

F.No. 9-1/FIU-IND/2013
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. 04/DIR/FIU-IND/2015

Name & Address of the Reporting Entity:

Axis Bank,
Axis House, C-2,
Pandurang Budhkar Marg,
Worli, Mumbai- 40025

Show Cause Notice No. & Date:

F.No. 9-69/2009/FIU-IND dt 15th Nov,
2011 and F.No. 9-1/FIU-IND/2013 dt 5th
Sep 2014

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

Date of Order:

13th 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 Axis 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. The Axis Bank Limited (hereinafter referred to as 'Axis' or the 'Bank') is a Banking company as defined under Section 2(e) of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the 'Act').
2. Section 12 of the Prevention of Money Laundering Act read with Prevention of Money Laundering ((Maintenance of Records) Rules, 2005 (hereinafter referred to as the 'Rules'), imposes certain obligations on Banking companies, which include identification and verification of the identity of their customers and furnishing to Director, Financial

Intelligence Unit – India (hereinafter referred to as ‘Director, FIU-IND’) reports of specified transactions including cash transactions over a threshold (Rs 10 lakh), suspicious transactions, and counterfeit currency transactions etc.

3. Rule 3 & 4 of the Rules specify the nature and value of the transactions which are to be reported to Director, FIU-IND; Rule 5 specifies the procedure and manner of maintaining information; Rules 7 & 8 prescribe the procedure and manner of furnishing such information and the timeline/periodicity thereof; and Rule 9 prescribes the procedure to be followed for verification of the identity of the clients.
4. Section 13 of the Act confers on the Director, FIU-IND powers to enquire into cases of failure of Banking companies to comply with the provisions of Section 12 of the Act and the Rules issued thereunder and to levy a fine in case of non-compliance thereof.
5. This order deals with issues arising out of two Show Cause Notices to Axis Bank dated 15-11-2011 and 05-09-2014 for violations of Section 12 of the Act read with the Rules involving, among others, the accounts of the Balaji Bullion Group companies and Maple Advisory Services Pvt. Ltd. (MAS) (hereinafter referred to as MAS).

THE SHOW CAUSE NOTICE DATED 15th Nov, 2011

6. It was seen that huge amounts were being introduced, layered and transferred abroad through the accounts of Balaji Bullion Group companies maintained at the Bank but the transactions were not properly examined for the purpose of STRs. Much later, only after the Income Tax Department and FIU-India started probing the matter, Axis Bank filed STRs in case of 56 related accounts the Balaji Bullion group in March, 2010.
7. The Bank was asked on 8th December 2009 to provide a list the account opening forms and KYC documents in respect of two accounts initially. Thereafter, vide letters dated 5th April, 2011, copies of KYC documents of the remaining accounts were also called for, which were provided by the Bank on 16th December 2009, 15th April 2011 and 26th April, 2011.
8. The show cause notice (SCN) issued to the Bank on 15th November, 2011, based on the information available including information furnished by the Bank and also gathered during onsite inspection of the Bank on 5th

April, 2011, identified two main areas of violation of PMLA provisions:

- I. Failure to correctly report CTRs and STRs, and
- II. Failure to verify the identity of a client while opening the account of Narmada Pariyojana from which several crores of rupees were siphoned away.

9. Vide its reply dated 26.12.2011, the Bank provided list of 56 related accounts of Balaji Bullion Group; 170 transactions relating to foreign remittances; 690 alerts in respect of 9 of the 56 accounts generated during July 2008 and May 2010 (closed without filing STR), correspondence with branches on the basis of which the alerts were closed; and copies of ledger account/invoices and documents to substantiate certain transactions highlighted during the on-site review. The Bank made the following points:

The alerts were closed after due diligence and confirmation from the branches; as Banker they could not probe further.

- a) 1063 CTRs incorrectly filed during May 2006 to August 2009 were later corrected in November 2010.
- b) The deficiencies in the KYC of the Narmada Pariyojana was result of a fraud played by some of its employees and the Bank itself was a victim of this fraud.
- c) Although the Bank did not file STRs in the case of the Balaji group, it had filed STRs in the case of two other companies (on 17 September 2009 and 22 January 2010), which had money transactions with the Balaji group of companies.
- d) On inadequate examination and closure of alerts, mentioned in paragraph 12 of the SCN, the Bank stated that a few minor lapses should not be construed to conclude that the Bank was not in a position to put in a mechanism for detecting, examining and reporting suspicious transactions.

