in India.

2002



The Act was officially enacted in 2002, providing the legal basis for combating money laundering and establishing the framework for enforcement.

July 2005



The PMLA came into force in July 2005, marking the commencement of its operational implementation and enabling authorities to take action against money laundering activities.

Later Developments



Subsequent amendments and legal interpretations have refined the PMLA, enhancing its effectiveness in tracing, seizing, and confiscating the proceeds of crime, and adapting to evolving money laundering techniques.

Intent and Key Provisions

The PMLA's intent is to prevent, detect, and penalize money laundering, achieved through comprehensive provisions.

- Purpose: The Act aims to combat money laundering by establishing measures for its prevention, detection, and prosecution.
- Offences: Defines money laundering as concealing, possessing, acquiring, using, or projecting as untainted property derived from criminal activity.
- Property Attachment: Empowers authorities to attach property involved in money laundering, preventing its further use.
- Mandatory Reporting: Requires financial institutions, banks, and intermediaries to report suspicious transactions to the Financial Intelligence Unit-India (FIU-IND).
- Adjudicating Authorities: Establishes adjudicating authorities to determine whether property is involved in money laundering.



Predicate Offence

A predicate offence is a primary crime that generates illicit funds, which are then laundered.

- Definition: These are the underlying criminal activities that produce the proceeds subsequently subjected to money laundering.
- Linkage: Money laundering under the PMLA must be linked to a scheduled offence specified in the Act's schedule.
- Examples: Scheduled offences include corruption, fraud, drug trafficking, terrorism financing, and other serious crimes.
- Importance: The existence of a predicate offence is crucial for initiating PMLA investigations and actions. Without it, there is no basis for alleging money laundering.



Enforcement Agency

The Enforcement Directorate (ED) plays a central role in enforcing the PMLA, supported by other agencies.

- Enforcement Directorate (ED): The primary agency responsible for investigating and prosecuting offences under the PMLA. It has the authority to attach, seize, and confiscate property involved in money laundering.
- Financial Intelligence Unit-India (FIU-IND): Serves as the national agency for receiving, processing, analyzing, and disseminating information related to suspicious financial transactions.
- Assisting Agencies: Various agencies, including the police, CBI, and other regulatory bodies, assist in the enforcement of the PMLA by providing intelligence and support.



Remedies Under PMLA

The PMLA provides avenues for appeal, tribunal and court remedies, and procedural safeguards.

- Appeal Process: Aggrieved parties can appeal decisions of the adjudicating authority to the Appellate Tribunal.
- Tribunal and Court Remedies: Further appeals can be made to the High Court and Supreme Court, ensuring judicial oversight.
- Challenging Property Attachment: Individuals can challenge the attachment of property by demonstrating that it is not involved in money laundering.
- Seeking Bail: Accused persons can seek bail, subject to stringent conditions, ensuring that their rights are protected.



Questions and Discussion.

