



My Dear Friend

*I am presenting **Thursday Article on 41 FAQ's on Official Overview for Prevention of Money Laundering (PMLA), 2002 in India***

- 1. Any kind of offence is attracting **Penalty + imprisonment (both)**.*
- 2. It's humbly suggested to stop committing offence.*
- 3. I trust that you will be enriched by reading this article*

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● *With best wishes from CA. Satish Agarwal, New Delhi* ●



41 FAQ's on Official Overview for Prevention of Money Laundering (PMLA)

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41 FAQ's on Official Overview for Prevention of Money Laundering (PMLA)

(A) Money Laundering Offence (Activities) in India + outside India (both)

1. 3 Mandatory conditions be satisfied for applicability of PMLA, 2002 in India

- (i) 1st condition that *scheduled offence be committed*
+ (plus)
- (ii) 2nd condition that *non legitimate money be earned through alleged scheduled offence*
+ (plus)
- (iii) 3rd condition that *non legitimate earned money be converted into legitimate money through Money laundering tactics (methods).*

2. Burden of proof for applicability of PMLA, 2002 in India

- (i) Burden of proof against money laundering offence on Enforcement Directorate (ED) whether offence *actually committed ? through investigations + collecting of evidences + etc. (all).*
- (ii) Hence burden of proof against money laundering offence on ED under constitution of India for natural justice through Indian citizen's charter (*rights*)

3. History of Legislation of PMLA, 2002 in India

- (i) PMLA passed in *2002*
- (ii) PMLA applicable on whole of India *including J & K from July, 01st 2005*
- (iii) *1st time amended from June, 01st 2009*
- (iv) *2nd time amended from Feb, 15th 2013*
- (v) *3rd time amended through Finance Act, 2015 from May 14th, 2015*
- (vi) *4th time amended through Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 from July, 01st 2015.*



(vii) *5th time amended* through Finance Act, 2016 from *June, 01st 2016*.

(viii) *6th time amended* through Finance Act, 2018 from *April, 19th 2018*.

(ix) *7th time amended* through Prevention of Corruption (Amendment) Act, 2018 from *July, 26th 2018*.

(x) *8th time amended* through Finance Act (No. 1), 2019 from *March, 20th 2019*

(xi) *9th time amended* through Aadhar and other laws (Amendment) Act, 2019 from *July, 25th 2019*

(xii) *10th time amended* through Finance Act (No. 2), 2019 from *August, 01st 2019*

4. Corporate Frauds as Scheduled offence (Section 447 of Companies Act, 2013)

- *List of 29 scheduled offence* under PMLA, 2002 including *corporate frauds* as specified under *section 447 of Companies Act, 2013*.

5. Arrest without issue of warrant or filling of FIR (both) under PMLA in India

(i) *100% PMLA scheduled offence* be *treated cognizable + non-bailable (both)*.

(ii) *Hence authorized officer of ED* is permitted to *arrest without issue of warrant + filling of FIR (both)*.

6. Powers of Central Govt. (Govt.) under PMLA, 2002 in India

- *Govt. permitted to set up Inter-Ministerial Coordination Committee* for inter-departmental + inter-agency coordination for operational + policy level cooperation for consultation on Anti Money Laundering (AML) + terror funding activities (*all*).

7. Specified activities for money laundering offence under PMLA, 2002

(i) *Concealment* of property

(ii) *Possession* of property

(iii) *Acquisition* of property



- (iv) *Use of property*
- (v) *Projecting untainted property*
- (vi) *Claiming untainted property in any other manner*

8. Legislation for money laundering offence/activity outside India

- (i) *Financial Action Task Force (FATF) against money laundering offence established through G-7 Summit held at Paris in 1989 for developing + co-ordinating international agency.*
- (ii) (a) *1st tasks of FATF to develop recommendations for setting measures for countries + territories (both)*
(b) *India already FATF member*
- (iii) *100% FATF member countries required separate PMLA similar to PMLA,2002 in India*

9. Investigations agencies for scheduled offence under PMLA, 2002 in India

- (i) *Enforcement Directorate (ED)*
- (ii) *State Govt.'s Police*
- (iii) *Central Govt.'s Customs*
- (iv) *Security Exchange Board of India (SEBI)*
- (v) *Narcotics Control Bureau (NCB)*
- (vi) *Central Bureau of Investigation (CBI)*
- (vii) *Etc.*

