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**Anti-Corruption, White Collar Crimes, and
Investigations Compendium
January 2023 – December 2023**

This compendium sets out the key developments in the Anti-Corruption, White Collar Crimes, and Investigations space for the year 2023 in the enforcement, regulatory and judicial landscape of India.

Legislative and Regulatory Developments



Notification under the Prevention of Money Laundering Act, 2002, regulating virtual digital assets

The Central Government (Ministry of Finance) ("MoF"), vide notification dated March 7, 2023 included activities/transactions concerning virtual digital assets ("VDA") under the definition of "person carrying on designated business or profession" and thus brought VDAs under the ambit of Section 2 (1) (sa) (vi) of the Prevention of Money Laundering Act, 2002 ("PMLA").

For a detailed analysis, please refer to the [JSA Prism of March 15, 2023](#).

Notification under the PMLA, expanding its ambit to include certain activities/individuals

MoF vide notification dated May 9, 2023 brought certain activities, carried out in the course of business on behalf of or for another person, within the ambit of 'person carrying on designated business or profession' under Section 2 (1) (sa) (vi) of the PMLA. The notification also clarified that certain activities will not be regarded as an activity for the purpose of Section 2(1) (sa) (vi) of the PMLA. For a detailed analysis, please refer to the [JSA Prism of May 19, 2023](#).

AML & CFT Guidelines for professionals with certificates of practice from SRBs

The Financial Intelligence Unit-India under MoF introduced Anti-Money Laundering ("AML") and Countering the Financing of Terrorism ("CFT") Guidelines ("Guidelines") effective from June 19, 2023. The Guidelines are for professionals with certificates of practice from statutory bodies such as Institute of Chartered Accountants of India, Institute of Company Secretaries of India, and Institute of Cost Accountants of India ("SRBs"). The Guidelines prescribe the necessary steps to be taken by reporting entities / relevant persons to prevent, detect, and report money laundering, terrorist financing, or proliferation financing activities. For a detailed analysis, please refer to the [JSA Prism of July 28, 2023](#).

Income Tax and Crypto Clampdown

The Minister of State for Finance informed the Lok Sabha on April 03, 2023, that the Income Tax department seized assets worth INR 8,800,00,00,000 crore (Indian Rupees eight thousand eight hundred crore) in the last 8 (eight) years across 5,931 (five thousand nine hundred thirty-one) searches.

He also informed that the Enforcement Directorate ("ED") was investigating several cases related to cryptocurrency/ virtual digital currency frauds which include involvement of crypto exchanges, noting that proceeds of crime amounting to INR 936,89,00,000 crore (Indian Rupees nine hundred thirty-six crore eighty-nine lakh) were attached or frozen in these cases.

Changes to the Money Laundering (Maintenance of Records) Rules, 2005

Prevention of Money Laundering (Maintenance of Records) Amendment Rules, 2023



The MoF notified the Prevention of Money Laundering (Maintenance of Records) Amendment Rules, 2023 on March 7, 2023. The amendment requires entities (such as financial institutions and banking companies) to make disclosures regarding the beneficial owners, the threshold of which has been reduced to 10% of the company's shares from 25%. The Amendment has defined terms such as 'group', "non-profit organization" and "politically exposed persons". It also prescribes additional information and documentation requirements entities must provide for the purpose of due diligence such as the names of those in top management positions, partners, beneficiaries, trustees, settlors, and writers.

Every banking company or financial institution or intermediary, as the case may be, is now required to register the details of a client, in case of client being a non-profit organisation, on the DARPAN Portal of NITI Aayog, if not already registered, and maintain such registration records for a period of 5 (five) years after the business relationship between a client and a reporting entity has ended or the account has been closed, whichever is later.

Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2023

The MoF notified the Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2023 on September 4, 2023, amending the Prevention of Money Laundering (Maintenance of Records) Rules, 2005. Key changes brought in by the amendment were: (a) Only an officer at the management level can now be appointed as the 'Principal Officer'; (b) The threshold for beneficial ownership of a company is reduced from 15% to 10%. The amended rule provides that partners with a 10% stake in a firm will be considered as beneficial owners; (c) To broaden the scope of beneficial owners, a person 'who exercises control through other means' would also be considered a beneficial owner provided "control" includes the 'right to control the management or policy decision'; and (iv) In case of a trust, the reporting entity will ensure that trustees disclose their status at the time of commencement of an account-based relationship or when carrying out specified transactions.

Prevention of Money-laundering (Maintenance of Records) Third Amendment Rules, 2023

MoF notified the Prevention of Money-laundering (Maintenance of Records) Third Amendment Rules, 2023 on October 17, 2023, amending the Prevention of Money Laundering (Maintenance of Records) Rules, 2005. Key changes brought were: (a) Every reporting entity that is a part of a group will implement group wide programs against money laundering and terror financing. This includes group wide policies for information sharing as well as implementation of obligations under Chapter IV of PMLA; (b) On satisfaction of the principal officer of a reporting entity that a transaction is suspicious, he may furnish such information in writing by fax or email to the director of ED; and (c) The amendment creates an obligation on the directors, officers and employees of reporting entities to ensure that maintenance of records and furnishing of information to the director is kept confidential.

G20 Anti-Corruption Working Group

G20 First Meeting

The G20 Anti-Corruption Working Group reported 'considerable progress' during its first meeting which concluded in Gurugram in February 2023. The meeting inaugurated on March 1, 2023, by Union Minister of State for Personnel Jitendra Singh was attended by over 90 (ninety) delegates with Italy as the co-chair. It was reported that there were productive deliberations on several key focal areas pertaining to asset recovery, fugitive economic offenders, formal and informal channels of cooperation for information sharing, institutional frameworks for combating corruption and mutual legal assistance, among others.

G20 Second Meeting

In another salient regulatory development, the G20 Anti-Corruption Working Group had held its second meeting in India in May 2023, with Italy as a co-chair. The Group's overarching objective is to foster international economic cooperation, of which anti-corruption is a focal aspect. With attendance by delegations from across the world, the Working Group's second meeting centred its efforts upon goals such as asset recovery, fugitive economic offenders, and institutional efforts to fight against corruption.

G20 Summit

India hosted the G20 summit on September 9th and 10th of 2023 at the end of which the “G20 New Delhi Leaders’ Declaration” (“**Delhi Declaration**”) was released. The Delhi Declaration unequivocally recognized fighting corruption and money laundering as one of the main priorities of G20 nations. The declaration underscored the commitment of the member states to Financial Action Task Force and global standards for transparency and asset recovery, while endorsing various G20 High Level Principles related to international cooperation and preventing corruption.

G20 Final Meeting

The third and final G20 Anti-Corruption Ministerial Meeting was held in Kolkata on August 12, 2023, which saw the endorsement of multiple G20 High Level Principles against corruption and money laundering, adoption of the G20 ACWG Accountability Report on Mutual Legal Assistance and detailed discussions on gendered dimensions of corruption.

Goods and Services Tax Network (“GSTN”) under PMLA

The Centre issued a notification dated July 7, 2023, to bring Goods and Services Tax Network (“**GSTN**”) under PMLA. The order aims to plug tax evasion by facilitating sharing of information or materials in possession of ED and GSTN and enabling them to check any violation of GST provisions such as fake input tax credit, fake invoices etc.

Jan Vishwas (Amendment of Provisions) Act, 2023



On August 12, 2023, the Central Government published the Jan Vishwas (Amendment of Provisions) Act, 2023 (“**Jan Vishwas Act**”). The Jan Vishwas Act will come into force on such date as the Central Government may appoint by notification in the Official Gazette. The Jan Vishwas Act decriminalizes 180 (one hundred and eighty) offences across various laws including the PMLA. The Jan Vishwas Act seeks to introduce changes to Part A of the schedule under the PMLA that lists

offences and its penalties under various acts. All scheduled offences under Environment Protection Act, 1986, Air (Prevention and Control of Pollution) Act, 1981 have been removed from the Schedule to the PMLA by virtue of the amendment. Some specific offences such as penalty for falsely representing a trademark as registered and penalty for breach of confidentiality and privacy (under the IT Act, 2000) have also been removed.

