

F.No. 25-1/2013/FIU-IND/Pt XIV
Government of India
Ministry of Finance
Department of Revenue
Financial Intelligence Unit-India

6th Floor, Hotel Samrat
Kautilya Marg, Chanakyapuri
New Delhi -110021

ORDER-IN ORIGINAL NO.7/DIR/FIU-IND/2015

Name & Address of the Reporting Entity: **Central Bank of India,**
Central office, 10th Floor,
Chandermukhi Building,
Nariman Point,
Mumbai-400021

Show Cause Notice No. & Date: F.No. 25-1/2013/FIU-IND dt 27th Jan, 2014

Section under which order passed: Section 13 of PMLA, 2002

Date of Order: 6th August, 2015

Authority passing the order: Director, Financial Intelligence Unit-India

An appeal against this order may be made with the Appellate Tribunal under PMLA, 2002, 4th Floor, Lok Nayak Bhavan, Khan Market, New Delhi within a period of forty five days from the date on which this order is received by the Central Bank of India. The appeal should be in the form and manner prescribed (refer to sub-section (3) of section 26 of the prevention of Money Laundering Act, 2002, hereinafter referred to as PMLA or the Act).

1. Central Bank of India (the 'Bank') is a banking company as defined under Section 2(e) of the Prevention of Money Laundering Act, 2002 (hereinafter also referred to as the 'Act').
2. Section 12 of the Act and the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 (hereinafter referred to as the 'Rules'), framed under the Act impose obligations on banking companies to inter alia verify the identity of the clients, maintain records of

specified transactions and report to Director, Financial Intelligence Unit – India (hereinafter referred to as 'Director, FIU-IND') information relating to such transactions. These reports include reports on cash transactions, suspicious transactions and counterfeit currency transactions. As per the definition of STR in Rule 2(1)(g) of PML (Maintenance of Records) Rules, STR means a transaction referred to in clause (h) including an attempted transaction.

3. Rule 3 of the Rules specifies the transactions, the records of which are to be maintained; these include suspicious transactions whether or not made in cash. Rules 5, 7 & 8 of the Rules prescribe the procedure, manner and time of maintaining and furnishing information about the transactions. Rule 9 of the Rules prescribes the procedure and manner of verification of records of identity of clients. The definition of suspicious transactions (Rule 2) includes an attempted transaction. "Attempted transaction" has not been defined separately. Rules 7(3) requires that all reporting entities shall evolve an internal mechanism having regard to any guidelines issued by Regulator for detecting the transaction referred to in Rule 3 and for furnishing information about such transaction in such form as may be directed by its Regulator.
4. Section 13 of the Act confers on the Director, FIU-IND powers to enquire into cases of failure to comply with the provisions of Section 12 of the Act and the Rules thereunder and to levy a fine for each such failure.
5. Following media reports of a sting operation by the website Cobrapost alleging violation of AML/CFT measures in two (South Delhi and Central Delhi) branches of the Central bank of India, the Bank was asked to explain the position. The Bank was asked whether the conversation between the Cobrapost reporter and branch officials had been verified and whether any STR was reported for attempted suspicious transactions in the concerned branches. The Bank in its reply dated 08.08.2013 confirmed the conversation and that no STR had been filed for attempted transactions as regards the Cobrapost incidents. The Bank also apprised of the departmental action taken against the concerned officials of the Bank appearing in the Cobrapost video as the alleged officers had confirmed that the conversation involved them.