10. Role of Income Tax (IT) Department under Income Tax Act (ITA) for PMLA

- (i) *Now IT Department forwarding thousands cases to ED for investigations against money laundering offence where incomes already evaded by taxpayer + also likely existence of scheduled offence (both).*
- (ii) *Penalty + Imprisonment (both) already applied under ITA against evasion of incomes + also penalty + Imprisonment (both) be applied under PMLA, 2002 for money laundering offence on same financial transaction.*



- (iii) *Now IT department forwarding thousands cases to ED for investigations against money laundering offence where Income tax cases already time barred under section 148A of ITA, 1961 after expiry 10 Assessment year against likely escaped incomes exceeding 50 lac per assessment year.*
- (iv) (a) *Now IT department + other offices (both) under revenue department of Ministry of Finance forwarding thousands cases to ED for investigations against money laundering offence using latest digital techniques like Artificial Intelligence (AI) data mining + data analyzing + etc. (all).*
- (b) *Hence IT department + other offices (both) under revenue department of Ministry of Finance extra vigilant for finding Money Laundering offence cases + also forwarding to ED for investigations under PMLA, 2002 (all).*

11. Official background of PMLA, 2002 in India

- (i) *PMLA, 2002 enacted in January, 2003.*
- (ii) *Inserted Act + framed Rules for activation against provisions of PMLA 2002 (both) applicable from July 01, 2005*
- (iii) *PMLA 2002's section 3 defining meaning of money laundering offence in India.*
- (iv) *PMLA, 2002 permitted to instruct to banking companies + financial institutions + intermediaries for verification + maintenance of records against identity of 100% clients + 100% transactions + also furnishing information's of transactions in prescribed form to Financial Intelligence Unit-India (FIU-IND) all.*
- (v) *PMLA, 2002 empowering Director FIU-IND to impose penalty on banking company + financial institution + intermediary (all) if fails to comply with provisions of PMLA, 2002.*
- (vi) *PMLA, 2002 empowering ED to carry out investigations where money laundering offence involved + also to attach property involved in money laundering offence.*



- (vii) PMLA, 2002 *setting Adjudicating Authority (AA) to exercise jurisdiction + powers + authority (all) to confirm attachment + also to pass order for confiscation against already attached properties (any).*
- (viii) PMLA, 2002 *setting Appellate Tribunal to hear appeals against orders of AA + Director FIU-IND + etc. (all).*
- (ix) PMLA, 2002 *setting 1 or more special courts to try money laundering offences + also offences punishable under Code of Criminal Procedure 1973 (both) under same trial.*
- (x) PMLA, 2002 *allowing govt. to enter into agreement with govt. of countries outside India for enforcing India's provisions + exchange of information's for prevention of money laundering offences in India + also similar provisions for money laundering offences outside India.*

12. Statutory structure of Enforcement Directorate (ED) office of PMLA, 2002

- (i) *Govt. already setup special courts under PMLA, 2002 in many states + Union territories (UTs) both to conduct trials against money laundering offences.*
- (ii) *Govt. already appointed authorities under PMLA, 2002 like Director + AA + Appellate Tribunal constituted to carry out proceedings for attachments + confiscation of properties derived from money laundering offences (all).*
- (iii) *Govt. already signed bilateral agreements between 2 countries under PMLA, 2002 to cooperate with each other + also to curb money laundering offence (both).*
- (iv) *Bilateral agreements between 2 countries enforcing provisions of PMLA, 2002 + also exchange of information's for prevention in commission of money laundering offence in India + outside India (both).*
- (v) *Govt. permitted to receive + also to give any assistance from countries outside India + from India (both) for investigations + forwarding of evidences collected during course of investigations (all).*



- (vi) PMLA, 2002 providing *reciprocal arrangements* for processes + assistances (*both*) against alleged money laundering offender.
- (vii) *Role of FIN-IND under PMLA, 2002 in India*
 - (a) Govt. already constituted FIN-IND in *November, 2004*
 - (b) FIN-IND is *headed by director* in rank of Joint Secretary to govt.
 - (c) FIN-IND already functional + *also started receiving* Cash Transaction Reports (CTRs) + Suspicious Transactions Reports (STRs) from banking companies + etc. (*all*) under *section 12* of PMLA, 2002.
 - (d) FIN-IND already applied for *membership from Egmont Group of FIUs*
 - (e) Egmont Group of FIUs already *umbrella group of FIUs outside India*
- (viii) PMLA, 2002 already empowered ED for *investigations + prosecution (both)* against money laundering offences
- (ix) AA under *section 6* + Appellate Tribunal under *section 25* of PMLA, 2002 already constituted + also functional (*both*)