The Bharatiya Sakshya Adhiniyam, 2023, the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023

In August 2023, the central government introduced (a) Bhartiya Nyaya Sanhita Bill, 2023 (“**BNS**”); (b) Bharatiya Nagarik Suraksha Sanhita, 2023; and (c) the Bharatiya Sakshya Bill, 2023 in the Lok Sabha, to replace the existing Indian Penal Code 1860 (“**IPC**”), Code of Criminal Procedure 1973 (“**CrPC**”), and Indian Evidence Act 1872, respectively. On December 25, 2023, these bills received the President’s assent and became the law. However, their effective date of implementation is yet to be notified by the central government. The BNS retains several parts of the IPC, however, some of the key changes include introduction of organised crime and terrorism offences, increasing penalties for certain existing offences, and introducing community service as a punishment for certain petty offences.

Cybercrimes in India



The Central Bureau of Investigation (“**CBI**”), under Operation Chakra-II, searched 76 (seventy-six) locations across the nation in relation to allegations of cyber-fraud. The CBI stated that the searches were conducted as part of intelligence received by the Financial Intelligence Unit of India (“**FIU**”), and that

certain cryptocurrency-based financial frauds were also being investigated as part of the ongoing investigations. Further, as part of the operation, 9 (nine) call centres were searched. Operation Chakra's first phase was undertaken in 2022, as a nationwide mechanism to tackle the organised cyber – enabled financial crimes in India. Chakra-II represents the second leg of the operation, undertaken in the latter half of 2023.

The FIU in December 2023, issued show-cause notices to 9 (nine) offshore cryptocurrency platforms (comprising of Binance, KuCoin, Huobi, Kraken, Gate.io, Bittrex, Bitstamp, MEXC Global and Bitfinex) for operating illegally and failing to comply with the provisions of Section 12 of PMLA. The FIU had also written to the Ministry of Electronics and Information Technology to block the URL of these cryptocurrency exchanges.

As per the official press release by the MoF dated February 6, 2023, ED had, as on January 31, 2023, attached proceeds of crime worth nearly INR 936 crores (Indian Rupees nine hundred and thirty-six crore) (~USD 113 million (US Dollars one hundred and thirteen million)) related to cryptocurrency, under the PMLA.

Notable Precedents

1. The Supreme Court of India (“**Supreme Court**”) in the case of *Rana Ayyub v. Directorate of Enforcement*¹, wherein journalist Rana Ayyub’s writ petition challenging the Ghaziabad Special Court’s (“**Special Court**”) jurisdiction to take cognizance of money laundering was held as follows: (a) the trial court of the scheduled offence should commit the case to the Special Court which has taken cognizance of the offence of money laundering; (b) the trial of the scheduled offence should follow the trial of the offence of money-laundering, and not *vice versa*; and (c) insofar as territorial jurisdiction is concerned, the area in which the property is derived or obtained or even held or concealed, will be the area in which the offence of money-laundering is committed. For a detailed analysis, please refer to the [JSA Prism of May 17, 2023](#).