6. As it prima facie appeared that there was a failure in the Bank's internal mechanism for filing suspicious transactions reports in respect of above, the Bank was called upon vide letter dated 27th January 2014 to show cause as to why action should not be taken against it for violation of Section 12 (b) of the PMLA.
7. Vide letter dated February 26, 2014, the Bank submitted its reply to the show-cause notice and denied the allegation. The Bank stated that:
 - (a) *"The" Cobrapost* has carried out the sting operation in different banks and publish the same in the media. On revealing the name of our bank in the said sting operation, a preliminary investigation was carried out and the DGM of CFB, Delhi was put under suspension and disciplinary action was initiated against the erring officials.
 - (b) Instructions, based on 27 off- line scenarios suggested by IBA/RBI, for reporting of attempted suspicious transactions at the branch level were conveyed vide our Instruction Circular No. 1008 dated 10.11.2012. The incident of sting operation which was carried out somewhere in March 2013 was not reported for which the disciplinary action was taken against erring officials.
 - (c) The news of sting operation was published in various newspapers on 07.05.2013 by which it was revealed that a conversation of planted questions by reporter of news channel 'Cobrapost' was carried out with the officials of different banks. Since the conversation was a part of the sting operation and no customer was involved who is attempting to do a transaction falling within the scope of 27 off-line scenarios, we are of the opinion that it is not a case fit for filing of a STR as no attempted transaction had taken place by a prospective customer; hence no STR was filed."
8. On request of the Bank, a personal hearing was granted on 02/04/2014 which was attended by Sh. S. Das Gupta (General Manager) and Sh. A.K. Midha (Dy. General Manager/Chief Compliance Officer). During the personal hearing the Bank admitted that the attempted transaction in question should have been reported by the branch officials concerned, but were not reported despite clear instructions from the Bank. It was also informed that the disciplinary proceeding had been initiated against the concerned officials and action taken.

9. Vide letter dated 03.06.2014 the Bank was asked to provide any additional comments on the Cobrapost transcript delivered to the Bank during the personal hearing. The Bank through its letter dated 16.6.2014 informed that:
- a) On detection of the incident Special Audit of the concerned branches was conducted and nothing adverse was reported. Action was initiated by the Bank against the concerned Branch Managers with whom the Cobrapost reporter had interaction, for not reporting the incident to Controlling Office and KYC/AML Cell.
 - b) FGM, Delhi immediately took note of the incident and gave advisory instructions to all the Sr. Regional Managers/ Regional Managers under his jurisdiction to sensitize the staff in Branches, to talk to the prospective customers in a calculated manner and not to advise the customers for any transactions which are against the KYC/AML norms.
 - c) The guidelines highlighting the probable practices on Money Laundering and the preventive measures were circulated by the Operations Department at Central office vide circular dated 04.04.2013. Earlier to the incident of Cobrapost 27 off-line scenarios were circulated vide circular No. 1008 dated 10.11.2012 educating the fields staff about the behavioral pattern adopted by the customers for Money laundering.

FINDINGS AND DISCUSSION

10. The position that emerges from a perusal of the records of conversations/discussions between the Cobrapost reporter and the Bank employees and the submissions made by the Bank including during the personal hearing, is that the employees of the two branches of the Bank were involved in the conversation with the Cobrapost reporter. The transcripts of the conversation/discussion between the Bank employees and the Cobrapost reporter clearly show that the reporter made explicit conversation about laundering money through the Bank and huge amount of black money belonging to a minister. The genuineness of the transcript of the conversation between the Cobrapost reporter and the employees of the bank has not been disputed by the Bank.
11. The following extracts of the transcript of the conversation clearly indicate that the discussion was about illicit money:

- a) Investment in insurance scheme viz. Bima Bachat, a single premium investment plan designed by the LIC of India for high net-worth individuals.
- b) Opening of six- seven accounts in different names.
- c) Investment in LIC policy through cheque which is to be obtained from a reliable person who may exchange the cheque for cash and to get rest of the cash in the form of several Demand Drafts for Rs. 50,000/- each from other banks in the name of the account holders.
- d) Assurance that there will be no TDS deduction on investment and the money will be converted completely into white.
- e) Investment in schemes where the base amount is Rs. 10,000/- every month and the deposit ten times the base amount without any TDS deduction.
- f) Investment in recurring deposit (RDs) schemes of the bank.
- g) Investment of amount in smaller parts.
- h) Allotment of lockers of big and small sizes and arrangement of lockers over a period of time. Allotment of lockers in different names.
- i) Managing things at the branch level.

The conversations between the Bank employees and the reporter show that the employees were in control and even willing to work around the system to help the reporter (posing as a potential customer) to convert black money into white.

