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F.No. 25-4/2013/FIU-IND
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.03/DIR/FIU-IND/2016

Name & Address of the Reporting Entity: Mahamedha Urban Co- operative Bank,
Mahamedha Bhawan
36, Nai Basti, G.T. Road
Ghaziabad- 201001(U.P.)

Show Cause Notice No. & Date: F.No. 25-4/2013/FIU-IND dt 16th March, 2015

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

Date of Order: 8th April, 2016

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 Mahamedha Urban Co-operative Bank. The appeal should be in the form and manner prescribed under sub-section (3) of section 26 of the prevention of Money Laundering Act, 2002.

1. Mahamedha Urban Co-operative Bank (the 'Bank') is a banking company as defined under Section 2(e) of the Act.

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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 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 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 and to levy a fine for each such failure.
5. Onsite review of the Bank was conducted by FIU-IND on 03-09-2013. A perusal of the Bank's transaction data for six financial years from 2007-08 to 2012-13 showed that the Bank did not file any Cash Transaction Report for 40 months over the period from March 2006 to March 2013 and January 2013 to April 2013. Further, the Cash Transaction Reports for 11 months for the period May 2013 to March 2014 were not filed on due dates but with delay. The Bank also failed to establish any mechanism to detect and report such transactions.

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6. From the submissions made by the Bank during the onsite review, it was observed that the Bank did not have any internal mechanism for detecting and reporting transactions referred to in clauses (A), (B), (BA), (C), (D) of sub-rule (1) of PML Rules. The Bank did not have internal mechanism for generating alerts and examining the alerts for filing Suspicious Transaction Reports (STRs). This is in contravention of provisions of Sec 12 (1) (b) read with rules 3 (A), 3 (B), 5(2), 7(3) and 8(1) of the PML (Maintenance of Record) Rules.
7. The Bank was called upon vide letter dated 16th March, 2015 to show cause why action should not be taken against it for violation of Section 12 (1) (b) of the PMLA read with Rules 3(A), 3(B), 3(D), 5(2), 7(3), 8(1) and 8(3) of the Rules.
8. Vide letter dated 06-05-2015, the Bank replied that :
 - a.) The bank did not have system for generating alerts and examining them for filing suspicious transaction reports as there was no software for this.
 - b.) The Bank furnished copies of 2 CTRs filed in the year 2008-09 and January 2013 to April 2013 as the evidence that the Bank did file CTRs in those years.
 - c.) The Bank admitted and regretted delays on their part in filing CTRs due to their internal reasons and changes in the reporting software's format for filing CTRs, resulting its violation of the PMLA.
 - d.) The Bank sought one more chance and requested for condonation of their faults.
9. A personal hearing was granted to the Bank on 18-09-2015 which was attended by Mr. Edward Samson Luke, CEO/Secretary and Mr. Pankaj Tyagi, Manager of the Bank. During the hearing, the Bank officials stated that they understood their obligations in terms of filing reports but did not have precise information

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about the number of reports filed with FIU-IND. The Bank officials undertook to file an affidavit within one month indicating :

- i.) A list of cash transactions including integrally connected transactions, that were reportable, but were not reported along with proof.
- ii.) A list of principal officers in position from time to time.
- iii.) The period covered would be from 01-07-2005 to the date of filing the affidavit. The Bank was also asked to furnish other reports about the Bank including its published annual financial statements and list of members/Directors. The bank officials were asked to file the affidavit, in terms of section 50 of the PMLA, on or before 18-10-2015.

10. As the Bank did not file the affidavit by the due date, a reminder was issued on 28-10-2015 to the CEO/Secretary of the Bank stating that if the requisite information /details were not provided latest by 06-11-2015, then the case would be decided on the basis of information on records.

FINDINGS AND DISCUSSIONS

11. I have gone through the facts and circumstances of the case which led to the issuance of show cause notice dated 16-03-2015, written submissions of the Bank dated 06-05-2015, as well as submissions made during the personal hearing on 18-09-2015. The Bank has admitted that it did not have any system in place for detecting and filing cash transaction reports as of the date of onsite inspection i.e. on 03-09-2013. During the personal hearing also the Bank officials could not give a satisfactory account of the number of cash transactions facilitated by the Bank and the number of transactions that were reportable to FIU-IND. The CEO/Secretary of the Bank agreed to file an affidavit in terms of

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Section 50 of the PMLA before 18-10-2015, but failed to do so even after another opportunity was given to file the affidavit by 06-11-2015. It is therefore evident that the Bank has not only failed to meet its obligations under the PMLA, but is also not cooperating in further investigations. As the PMLA obligates a reporting entity to file reports of specified transactions, the extent of non-compliance to file reports of such transactions cannot be exactly ascertained unless the Bank furnishes the details/information sought. However, it is clear that the Bank has persistently failed to comply with its obligation of evolving an internal mechanism for detecting and furnishing reports of transactions as laid down in Rule 7(3) of the PML Rules issued under the PMLA.

12. In view of the above, I, in exercise of my powers under Section 13(2) of the PMLA, impose a fine of Rs. 97 lakh for the Bank's persistent non-compliance with its obligations under Rule 7(3) of the PML Rules, laid down under the PMLA, during 85 months period from March 2006 to April 2013, as mentioned in the show cause notice. The fine is being imposed at the rate of Rs. 1 lakh for each month of failure.
13. I also conclude that Shri Edward Samson Luke, CEO/Secretary of the Bank, in failing to furnish information to FIU-IND, within the stipulated time, has also failed to perform his obligations under the PMLA. Accordingly, in exercise of the powers conferred on me under section 13 (2) of the PMLA, 2002, I hereby impose on Shri Edward Samson Luke, CEO/Secretary of Mahamedha Urban Co-operative Bank, a fine of Rs. 6 lakh for his failure to furnish information in the six months' period from October 2015 to March 2016, calculated @ Rs. 1 lakh for each month's delay in furnishing the information beyond 18-10-2015. I also direct the Board of Directors of the Bank to file, within 3 months of receipt of this order, complete information about all the reportable transactions since July

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2005, as undertaken by Shri Luke during personal hearing on 18-09-2015, failing which they will be liable to appropriate action under the PMLA.

(Praveen Kumar Tiwari)
Director
Financial Intelligence Unit-India

To,
Mahamedha Urban Co-operative Bank,
Mahamedha Bhawan
36, Nai Basti, G.T. Road
Ghaziabad- 201001(U.P.)

Through : CEO/ Secretary