2. The Supreme Court in *State of Chhattisgarh v. Aman Kumar*², while deliberating on an appeal regarding disproportionate assets of the former Principal Secretary to the Chief Minister of Chhattisgarh, held that corruption is the main reason for the non-fulfilment of the ‘preamble promise’ of the Constitution to achieve social justice by ensuring equal distribution of wealth. The Supreme Court added that it is desirable that High Courts do not quash first information report (“**FIR**”) related to corruption cases at the investigation stage.
3. A 3 (three) judge bench of the Supreme Court in *Enforcement Directorate, Government of India vs. Kapil Wadhawan & Anr.*³ held that the stipulated 60 (sixty)/90 (ninety) days remand period under Section 167 of the CrPC ought to be computed from the date when a Magistrate authorizes remand. If the first day of remand is excluded, the remand period will extend beyond the permitted 60(sixty)/ 90 (ninety) days’ period, resulting in unauthorized detention beyond the period envisaged under Section 167 of the CrPC. Therefore, the moment the stipulated period of 60(sixty)/90 (ninety) days remand expires, the accused accrues an indefeasible right to default bail.
4. The Supreme Court in *Anoop Bartaria & Etc. v. Dy. Director of Enforcement Directorate & Anr.*⁴, held that the knowledge of an accused that he was dealing with the proceeds of crime would not be required to be proven by the prosecution in order to lodge a complaint under the PMLA. It further held that all offences under the PMLA are cognizable and non-bailable offences, notwithstanding any provision to the contrary contained in the CrPC. The officers authorized under the PMLA are empowered to arrest an accused without any warrant, subject to fulfilment of the conditions under Section 19 of the PMLA⁵.
5. The Supreme Court in *Directorate of Enforcement v. Aditya Tripathi*⁶ held that an investigation by the ED into scheduled offences under the Prevention of Money Laundering (Amendment) Act, 2005, is distinct from an investigation conducted with respect to a predicated offence by

¹ 2023 SCC Online SC 109

² SLP (CRL.) NOS.1703-1705 OF 2022

³ Criminal Appeal Nos. 701 – 702 of 2020.

⁴ 2023 SCC Online SC 477.

⁵ Section 19 – Power to arrest.

⁶ Criminal Appeal Nos. 1401 – 1402 of 2023.

the CBI. Merely because the chargesheet has been filed as a predicated offence, it cannot serve as grounds to release the accused on bail in connection with scheduled offences under the PMLA. It further held that when an enquiry/investigation is underway for money-laundering related offences, the rigours of Section 45 of the PMLA⁷ must be considered.

6. The Supreme Court in *Y. Balaji v. Karthik Desari*⁸, compared the offence of corruption and the generation of the proceeds of crime to 'Siamese twins' and held that mere registration of a FIR for an offence, along with the generation of proceeds of crime, is sufficient to bring about money laundering charges. It further rejected the plea to refer to the case of Vijay Madanlal Choudhary v. Union of India,⁹ ("**Vijay Madanlal judgment**") to a larger bench, as any such reference would bring the pending investigations in money laundering cases to a grinding halt. In the Vijay Madanlal judgement, the Supreme Court clubbed a batch of special leave petitions, writ petitions, and upheld the constitutional validity of the PMLA and powers of the ED.
7. The Supreme Court in *V. Senthil Balaji v. State represented by Deputy Directors and Ors.*¹⁰ while relying on the Vijay Madanlal judgement, opined on various aspects of the PMLA such as: (a) Writ of habeas corpus will not be maintainable in cases of detention by ED under PMLA. The legislature has, in its wisdom, created the necessary safeguards in PMLA for an arrestee, keeping in mind his liberty, and need for external approval and supervision. Therefore, such writ will only be maintainable when there is a non-compliance of the mandatory provisions along with a total non-application of mind; (b) Compliance of Section 41A of the CrPC is not mandatory in PMLA cases so long as procedure laid down under Section 19 of PMLA is adhered to; (c) The maximum period of 15 (fifteen) days police custody under section 167 of CrPC is to be applied to the entire period of investigation – 60 (sixty) or 90 (ninety) days, as a whole. The word 'custody' used in Section 167(2) of CrPC would include not only police custody but also custody of other

investigating agencies including the ED; (d) It is the bounden duty of the authorized officer to record the reasons for his belief that a person is guilty and needs to be arrested; (e) Section 167(3) of CrPC warrants a magistrate to record reasons by speaking and reasoned order while granting remand. When a Magistrate remands an accused to an authority under the PMLA, the safeguards under Section 19 of PMLA have to be followed; and (f) The Supreme Court has referred the issue as to whether police custody or remand under Section 167(2) of CrPC can be restricted to 15 (fifteen) days to a larger bench for re-consideration.