12. The scenarios emerging from the conversations/ discussions between the Bank employees and the Cobrapost reporter, as briefly indicated above, cannot be taken as normal, bona fide business conversations/ discussions. They are such as to have alerted any law abiding person, not to speak of staff of a bank- a reporting entity under the Act, entrusted with the responsibility of reporting suspicious transactions pertaining to the suspected proceeds of crime. The conversations/ discussions had several features, which should have led to generation of behavioral alerts as per IBA guidelines, as well as the Bank's Know your customer (KYC) Guidelines/Anti-Money Laundering Standards contained in its instruction circular No. OPR: 2005-6:7 dt. April 23, 2005. The Bank's KYC/AML guidelines and anti- money laundering Standards have an indicative list of suspicious activities. Para 4.2.4 *ibid.* discusses about a "customer who provides insufficient or suspicious information". Furthermore, para 4.3 provides a list of suspicious activities/transactions to be monitored by the operating staff. These two provisions provide

clear guidance for determining suspicious activities/transactions. The documents AML Standards lays down a check list for preventing Money Laundering activities and provision for Money Laundering Reporting Officer. In addition to the Bank's KYC guidelines /AML standards, the IBA's indicative checklist of 27 alerts which are to be scrutinized by the branches for effective control/monitoring and reporting of Suspicious Transaction Reports was also available to the branches of the Bank. Despite this, there was a failure at the branch level to raise a red flag and report the attempted suspicious transaction to the MLRO resulting in failure of internal mechanism of the Bank to detect and report attempted suspicious transaction in the cases reported by Cobrapost.

13. In view of the provisions of the Prevention of Money Laundering Act, 2002, the PML (Maintenance of Records etc.) Rules, KYC guidelines /AML standards of the Bank and IBA's 27 indicative alert indicators, it can be easily inferred that the conversations between the Cobrapost reporter and the employees of the Bank were in the nature of "attempted suspicious transaction" which the internal mechanism of the Bank failed to detect and report. The conversations had several features which should have led to generation of behavioral alerts as per IBA guidelines (circulated to the Bank in November 2012), and as per the Bank's AML Standards, such as—

- (a) Customer left without opening an account.
- (b) Customer did not complete transaction.
- (c) Customer acting on behalf of third party.
- (d) Customer could not explain source of funds.

14. Although there were enough indications in the conversations/discussions between the Bank officials and the Cobrapost reporter that the funds being discussed were of suspicious nature, no alerts were generated by the branch officials. On the contrary, the content, tone and tenor of the conversations/ discussions with the Cobrapost do not indicate any sense of alarm, which a prudent banker, entrusted with the legal responsibility of reporting and preventing money laundering or financing of terrorism, would be expected to display in such circumstances. The Bank will not be able to fulfill its reporting obligations under the PMLA unless there is a free flow of information from its branches to the Principal Officer (MLRO), who is responsible to fulfill the reporting obligations. Further, there was no visible application of mind at the Branch level to determine whether the

conversations/discussions would fall in the category of attempted transactions. Evidently, the employees of the Bank were either oblivious of their duties or cared little for compliance with their legal obligations under the PMLA. It is for the Bank to look deeper into the causes with a view to establish accountability and take remedial measures. PMLA aims at prevention of laundering of the proceeds of crime. That even attempted transactions are required to be reported points to the high level of expectation the law has from the banks. It is not enough for the Bank to lay down a policy; it is equally important to implement it.

15. In light of the above, I conclude that in both the South Delhi and Central Delhi branches of the Bank reported by Cobrapost, there was a failure in the Bank's internal mechanism for detecting and reporting attempted suspicious transactions, in terms of section 12 of PMLA read with Rules 2, 3, 5 and 7 of the PML Rules. Accordingly, in exercise of the powers conferred on me under Section 13 (2) of the Act, I hereby impose on Central Bank of India a fine of Rs. 2,00,000 (Rupees two Lakh) for 2 instances of failure in compliance with its obligations as laid down in Section 12 of the PMLA read with Rules 2, 3, 5 and 7 of the PML Rules framed thereunder.

(Praveen Kumar Tiwari)
Director
Financial Intelligence Unit-India

To,
Central Bank of India
Central office, 10th Floor,
Chandermukhi Building,
Nariman Point,
Mumbai-400021

Through: Executive Director