13. Role of ED for money laundering offences/activities under PMLA, 2002

- (i) (a) Directorate of Enforcement (DoE) was established in *1956* with headquarter at *New Delhi*.
- (b) DoE was *replaced with name (only)* Enforcement Directorate (ED) in *1957*
- (ii) (a) ED responsible for *enforcement of provisions* of Foreign Exchange Management Act (FEMA) 1999 + *also certain provisions* under PMLA, 2002.
- (b) *Hence ED not responsible for 100% provisions but responsible for not 100 % (partly) provisions* under PMLA, 2002 (*only*)
- (iii) ED entrusted with *investigations + initiation of prosecution* through AA (*both*).
- (iv) ED's office under administrative control of Department of Revenue of govt. for operational purposes *like policy matters* under FEMA, 1999



- (v) ED's *legislation* + amendments (*both*) under control of Department of Economic Affairs of govt.
- (vi) ED was regulated under Foreign Exchange Regulation Act (*FERA*) 1973 till *May 31, 2002*
- (vii) *Functions of ED office for money laundering offences under PMLA, 2002*
- (a) To collect + develop + disseminate intelligence (*all*) against violations under FEMA, 1999
- *Generally Intelligence inputs* receive from several sources like Central + State Intelligence agencies + complaints + etc. (*all*)
- (b) To investigate already suspected violations of provisions like *hawala* foreign exchange racketeering + *non-realization* of export proceeds + *non-repatriation* of foreign exchange + any other forms of violations under FEMA, 1999 (*all*)
- (c) To *adjudicate cases* of violations under FERA, 1973 + FEMA , 1999 (*both*) through AA appointed by Govt. under PMLA , 2002
- (d) To *recover penalties imposed* (*ordered*) by AA under PMLA, 2002
- (e) To *handle adjudications* + appeals + prosecution cases under FERA, 1973
- (f) To *process + recommend cases* (*both*) for preventive detention under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (*COFEPOSA*)
- (g) To *undertake survey* + search + seizure + arrest + prosecution action + etc. (*all*) against money laundering *offender* under PMLA, 2002.
- (h) To *provide + to receive mutual legal assistance from countries located outside India* on reciprocal arrangements for attachment + confiscation of proceeds of crime + *also hand over alleged offender* (*accused*) under PMLA, 2002.



14. Role of FIU-IND for money laundering offences/activities under PMLA, 2002

(i) Financial Intelligence Unit – India (FIU-IND) setup by govt. on November 18, 2004 as Central National Agency (CNA) responsible for receiving + processing + analyzing + disseminating information's (all) for suspicious financial transactions through STR + CTR (both) from banking companies.

+ (plus)

(ii) FIU-IND responsible for coordinating + strengthening efforts of national + international intelligence + investigations + enforcement agencies for pursuing global efforts against money laundering offences + related crimes (all).

(iii) FIU-IND independent body reporting directly to Economic Intelligence Council (EIC) headed by Finance Minister of India.

15. Role of Adjudicating Authority for money laundering offences/activities

● AA constituted by govt. to exercise jurisdiction + powers + authority (all) specified under section 6 (1) of PMLA, 2002.

16. Composition of Adjudicating Authority for money laundering offences

(i) AA comprising 3 Member

(ii) AA's 3 member like 1 each member from Laws + Administration + Finance or accountancy.

(iii) AA's 1 member appointed as Chairperson.

(iv) AA functions under Department of Revenue, Ministry of Finance of Govt. having headquarter at New Delhi.

17. Functions of Adjudicating Authority for money laundering offences

(i) AA permitted to exercise jurisdiction + powers (both) conferred under PMLA, 2002.

