

F.No. 25-1/2013/FIU-IND/Pt X
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.10/DIR/FIU-IND/2015

Name & Address of the Reporting Entity: The Federal Bank Limited,
Corporate Office,
Federal Towers,
Aluva - 683101, (Kerala)

Show Cause Notice No. & Date: F.No. 25-1/2013/FIU-IND dt 4th February, 2014

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

Date of Order: 28th 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 Federal Bank Limited. 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 also referred to as PMLA or the Act).

1. The Federal Bank Limited (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 also 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.
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. 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.
5. 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.

6. Subsequent to media reports of a sting operation carried out by website Cobrapost alleging violation of AML/CFT measures in two branches of The Federal Bank Limited, viz. Ghaziabad Branch, and Moradabad Branch (both in Uttar Pradesh), clarifications were sought from the Bank through a questionnaire sent vide letter dated 10/07/2013. The Bank clarified its position vide letter dated 30/07/2013, and admitted that as far as the incident pertaining to the above mentioned sting operation was concerned, it had not filed any STR under the "Attempted Suspicious Transactions". It also informed that the two officials appearing in the video were placed under suspension and one was dismissed from service.
7. 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 04th February, 2014 to show cause as to why action should not be taken against it for violation of Section 12 (b) of the PMLA read with Rules 2(1) (g), 3(d), 7(3) and 8(3) of the Rules.
8. Vide letter dated March 08, 2014, the Bank submitted its reply to the show-cause notice and denied the allegations. The Bank submitted that it had standardized guidelines in dealing with the enquiries from customers. It was further submitted that since the enquiries of the Cobrapost reporter did not culminate into a transaction, no follow up was initiated. The Bank stated that since the filing of STR is either account based or transaction based, it could not find any valid element leading to attempted transaction in the present case. The Bank also highlighted the measures taken by it to further strengthen the compliance in respect of AML/KYC guidelines.
9. On request of the bank, a personal hearing was granted to it on 16/04/2014 which was attended by S/Sh. Shyam Srinivasan, MD & CEO, P.K. Mohapatra, GM, Mathews M., DGM and Principal Officer and , Jose K.M., ABM. During the

personal hearing the Bank stated that it had in place guidelines for the staff to raise alerts to the Principal Officer in cases where incidents like Cobrapost happened. However, in these incidents there was a failure on the part of the concerned employees to raise alerts, for which disciplinary action had been taken against them. The Bank was also asked to furnish a copy of its relevant guidelines.

10. The Bank made additional submissions vide letter dated 17th April 2014. It placed on record various internal circulars comprising indicative alert indicators for identification of suspicious transactions by branches/ departments of the Bank.

FINDINGS AND DISCUSSION

11. 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 during the personal hearing and thereafter 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 in the above mentioned branches that he was attempting to launder through the Bank 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.

12. The transcripts contain very explicit conversations between the reporter and the Bank employees about laundering of huge amount of cash through the Bank. The Bank employees have spoken openly about flouting the system, e.g., conversion of cash into Demand Draft, opening of various accounts by altering the PAN number, storing cash in big lockers, providing counting machines to help count cash, keeping the matter confidential, using hawala for transferring

funds or rotating funds, investment in insurance policy, investment in the name of minor, investment in mutual funds, investment in gold, remittance of Rs. 40 lakh to England, transferring of amount through third person into the account, RTGS method to transfer money, remittance of Rs. 5-7 crore through hawala. They have also dropped the names of some prominent politicians, for whom or for whose relations they claimed to have worked in similar situations. The conversations between the Bank employees and the reporter show that the employees were in control and eager to work around the system to help the reporter (posing as a potential customer) convert black money into white. They have repeatedly assured the reporter that there would be no problem.

13. 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- which is entrusted with the responsibility under the PMLA 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 Anti-Money Laundering Measures of the Bank and various internal circulars issued by the Bank in this regard. For instance, the circular no. VIG/2856/AML/81/2012 dated 12th October 2012 of the Bank to all its branches and offices provides for indicative alert indicators for identification of suspicious transactions. The Anti-Money Laundering Measures of the Bank also provides an indicative list of suspicious activities. In addition to this the Bank had the IBA's indicative checklist of alerts which are to be scrutinized by the branches of effective control/ monitoring and reporting of Suspicious Transaction Reports and same had been incorporated in the Anti-Money Laundering Measures of the Bank. None of this, however, appears to have percolated down to the branch level or the branch level officers were impervious to the guidelines in the matter. The

conclusion, therefore, is inescapable that there was complete failure of internal mechanism of the Bank to detect and report attempted suspicious transactions in the two branches covered in the sting operation.

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 Act 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 Act. It is for the Bank to look deeper into the causes with a view to establish accountability and take remedial measures. The 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 the two branches of the Bank appearing in the Cobrapost sting operation, there was a failure in The Federal Bank's internal mechanism for detecting and reporting attempted suspicious transactions, in terms of section 12 of the Act read with Rules 2, 3, 5 and 7 of the Rules. Accordingly, in exercise of the powers conferred on me under section

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13 (2) of the PMLA, 2002 I hereby impose on The Federal Bank Limited a fine of Rs. 2,00,000 (Rupees Two Lakhs) 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,
The Federal Bank Limited
Corporate Office,
Federal Towers,
Aluva - 683101, (Kerala)

Through: Managing Director and CEO