8. The Supreme Court in *Ameena Begum v. State of Telangana & Ors.*¹¹ reiterated the principles applicable while deciding the constitutionality of orders of preventive detention and laid down the following criteria to test the legality of such orders: (a) There has to be satisfaction of the detaining authority upon which validity of exercise of power of preventive detention is predicated; (b) The detaining authority has to apply its mind to all relevant circumstances and is required to not base its satisfaction on extraneous material. The satisfaction is required to be based on rationally probative material and statutory mandate; (c) The detaining authority has to apply its mind independently and exercise power for a proper purpose; (d) Non-application of mind by the detaining authority; (e) The satisfaction has to be arrived at bearing in mind existence of a live and proximate link and past conduct and the need to detain the detenu; and (f) Timelines under the law are required to be adhered to.
9. The Supreme Court in *Central Bureau of Investigation v. R.R. Kishore & Ors.*¹² considered whether Section 6A of the Delhi Special Police Establishment Act, 1946 ("**DSPE Act**") being held unconstitutional would have a retrospective effect. Relying on Article 13 of the Constitution of India, the Supreme Court held that once an act is held unconstitutional, it is required to have retrospective effect. Therefore, the judgment in the case of *Subramanian Swamy v. CBI*¹³ was held to

⁷ Section 45 – Offences to be cognizable and non-bailable.

⁸ 2023 SCC OnLine SC 645.

⁹ 2022 SCC OnLine SC 929.

¹⁰ 2023 SCC OnLine SC 934

¹¹ 2023 SCC OnLine SC 1106

¹² 2023 SCC OnLine SC 1146

¹³ Criminal Appeal No.377 of 2007

apply retrospectively. For a detailed analysis, please refer to the [JSA Prism of October 13, 2023](#).

10. The Supreme Court in ***P. Sarangapani v. State of Andhra Pradesh***¹⁴ held that once undue advantage i.e., any gratification whatsoever, other than the legal remuneration is proved to have been accepted by a public servant, the court is entitled to raise the presumption under Section 20 of the Prevention of Corruption Act, 1988 (“POCA”) that he accepted the undue advantage as a motive or reward under Section 7 of POCA for performing or causing the performance of a public duty improperly or dishonestly.
11. The Supreme Court in ***Pankaj Bansal v. Union of India & Ors.***¹⁵, while relying on the Vijay Madanlal judgement and the judgement of *V. Senthil Balaji v. State represented by Deputy Directors and Ors.* held as follows: (a) In terms of Section 19(3) of PMLA, Section 167 of CrPC would necessarily have to be complied with once an arrest is made under Section 19 of PMLA.; (b) Court issuing the remand has a duty to verify and ensure that the conditions in Section 19 of PMLA are duly satisfied and the arrest is valid and lawful; and (c) Accused person will need to be apprised of the grounds of arrest and the reasons to believe his guilt under PMLA. However, it is not mandatory for the accused to be supplied with all the material that is forwarded to the adjudicating authority under Section 19(2) of the PMLA. For a detailed analysis, please refer to the [JSA Prism of November 8, 2023](#).
12. The Supreme Court in ***Pavana Dibbur v. The Directorate of Enforcement***¹⁶ held that Section 120 – B of IPC (criminal conspiracy) is *per se* not a scheduled offence under the PMLA. An offence under 120B of IPC will become a scheduled offence only if the alleged conspiracy is for committing a scheduled offence. Further, a person against whom a complaint under Section 3 of PMLA is filed need not be shown as an accused in the scheduled offence.
13. The Supreme Court in ***Ram Kishor Arora v. Directorate of Enforcement***¹⁷, while elaborating further on the case of Pankaj Bansal (*ibid*), the Supreme Court has dealt with Section 19 of the PMLA and held that: (a) the expression “as soon as may be” contained in Section 19 of the PMLA is required to be construed as - “as early as possible without avoidable delay” or “within reasonably convenient” or “reasonably requisite” period of time; (b) a duty is cast upon the concerned officer to forward a copy of the order along with the material in his possession to the adjudicating authority immediately after the arrest of the person, and to take the person arrested to the concerned court within 24 (twenty-four) hours of the arrest; (c) as such the reasonably convenient or reasonably requisite time to inform the arrestee about the grounds of his arrest would be within the requisite period of 24 (twenty-four) hours from arrest; and (d) the action of informing the person arrested about the grounds of his arrest is a sufficient compliance of Section 19 of the PMLA as also Article 22(1) of the Constitution of India.
14. The Delhi High Court in ***Ambuj Hotels & Real Estate Pvt. Ltd. v. Central Bureau of Investigation***¹⁸ has said that in an offence involving private persons as well as public servants, mere lack of sanction to prosecute a public servant under POCA would not defeat proceedings otherwise maintainable against private persons.
15. The Telangana High Court (“Telangana High Court”) in ***Manthena Srinivasa Raju v. Directorate of Enforcement***¹⁹, held that to constitute an offence of money laundering, the ED must prove a reasonable basis to believe that the offence has been committed and generation of direct or indirect crime proceeds as a result of criminal activity which can be related to the offence. The Telangana High Court interpreted the phrase ‘reason to believe’ enshrined in the PMLA to not merely mean suspicion, gossip or humor. It was held that there must be some material to suggest the formation of conclusion. The reasons to believe must be founded on sufficient material and it is not on basis of suspicion, but on basis of some evidence.
16. The Punjab and Haryana High Court (“P&H High Court”) in the case of ***Pranav Gupta v. Union of***