+ (plus)



- (ii) AA permitted to *pass order in writing for confirming attachment + retention + seizure (any) property* where AA concluded that property already involved in money laundering offence/activity specified under PMLA, 2002

18. Appellate Tribunal for money laundering offences/activities under PMLA

- (i) Appellate Tribunal established by govt. under *section 25* of PMLA, 2002
- (ii) Govt. required to appoint *1 chairperson* under *section 28(4)* of PMLA, 2002

19. Composition of Appellate Tribunal for money laundering offences

- (i) Govt. permitted to appoint *1 chairperson + 2 member = 3 person*
- (ii) *Chairman + 1 member* of ATFP permitted to *hold additional charge of post of Chairman + Member of Tribunal* under PMLA, 2002

20. Functions of Appellate Tribunal for money laundering offences/activities

- Govt. constituted Appellate Tribunal permitted for hearing of appeals against orders of AA + *also authorities (both)* under PMLA, 2002.

21. Suspicious Transaction Reports (STRs) by banking companies to FIU-IND

- *100% banking companies* required to furnish STR under PMLA, 2002 where suspicious transactions already made in cash + *not made in cash (both) like*
- (i) *Where banking company* having reasonable ground for *suspicion* that any transaction may involve proceeds of crime
Or
- (ii) *Where circumstances not usual + not justified + having complexity (any)*
Or
- (iii) *Where concluded that transaction have no economic rationale + bonafide purpose (both).*



22. International Cooperation against money laundering offence for indirect tax

- India already taken membership of World Customs Organization (WCO) on February 15, 1971 + also attended following WCO Conventions:
 - (i) Customs Convention on temporary importation of scientific equipments on March 09, 1971.
 - (ii) Customs Convention on temporary importation of pedagogic material on December 04, 1973.
 - (iii) Kyoto Convention on October 18, 1976.
 - (iv) Nairobi Convention on June 09, 1977.
 - (v) Harmonized system Convention on June, 23 1996.
 - (vi) Customs Convention for facilities against importation of goods for display + use (both) in exhibitions + fairs + meetings + etc. on June, 20 1988.
 - (vii) Nairobi Convention on June, 20 1988.
 - (viii) ATA Convention on July, 05 1989.
 - (ix) Agreement on Customs Valuation on December 30, 1994.
 - (x) Johannesburg Convention on June 23, 2005.
 - (xi) Revised Kyoto Convention on November 2005.
- India already entered into Customs Mutual Administrative Assistance Agreement (CMAAA) with 15 countries + group of countries (both) like EU + Israel + Russia + UK + Hongkong + Maldives + Uzbekistan + Iran + Egypt + USA + China + SAARC Countries + South Korean + Australia + Brazil (all).
- India already entered under CMAAA for exchange of information's enabling detection of false declarations for value + description + origin of goods (any) provided for diversion of goods + authenticity of documents + maintaining surveillance over suspect goods + persons + means of transport + etc. (all).



23. *International Cooperation against Illicit drug trade under PMLA, 2002*

- (i) *Illicit drug trade (mainly) operated in trans-national business.*
- (ii) *Illicit drug trade traffickers not obeying national boundaries + also try to make best use of loopholes + asymmetries (both) through different legal systems.*
- (iii) *International co-operation needed between policy makers and enforcement officers for alimenting of anti drug trafficking efforts.*

24. *International Cooperation through United Nations (UNs) under PMLA, 2002*

- (i) *3 United Nations (UNs) Conventions already held against drug related matters like:*
 - (a) *Single Convention on Narcotic Drugs, 1961*
 - (b) *Convention on Psychotropic Substances, 1971*
 - (c) *UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*
- (ii) *3 UNs convention concluded followings:*
 - (a) *Prepared list for drugs to be controlled*
 - (b) *Regulations to be prepared + also be imposed (both)*
 - (c) *Prepared list of drugs for punishment + penalty against drug offenders*
 - (d) *Established mechanisms for international co-operation between different govt.'s + authorities (both).*
- (iii) *India already signatory of 3 UNs convention + also enacted NDPS Act in 1985 for meeting India's obligations under 3 UNs convention.*
- (iv) *India already actively involved in 100% international operations against drug matters like Project Prism + Project Cohesion + Paris Pact (all) at regional level.*
- (v) *India already signed SAARC Convention with SAARC countries against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.*



(vi) India already *signed several bilateral agreements* with other countries for cooperation in drug control.