10. On the request of the Bank, a personal hearing was granted on 05.08.2013, which was attended by Mr. T Sarkar, Chief Compliance Officer; Mr. B. Gopalkrishnan, Head, Law Department; Mr. J.R. Mohandas, MLRO & Mr. Praveen Kumar Pandey, V.P., Law. During the hearing, the Bank requested for filing revised submissions and asked for a time of two weeks. The Bank was granted its request and was asked to file the revised submission under section 50 of the PMLA. The case was re-fixed for hearing on 30.08.2013.

11. The revised submissions, furnished vide letter dated **26-08-2013** contained the following points:
- a) STR was filed with FIU on 19-03-2010 consequent upon (i) the receipt of notices/ summonses from Income Tax Department dated 25-11-2009 relating to Balaji group of companies; and (ii.) receipt of letter dated 08-12-2009 from FIU-IND calling for information about Balaji Universal Trade Link Private Limited.
 - b) The Bank complied with the extant KYC guidelines while opening the account of Balaji Universal Trade Link Private Limited on 09-06-2008. The Bank did not find anything suspicious as the volume and pattern of transactions were found to be consistent with the declared business profile (dealing in diamond and precious metals). It was only when the RBI advised vide circular dated 30-12-2010 to treat bullion accounts as high risk accounts requiring enhanced due diligence, that the Bank decided to file STR for the Balaji group.
 - c) Prior to 31-03-2009, the Bank followed a procedure whereby a daily report was generated for transactions of Rs. 10 lakh and above from core Banking software. These transactions were monitored manually. Email alerts were then sent to the branches to confirm the KYC of the customers and also bona fide of the transactions. On receiving the confirmation, the account was shifted to a white list and would not be monitored closely.
12. On the request of the Bank another Personal Hearing was granted on 11.09.2013, which was attended by Mr. T Sarkar, Chief Compliance Officer; Mr. J.R. Mohandas, MLRO & Ms Uma Ramaseshan, VP, Compliance. The Bank made oral as well as written submissions. Vide letter dated 20th September 2013, the Bank provided some more information.
13. After going through the replies/ submissions of the Bank as discussed above, the following position emerges:

Incorrect filing of CTRs

14. The Bank has admitted that it had incorrectly filed 1063 CTRs during the period May 2006 to August 2009, which was later corrected in November 2010.

Closure of alerts and non-filing of STRs

15. In respect of the infractions mentioned in paragraph 11 of the SCN regarding inadequate examination while closing the alerts, the Bank has not denied them and stated that a few minor lapses should not be construed to conclude that the Bank was not in a position to put in a mechanism for detecting, examining and reporting suspicious transactions.
16. In case of the Balaji group of companies, the Bank has admitted that it did not file STRs because it did not find anything suspicious in the transactions of these companies. It has however, stated that it did file STRs in case of two other companies (on 17 September 2009 and 22 January 2010), which had money transactions with the Balaji group of companies.
17. It is observed that in all the 56 accounts of the Balaji Bullion group, there were heavy deposits of cash, RTGS transfers, and rotation of funds among the group companies. More than Rs. 829 crore were transferred out of the accounts through 170 transactions, but alerts were generated only for 29 transactions. No alerts were generated for 141 transactions involving more than Rs. 693 crore although all these transactions were similar. Even the 29 transactions for which the alerts were raised, were closed with routine remarks like "Yes, Forex deal". In case of remittances abroad, documents were not obtained to verify the genuineness of the transactions.
18. The Bank submitted a list of 690 alerts pertaining to only 9 out of 56 accounts of the group companies. All the alerts were closed after confirming from the customer or the branch that the transfers were bona fide. No independent enhanced due diligence was done. The closure remarks were routine and repetitive. The volume of transactions was not matched with customer's profile and the details given in the account opening form, which show glaring contradictions, as is further evident from the KYC documents provided by the Bank for these 56 accounts as mentioned in the para 7 above. For instance, there are transactions of several crores in account of customers whose annual income/turnover is stated as a few lakhs. The alert closure statement shows the following routine remarks (i) Yes, it is a forex deal; (ii) it belongs to group company; (iii) Yes it is a business transfer and so on. The rotation of funds within accounts of related parties was not examined from the perspective of layering of funds and STR filing.

