

9/10

F.No. 25-1/2013/FIU-IND/Pt IX
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.22/DIR/FIU-IND/2015

Name & Address of the Reporting Entity: **Canara Bank**
Head office, 112, J.C. Road,
Bangaluru- 5600 02.

Show Cause Notice No. & Date: F.No. 25-1/2013/FIU-IND dt 17thDecember, 2013

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

Date of Order: 29th October, 2015

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

An appeal against this order may be made with the Appellate Tribunal under Prevention of Money Laundering Act, 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 Canara Bank. 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. Canara Bank (the 'Bank') is a banking company as defined under Section 2(e) of 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 etc.

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. The attempted transaction has not been defined separately. Rule 7(3) requires that all reporting entities shall evolve an internal mechanism having regard to any guidelines issued by Regulator for detecting the transactions referred to in Rule 3 and for furnishing information about such transactions 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 made thereunder and to levy a fine for each such failure.
5. During March to May 2013, there was widespread reporting in the media about sting operations carried out by the website Cobrapost that allegedly exposed deficiencies in the anti-money laundering preventive measures applied by the banks including the Canara Bank. The sting operation involved the Cobrapost reporter visiting the branches of the financial institutions with a story: that he wanted to invest/safe-keep substantial amounts of illicit or unaccounted cash. The website had videotaped the conversations with the officials/employees of the banks that were played out in the media suggesting widespread violations of statutory obligations under the PMLA. On 6th May, 2013, Cobrapost released recording of the conversation with the Branch Managers of Canara Bank's Okhla, Kalkaji & Vasant Vihar, Delhi branches and an Executive at Circle office, Agra Branch of Canara Bank. Following the sting operation, the Bank was asked vide letter dated 10-07-2013, whether any

2/2

alerts in respect of the sting operation were generated in its above-mentioned branches which were covered in the sting operation, and whether any STR was reported for attempted transaction for the incident reported by the Cobrapost. The Bank in its reply dated 02-08-2013 confirmed that no STR had been filed for attempted transactions in the Kalkaji - Okhla, Delhi, Vasant Vihar, Delhi and Circle Office, Agra Branches, nor any alerts had been generated in these branches for the reported incident in respect of the following branch level indicators:

CV 1.1- Customer left without opening an account.

E 11.1 – Customer did not complete transaction.

E 13.1 – Customer acting on behalf of third party.

E 14.4 – Customer could not explain the source of fund.

6. As per the definition of STR in Rule 2(1)(g) of the Rules, STR means a transaction referred to in clause (h) including an attempted transaction. As per Rule 2(1)(h), transaction includes 'opening of an account'. In the instant case the Cobrapost reporter attempted to open accounts and do illicit transactions through the above - mentioned branches of the bank. As STR for attempted transactions had not been filed for the branches visited by Cobrapost, a show cause notice was issued on 17th December, 2013 for contravention of provisions of Section 12 of the Act, read with the Rules.
7. Vide its reply dated January 13, 2014 to the show-cause notice the Bank stated that immediately on receipt of information about the sting operation, all the 3 concerned officials were placed under suspension and separate investigations were conducted in all the 3 places; that internal audits were also conducted in all the 3 branches to verify KYC/AML compliance; that in none of the 3 cases any transaction or attempted transaction had taken place; that no deviation of KYC/AML Norms was observed in the random verification; that no customer had come to the Bank to do any transaction; that only an agent of Cobrapost had come to the branch/office posing as agent of some person to make some inquiry; that the concerned officials of the Bank had not permitted any transaction, however, they were found to have indulged in some casual talks without any ulterior motive; that though the incidents reported had not resulted in any transaction/ attempted transaction , based

213

on the media reports the bank had taken action by suspending the officials and got the matter investigated and also reported the matter to FIU-IND.