25. International Cooperation against money laundering offence for AML

(i) Financial Intelligence Unit (*FIU-IND*) already signed bilateral MoUs with *3 countries like Mauritius + Philippines + Brazil on June 30th, 2008.*

(ii) MoUs to facilitate exchange of intelligences between *2 countries* for cooperation together + develop + analyze information's about *financial transactions already suspected* for money laundering offence + terrorist financing (*any*).

26. India's membership of Asia Pacific Group (APG) for money laundering

(i) APG *established* an autonomous regional AML body in *February 1997 at 4th Asia Pacific Money Laundering Symposium held in Bangkok (Thailand).*

(ii) APG to *facilitate adoption* + implementation + enforcement of internationally accepted AML standards + *also anti-terrorist financing standards (all)* based on recommendations of FATF.

27. Role of APG for money laundering offence / activity under PMLA, 2002

(i) (a) Role of APG to *assist jurisdictions* in region to enact laws dealing with proceeds of crime + legal assistance + confiscation + forfeiture + extradition of offenders (*all*).

+ (plus)

(b) To *prepare* provisions for guidance in setting up system against reporting + investigating suspicious transactions + *helping in establishment of financial intelligence units.*

+ (plus)

(c) APG to *undertake studies of methods* + trends of money laundering + *financing of terrorism in Asia Pacific region (all).*



- (d) APG to *allow regional factors in implementation of AML + anti-terrorist financing measures + to provide for peer review through mutual evaluation process (all)*.
- (ii) (a) APG a voluntary + co-operative international body *established through agreement between members + autonomous (both)*.
- (b) APG *not derive from international treaty + not part of any international organization (both)*.
- (c) APG to keep informed against actions taken + formal agreements made by international + regional organizations + bodies *to promote consistent global response for money laundering offence + terrorist financing (all)*.
- (d) APG's executed work + procedures *(both) decided through consensus agreement between members*.
- (iii) India became *member of APG in March, 1998*.

28. Role of FATF + India's Membership for money laundering offence/activity

- (i) FATF an inter-governmental body for setting standards + to develop + to promote policies against *prevention of money laundering + terrorist financing (any)*.
- (ii) *40 general recommendation + 9 special recommendation of FATF (both) to provide complete set of counter measures against money laundering offence/activity like criminal justice system + laws enforcement of financial system + regulations + international co-operation (all)*.
- (iii) *49 (40+9) recommendation already recognized + endorsed + adopted (all) by several international bodies as international standards for preventing money laundering offence/activity*.
- (iv) India became *member of FATF in 2010*.



29. **Role of Egmont Group + India's Membership for money laundering**

- (i) (a) *FIU-IND a member of Egmont Group of international organization for stimulating co-operation between FIUs.*
- (b) *Egmont Group to serve international network for improving communication + interaction between FIUs.*
- (c) *Egmont Group to provide a forum for FIUs around the world for improving support to member countries' govt. against fighting money laundering offence/activity + terrorist financing + other financial crimes (all).*
- (ii) *India became member of Egmont Group in May, 2007.*

30. **Role of Other Bilateral Agreements against money laundering offences**

- (i) *FIU-IND already signed bilateral Memorandum of Understanding (MoUs) with 15 countries like Mauritius + Philippines + Brazil + Malaysia + Russia + Australia + Canada + USA + Srilanka + Georgia + San Marono + Bermuda + Nigeria + Japan + Indonesia on May, 2011.*
- (ii) *MoUs to facilitate exchange of intelligences between member countries for joint cooperation to develop + analyze information's about financial suspected transactions against money laundering + terrorist financing (all).*

31. **Role of Eurasian Group (EAG) Project against money laundering offences**

- (i) *EAG a FTF styled Regional Body (FSRB).*
- (ii) *EAG a world's leading global political risk research + consulting firm (both).*
- (iii) *EAG to prevent money laundering + also to work for financing of terrorism typologies analysis + exchange of experiences for preventing crimes with regional peculiarities (necessities) all.*



