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F.No. 25-1/2013/FIU-IND/Pt XXIV

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.20/DIR/FIU-IND/2015

Name & Address of the Reporting Entity: Allahabad Bank,
Head Office
2, Netaji Subhash Road,
Kolkata -700001
West Bengal.

Show Cause Notice No. & Date: F.No. 25-1/2013/FIU-IND dt 05th March, 2014

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

Date of Order: 19th October, 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 Allahabad 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 the PMLA or the Act).

- 1 Allahabad 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 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 transaction referred to in Rule 3 and for furnishing information about such transaction in such form as may be directed by its Regulator.
4. As per the definition of suspicious transaction in Rule 2(1) (g) of Rules, suspicious transaction 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 made 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 three branches of Allahabad Bank in Delhi viz. Parliament Street branch, Lajpat Nagar branch and Nehru Place Branch, clarifications were sought from the Bank vide letter dated 10/07/2013. The Bank vide letter dated 26/09/2013 admitted that as far as the incident pertaining to the Cobrapost sting operation was concerned it had not filed any STR for "attempted suspicious transactions" as there was no attempted transaction and the conversations related to general queries.
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 05th March, 2014 to show cause why action should not be taken against it under section 13 of the Act for contravention of provisions of section 12 of the Act, read with the relevant rules of the PML (Maintenance of Records) Rules, 2005.
8. Vide letter dated April 4, 2014, the Bank replied to the show-cause notice and denied the allegations. The Bank, admitting that they had not filed Suspicious Transaction Reports for attempted transactions in above mentioned three branches, submitted that in none of the said branches any account was opened or attempted to be opened, nor any locker was allotted or attempted in the names of the reported persons. The Bank also submitted that there was no attempted transaction by the said Cobrapost reporter in any manner and the discussions were inconclusive and were in the nature of general enquiries only. The Bank also stated that its officials repeatedly laid stress upon the compliance of KYC norms which included submission of PAN card. The Bank further submitted that in the instant case there was neither a transaction nor an attempted transaction.

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9. On request of the Bank, a personal hearing was granted on 06/05/2014 which was attended by Sh. Binod Kumar (General Manager and Principal Officer). The Principal Officer stated that on the date of the incident, the Bank had a policy to report suspicious transaction; however, he would confirm later if the policy also covered attempted suspicious transactions. He also confirmed that in none of the cases, alerts were raised to the Principal Officer from the branch officers, and that action had been taken to strengthen the AML/CFT reporting system. The Bank was asked to place on record a copy of its policy on Suspicious Transactions Reports in force on the date of the Cobrapost incident.

10. In its additional submissions vide letter dated May 15, 2014, the Bank submitted that it had in place detailed guidelines on KYC Norms/AML Measures which was updated periodically directing the field functionaries inter alia to report any off-line alert, including attempted transactions, immediately to their respective Zonal Offices and Head Office. The Bank further submitted that subsequent to the Cobrapost sting operation, necessary instructions to field level personnel were reiterated to act upon off-line alert indicators for reporting STR based on attempted transactions. The Bank again submitted that the discussions during the visits of Cobrapost reporter in three of its branches were limited to general queries only, and there was no instance of attempted transaction, as a result of which, no STR was considered for submission by the concerned branches as attempted transactions. The Bank reiterated its submissions once again through its letter dated June 09, 2014 stating that since there was no instance of attempted transaction, either cash or otherwise, no STR was considered for submission by the officials of the concerned branches as attempted transactions.

FINDINGS AND DISCUSSION

11. A perusal of the records of conversations/ discussions between the Cobrapost reporter and the Bank employees and the findings and actions taken by the Bank which FIU-IND was informed about, submissions made by the Bank during the personal hearing and thereafter confirm that the employees of the three Branches of the Bank were involved in conversation with the Cobrapost reporter who 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 was not disputed.

12. The transcripts of conversation revolve around laundering of money through the Bank using different methods e.g., routing of money from savings account into insurance policies; maintaining secrecy of transactions; transfer of money abroad; opening of Benami accounts; issuing of cheque book in the name of Benami account holders; provision of lockers to keep cash etc. The employees of the Bank have also boasted of other instances where Benami accounts have been used in the Bank. Throughout the conversations the Cobrapost reporter made no secret of the fact that he was discussing black money and was seeking to launder it on behalf of a 'minister'.

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 which was available with all the branches of the Bank and formed part of its 'Guidelines on KYC Norms/AML Measures/CFT'.

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. The Bank's pleas that the conversations were only general queries and not attempted transactions are only post facto rationalizations. 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.

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15. In light of the above, I conclude that in the Parliament Street, Lajpat Nagar and Nehru Place Delhi branches of the Bank reported by Cobrapost, there was a failure in the Allahabad 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 Allahabad Bank a fine of Rs. 3,00,000 (Rupees three Lakh) for three instances of failure in its Parliament Street, Lajpat Nagar and Nehru Place, Delhi 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,
Allahabad Bank,
Head Office
2, Netaji Subhash Road,
Kolkata -700001
West Bengal.

THROUGH : CHAIRMAN AND MANAGING DIRECTOR.