8. On the request of the Bank, a personal hearing was granted on 16/04/2014 which was attended by S/Sh. P. Ranga Raj (General Manager/PO) and S. Lakshamanan (Assistant General Manager). During the personal hearing, the Bank stated that it had guidelines in place for the branch officials to report such events as attempted suspicious transactions. However, in case of the event reports by Cobrapost, no alerts were raised and reported to the Principal Officer.
9. In their additional submission dated 19th April 2014, the Bank highlighted the action taken by them with regard to procedure for processing Anti Money Laundering (AML) alerts and escalation/ filing of suspicious transaction reports (STRs).
10. In another submission dated 10th June, 2014, the Bank reiterated its earlier submissions and submitted that the report/video aired by the news portal might be an edited version ; that the concerned officials of Bank had informed that they were not able to recollect the entire discussion though they had conceded that they were led by the decoy customer to say certain things which they would not have told in normal circumstances; that the entire incident was only a discussion and had not translated into any business to the Bank ; that RBI had informed the media that there was no conclusive evidence of money laundering in the Cobrapost expose; that disciplinary action was initiated against the concerned staff and all three were 'Censured' and the period of suspension was treated as on 'Not Spent on Duty'.

DISCUSSION AND FINDINGS

11. Section 12 of the Act lays down the general obligations of the banks to file suspicious transaction reports. PML Rules further elaborate these obligations. The definition of suspicious transactions in Rule 2 includes an attempted transaction. "Attempted transaction" has not been defined separately. Rule 7(3) requires that all reporting entities shall evolve an internal mechanism having regard to any guidelines issued by the Regulator for detecting the

9/4

transactions referred to in Rule 3 and for furnishing information about such transactions in such form as may be directed by its Regulator.

12. A perusal of the transcript of the Cobrapost sting operation shows that the Cobrapost reporter posing as a customer visited 3 branches of the Bank at Kalkaji - Okhla, Delhi ; Vasant Vihar, Delhi and Circle Office, Agra and told the managers that he wanted to invest on behalf of a minister large amount of cash ranging from 50 lakh to 80 lakh of unexplained origin which he wanted to be converted into white. He also suggested that Rs. 5-7 crore more was expected from a deal in Greater Noida. The bankers suggested to invest the cash by opening multiple accounts and investing slowly and gradually in insurance, fixed deposits, gold and mutual funds. The bankers discussed different methods for conversion of black money into white e.g. by routing it through third parties like Chartered Accountants. One banker also quotes the rate of the fees for converting black into white. The bankers also agreed upon allotting lockers for keeping the cash; and suggested cash to be deposited into saving accounts as there will be no problem in it regarding TDS. On the question of remitting money outside India for use by the minister's wife, the banker assured the Cobrapost reporter that it would be easily done and also assured that the whole deal will be kept secret. The phone numbers are also exchanged.
13. The conversations between the Cobrapost reporter and the Bank Manager had several features which should have led to generation of behavioural alerts as per IBA guidelines as well as the policies and instructions issued by the Bank (policy for 2012-13 was approved by the board of the Bank vide orders dated 03-12-2012). However, despite ample indications 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 reporter were conspiratorial and do not indicate any sense of alarm, which a prudent banker, entrusted with the legal responsibility of reporting suspicious transactions and combating money laundering or financing of terrorism, would be expected to display in such circumstances. The matter was not even reported to the Principal Officer of the Bank. The Bank will not be able to fulfil 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 fulfil the reporting obligations.

215

Evidently, the Bank Managers were either oblivious of their duties or cared little for compliance with their legal obligations under the PMLA. 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 ensure its implementation.

14. In light of the above, I conclude that in Canara Bank's Kalkaji - Okhla, Delhi ; Vasant Vihar, Delhi and Circle Office, Agra branches reported by Cobrapost, there was a failure in the Canara 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 PMLA, 2002, I hereby impose on Canara Bank a fine of Rs. 3,00,000 (Rupees three Lakh) for three instances of failure in its Kalkaji - Okhla, Delhi ; Vasant Vihar, Delhi and Circle Office, Agra branches to comply 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,
Canara Bank
Head office, 112, J.C. Road,
Bangaluru- 5600 02.

Through: Chairman & Managing Director