32. *Govt.'s efforts for preventing against generation of Black Money in India*

<i>S.No</i>	<i>Title of efforts</i>	<i>Date of Publication</i>
<i>(i)</i>	<i>Baseline Report</i>	<i>November 16, 2015</i>
<i>(ii)</i>	<i>White Paper on Black money</i>	<i>November 16, 2015</i>
<i>(iii)</i>	<i>Shri Ramdev's letter to Prime Minister</i>	<i>November 16, 2015</i>
<i>(iv)</i>	<i>Reports of Committee headed by Chairman CBDT for preventing generation of Black Money in India + Outside India (both)</i>	<i>November 16, 2015</i>



(B) Supreme court's opinion on offences in Vijay Madanlal vs Govt. of India

33. Supreme court's opinion for decided case on July 27, 2022

- (i) *Validity of Prevention of Money Laundering Act (PMLA) decided in Supreme court*
 - (a) *Validity of PMLA be judged with developments happened outside India + also legal obligations required in India (both).*
 - (b) *Money laundering offences/activities impacting 2 countries 1st country where offence committed + 2nd country where proceeds of crime already laundered (Both)*
- (ii) (a) *Object of PMLA, 2002 in India to enhance better economic fabric of country + to regulate money laundering offence + to confiscate proceeds of crime + also to punish offenders (all).*
- (b) *1st time international consensus made against money laundering offence in 1988.*
- (c) *1st time house of lords in England taken legislative action against proceeds of crime after receipt of recommendation of Hodgson committee + also enacted Drug Trafficking Offences Act, 1986 (replaced with Drug Trafficking Act, 1994) empowering courts to confiscate proceeds of drug trafficking in England (UK).*
- (iii) *Govt. of India (govt.) has recognized money laundering offence + also taken step for prevention through introduction of PMLA, 2002.*

34. Role of Financial Action Task Force against money laundering offence

- (i) *Major role played by Financial Action Task Force (FATF) for stopping money laundering + also to take step for preventing money laundering across the world.*
- (ii) (a) *FATF established by G7 countries + also by European commission (both) through submit at Paris in July, 1989 + introduction of 40 recommendation for stopping money laundering offence + evaluation + enforcement (all) across the world.*



- (b) FATF introduced concept of Non-Cooperative Countries or Territories (NCCT) on February 14, 2020
- (c) FATF accepted 25 point against 40 recommendation + also identified detrimental rules for stopping money laundering across the world.
- (d) FATF established review process for delinquent countries + territories (both) where AML regulations ineffective for practicing + also for taking step against these countries.
- (e) FATF permitted to take conditioning + restricting + targeting + prohibiting financial transactions with non co-operative + non-compliant countries.

35. Principal sources of proceeds of crime + money laundering offence (both)

- Principal sources of proceeds of crimes through white collar crimes like GST + corporate frauds (as specified under section 447 of CA, 2013) + embezzlement + intellectual property crimes + drug related crimes + smuggling of goods + evasion of excise duties + corruption + bribery + embezzlement of public funds + etc. (all) already included in list of 29 scheduled offence under PMLA, 2000.

36. Money Laundering offences across the world

- (i) International Monetary Fund (IMF) + FATF (both) estimated money laundering transactions varying between 2% and 5% of global GDP
- (ii) United Nations (UN) estimated money laundering offence transactions around USD 2.1 trillion or 3.6% of global GDP
- (iii) (a) Hence money laundering offences now biggest international challenge.
- (b) National level (Individual country's level) measures not adequate to handle international money laundering offences + offenders (both).
- (c) Now necessary to establish effective international co-operation mechanisms + also needed 100% countries' co-operation for prevention + prosecution against money laundering offence + proceeds of crime hunting (both).



37. Submissions by responded before Supreme Court of India

- (i) Submitted by *Vijay Madanlal Choudhary (responded)* that number of cases taken up for investigations each year increasing from 111 case in 2015-16 to 981 in 2020-21.
- (ii) That *low registration of cases in India* due to robust mechanism against risk-based selection of cases for investigation.
- (iii) That *ED focusing his attention on high value* cases against proceeds of crime + cases where involving serious predicate offence + terror financing + narcotics + corruption + national security offences + etc. (all) in list of 29 scheduled offence under PMLA 2002.
- (iv) (a) That attachment proceedings substantially increasing where *assets worth INR 19111.20* already attached against money laundering offences / activities like *frauds INR 22585.83 crore*.
+ (plus)
- (b) That investigations already made in *57 cases against terror + naxal financing (both)* where identification made of *proceeds of crime INR 982 crore (256 properties)*
+ (plus)
- (c) That already *37 complaints filed for prosecution + also already convicted 2 terrorists* under PMLA, 2002.
+ (plus)
- (d) That quantum of proceed against already committed crimes involved under *consideration worth INR 67104 crore*.