19. The Bank stated that it had whitelisted the Balaji Universal Tradelink Pvt Ltd, after an alert generated on 15.7.2008 for a transaction dated 9.7.2008 for Rs. 4,72,96,197 was confirmed by the branch to be bona fide. Due to this, no alert was generated during 9.7.2008 to 30.3.2009. This shows serious deficiency in the Bank's internal mechanism, which must be based on ongoing monitoring of transactions to determine if they are suspicious in nature.
20. The Bank admitted that it did process some foreign exchange transactions of the group, where it had not even been mentioned as the Authorised Dealer. In its letter dated 26 August 2013, the Bank informed FIU-IND of at least three cases where the General Receipt (GR) was mentioned in favour of Union Bank of India.
21. In summary, the Bank failed to provide satisfactory replies to paras 9, 10, and 11 of the SCN dated 15/11/2011. During the personal hearing also, the Bank failed to produce any evidence to show that these transactions were examined with due diligence at the material time.
22. The failure of the Bank in reporting suspicious transactions belonging to the Balaji Group becomes even more glaring, in light of the fact that the Bank (by its own admission) had already reported, between September 2009 and January 2010, 2 STRs in respect of two other companies that had relationship with the group. In normal course, this fact alone should have prompted enhanced due diligence of the transactions of the Balaji group. Rather than doing this, the Bank had been complacent about the group after whitelisting it in July 2008. This exemplifies a very casual approach towards suspicious transaction reporting where the sole reliance is placed on the confirmation of the branch or even the customer! The conclusion becomes inescapable that either the Bank did not apply due diligence on the alerts generated or its internal mechanism to detect and report suspicious transactions was thoroughly deficient.

Identification and verification of customers

23. Para 13 of the SCN dated 15/09/2011 detailed the shortcoming in the identification and verification process followed by the Bank while opening account of Narmada Vikas Pariyojana. The Bank stated that it was a fraud played on the Bank by some employees and the Bank itself was a victim, without giving any credible argument in support of its obligation to identify and verify the identity of its customers. It is a clear case of non-compliance by the Bank where the identity of the customer was not verified properly; and no ongoing due diligence was done.

24. Similar deficiencies in the KYC process were seen in case of the 56 accounts of the Balaji Group also where the accounts were opened without the complete details of the customers, as is evident from the copied of the account opening forms furnished by the Bank to FIU-Ind. It is evident that if the details of the customers are not captured then it would be difficult to monitor their transactions.

THE SHOW CAUSE NOTICE DATED 05TH Sept. 2014

25. In another instance it was reported that the Bank had opened a set of 53 accounts in the names of individuals (of modest means) and companies through which more than Rs. 300 crore of unaccounted cash was deposited in a short period between April 2008 to July 2009, in amounts that were structured below the reporting threshold (Rs. 10 lakh), followed by transfer to the account of Maple Advisory Services (MAS) Pvt. Ltd., opened on 5 August 2008. The amounts were subsequently transferred to the accounts of six other companies and the account of MAS was closed on 20 July 2009.
26. The Bank was issued another SCN on 5th September, 2014 asking it to show cause why action should not be taken under section 13 of PMLA for:
- I. Failure to have proper system/mechanism in place to detect, examine and report suspicious transactions in the 53 accounts which were operated during the period from August, 2008 to July 2009.
 - II. Failure to follow proper KYC norms in respect of these 53 accounts.
27. The Bank vide letter dated 20 October 2014 stated that it had filed STR in respect of MAS on 15.02.2010; that the STRs were not filed when the accounts were in operation, as the concerned branch had confirmed the transactions to be bona fide; and that the transactions were subsequently picked up for STR filing following a review process.
28. The Bank explained that there was no centralized transaction monitoring system for the accounts until April 2009, when the transaction based monitoring was introduced. Until then, the alerts were based on the review of accounts, and once an alert in an account was cleared by the branch, the account would be whitelisted and not be subject to monitoring.

29. On the failure to follow proper KYC norms in respect of account holders of 53 accounts, the Bank stated that the concerned branch complied with the extant KYC guidelines of the Bank and that the Bank's Customers Acceptance Policy and Customer Identification Procedure were aligned with the guidelines of RBI. The Bank stated that it had taken stringent action against the branch concerned for willful misrepresentation of facts regarding the transactions in the accounts of MAS and linked accounts and not recommending STR filing for the accounts.
30. On the request of the Bank, a personal hearing was granted on 25-11-2014, which was attended by Mr. Sanjeev K Gupta, Executive Director (Corporate Centre and CFO), Mr. JR Mohandas SVP-PO, and Mr. Karan Bhutalia, SVPCVRU. The Bank explained during the hearing that it did not have information in its AML cell on the declared financial profile of the customers that would enable it to spot any mismatches in the declared and actual financial profile.
31. The Bank, vide letter dated 04th December, 2014, provided some more information and stated that:-
- a.) The aggregate amount of the cash in the saving accounts of Vinod Kumar Jha, one of the key persons involved in the structuring of the unaccounted cash, was Rs 84.54 crore.
 - b.) Aggregate cash deposited in all the 53 accounts was Rs 256.16 crores, and not Rs. 300 crore as stated in SCN.
 - c.) The Bank filed STR for the 53 accounts and another 37 accounts on 15.02.2010.