38. Submissions by solicitor general on behalf of ED before Supreme Court

- *Solicitor General discussed money laundering offence under section 3 of PMLA, 2002*
- (i) That *origin of definition* of money laundering offence under *section 3* of PMLA, 2002 based on *article 3.1(b)(i) + (ii) + (c)(i) of Vienna Convention*



- (ii) That Vienna Convention *initially limited to predicate offences like trafficking offences (only) + but extended to cover wide range of predicate offences through Palermo Convention.*
- (iii) (a) That *FATF recommended to member countries to expand list of predicate offences like for other serious crimes after Vienna Convention + Palermo Convention (both).*
- (b) That *FATF's recommendation to expand list predicate offences binding on member countries known recommendation no. 1 + 3 (both).*
- (c) That *subsequently in India PMLA enacted in 2002 + also allowed in 2010 for evaluation by FATF through 40 recommendations.*
- (d) That *FATF adopted Mutual Evaluation of Anti Money Laundering (AML) + also Combating Financing of Terrorism (CFT) methodologies in India.*
- (e) That *recommendation no. 1 of Mutual Evaluation Report already not covering concealment + possession + disposition + use of proceeds of crime. Hence these activities already not criminalized under PMLA, 2002 in India.*
- (f) That *India now amended section 3 of PMLA, 2002 through Prevention of Money-Laundering (Amendment) Act, 2012 to include activities as specified under above para (iii) (e).*
- (iv) (a) That *concealment through possession + use of proceeds of crime + activity connected with proceeds of crime (all) treated offence.*
- (b) *Hence concealing proceeds of crime + keep in his possession + uses (all) treated offence under PMLA, 2002 besides projecting untainted or not tainted (any).*
- (c) *Therefore concealing proceeds of crime + also committed knowingly (both) covered under PMLA, 2002.*



(C) Supreme court's opinion on anticipatory bail in M.Gopal Reddy vs. Govt.

39. Supreme court's opinion for decided case on Feb. 24, 2022

- *Facts of appeal filed by Solicitor General on behalf of ED before Supreme Court*
- (i) *ED aggrieved + dissatisfied (both) with judgment dated March 02, 2021 passed by Honorable High Court of Telangana at Hyderabad against Criminal Petition No. 1148/2021.*
- (ii) *High Court already allowed bail application + also granted anticipatory bail (both) in favor of respondent to release on bail against apprehending for arrest against F. No. ECIR/HYZO/36/2020 dated December 15, 2020.*
- (iii) *ED at Hyderabad has registered case for offence under section 3 of PMLA, 2002 + also punishable under section 4 of PMLA, 2002 (both)*
+ (plus)
- (iv) *Solicitor General filed appeal on behalf of ED before Supreme Court for not granting anticipatory bail in favor of respondent*

40. Submissions filed by Solicitor General on behalf of ED before Supreme Court

- (i) *That High Court not considered nature of allegations + also seriousness of offences alleged against respondent*
- (ii) *That High court not given consideration of decision observed in case of P. Chidambaram (supra) against economic offences having impact on society.*
- (iii) *That High court normally very slow in exercising discretion available under section 438 of Cr.PC.*

41. Judgment of Supreme Court in favor of Solicitor General on behalf of ED

- (i) *Supreme court passed judgment based on facts + circumstances + reasoning given in High Court (all) that rigorousness under section 45 of PMLA, 2002 be*



applied beside application filed under section 438 of Cr.PC for granting anticipatory bail

(ii) *Supreme Court passed judgment that order passed by High court granting anticipatory bail unsustainable (bail be rejected)*

(iii) (a) *Supreme court concluded that order passed by High court be quashed + set aside (both).*

+ (plus)

(b) *ED required to deal freshly in accordance with existing laws.*

+ (plus)

(c) *Respondent permitted to file regular bail application after already arrested + be considered in accordance with existing laws and merits + considering material collected during enquiry + investigation (both). Hence not permitted for anticipatory bail.*

(d) *Hence appeal filed by Solicitor General allowed without any cost on respondent*



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