Findings and discussions

32. It is evident from the submissions made by the Bank and the documents furnished that:
33. The Bank did not have a transaction monitoring system until April 2009. The alerts generated for an account were closed based on the feedback from the branches, without any independent verification or application of mind. The whitelisting process followed by the Bank ensured that once an alert in respect of an account was closed, the account would be out of scrutiny, irrespective of the nature of transactions. Such a system obviously defeated the very purpose of STR reporting, which is based on ongoing monitoring of the transactions. This is evident from the case of MAS in which the accounts of persons of very modest means were used to structure and layer hundreds of crores of unaccounted cash without any STR being reported. In most of the cases the alerts were closed on

the basis of the stock reply of the branch like 'we confirm that KYC requirements in respect of account No. of have been meticulously complied with. We also confirm to the best of our knowledge the bona fide of the transactions routed through this accounts.' The AML Compliance cell of the Bank hardly exercised any enhanced due diligence.

34. From the perusal of KYC documents in respect of 17 account holders who opened 55 accounts forwarded by the Bank it is seen that the primary holder's personal information and nomination detail were not provided. The accounts were opened with large cash amount as high as Rs. 9,90,000, without looking at the STR angle. The profiles of the account holders do not match with account/transaction profile.
35. It becomes evident that the Bank had significant shortcomings in its internal mechanism for STR alert generation, examination and closure. The queries made to branches were dealt in a routine manner. No proper profile matching or transaction verification was done. The transactions of substantial cash deposits made in circumstances of unusual or unjustified complexity (e.g., multiple cash deposits every day), or transactions without any economic rationale were not properly examined. As a result, the Bank failed to identify significant suspicious activity and file STRs at the material time. Even after the Bank introduced new software (High Value Software) for AML transactions monitoring from 01.04.2009, it failed to detect and report STR in the subject case till 15.02.2010.
36. On the basis of the above analysis, I conclude that:
 1. During the period from March 2006 (when the first reporting formats were prescribed by the FIU-IND) to February 2010 (when it filed the STR in case of Maple Advisory Services Pvt. Ltd.), the Bank did not have a proper internal mechanism to detect and report suspicious transactions. In case of Balaji Group of companies also, the Bank filed STR only in March 2010.
 2. The Bank did not file correct CTRs for 1063 cash transactions that took place during the period May 2006 to August 2009. The correct CTRs were required to be filed by the 15th of the month following the month in which the transaction occurred, but were filed only in November 2010.
 3. The Bank did not carry out proper identification and verification of the identity of its clients in cases of (a) 56 accounts of Balaji Bullion Group

companies, (b) Narmada Vikas Pariyojana and (c) 55 accounts related to the Maple Advisory Services Pvt. Ltd.

37. The failures of the Bank, as detailed in paragraph 36 above were in violation of section 12 of PMLA, 2002 and the Rules made thereunder. Therefore, in pursuance of the authority vested in me by Section 13 of the PMLA, I impose the following fines on the Axis Bank for the infractions/ violations mentioned in paragraph 36 above:

1. Rs. 46 lakh for failing to evolve proper internal mechanism for detecting and reporting suspicious transactions during the 46 months period from April 2006 to February 2010 calculated @ Rs. 1 lakh per month.
2. Rs. 1,06,30,000 for not filing correct CTRs for 1063 cash transactions that took place during May 2006 to August 2009, calculated @ Rs. 10,000 per transaction applying the minimum penalty rate;
3. Rs. 112 lakh for failure in carrying out proper identification and verification in respect of
 - 56 accounts of Balaji Bullion Group companies, calculated @ Rs. 1 lakh per account,
 - One account of Narmada Vikas Pariyojana, calculated @ Rs. 1 lakh per account, and
 - 55 accounts related to the Maple Advisory Services Pvt. Ltd. and related accounts, calculated @ Rs. 1 lakh per account

38. The total fine payable by the Bank would be Rs. 2,64,30,000. The Bank is directed to pay the same.

(Praveen Kumar Tiwari)
Director
Financial Intelligence Unit-India

To
Axis Bank,
Axis house, C-2,
Pandurang Budhkar Marg,
Worli, Mumbai- 400025

THROUGH : CHAIRMAN AND MANAGING DIRECTOR.