¹⁴ 2023 SCC OnLine SC 1200

¹⁵ 2023 SCC OnLine SC 1244

¹⁶ 2023 SCC OnLine SC 1586

¹⁷ 2023 SCC OnLine SC 1682

¹⁸ (2023) 3 HCC (Del 242)

¹⁹ 2023 SCC Online TS 2822

*India*²⁰ held that notwithstanding whether a formal arrest is made, ED officials are duty bound to inform the grounds of arrest to the accused on the day upon which the accused is unlawfully restrained. The P&H High Court further stated that not communicating the grounds of arrest to the accused, even in the absence of a formal arrest, would be in violation of Section 19 of the PMLA. The P&H High Court made these observations with regards to the 2 (two) writ petitions filed by Pranav Gupta and Vineet Gupta, directors of a pharmaceutical company and the founders of Ashoka University. The petitioners argued that as they had been unlawfully restrained with a formal arrest memo only being drawn the next day, such arrest fell in violation of Section 19 of the PMLA.

17. The Jharkhand High Court in *Sanjay Kumar Agarwal vs. Central Bureau of Investigation*²¹ held that Resolution Professional will be considered a public servant under the POCA. The accused allegedly demanded bribes from the corporate debtors for showing leniency in the insolvency resolution process and for obtaining favorable forensic audit/valuation reports. The court held that the office of the resolution professional entails performance of functions that are in the nature of public duty and therefore will come within the meaning of public servant both under sections 2 (c) (v) & (viii) of the PCA. In June 2023, the Supreme Court issued notice in a special leave petition challenging the judgement which contends that the resolution professional neither performs a 'public duty' nor holds an office by virtue of which he is authorised/required to perform a public duty.

Notable Enforcement Actions

1. The ED had raided the houses of 13 (thirteen) political leaders in Chhattisgarh as a part of its money laundering investigation into a coal levy scam wherein an illegal levy of INR 25 (Indian Rupees twenty five) was being extorted for every ton of coal transported in the state by a cartel of senior officials and bureaucrats.
2. The CBI had launched searches at 30 (thirty) locations in Punjab as a part of its probe into allegations of corruption against Food Corporation

of India officials for procuring inferior grains to benefit merchants and rice millers.

3. The CBI had arrested Manish Sisodia, former Deputy Chief Minister of Delhi, over charges of alleged corruption in the formulation and implementation of the Delhi Excise Policy. He was alleged to be involved in the destruction of evidence, changing the profit margin from 12% to 5% for wholesalers, among other issues.
4. The government suspended leading think-tank centre for Policy Research's license under the Foreign Contribution Regulation Act ("FCRA") for allegedly violating the provisions of the law. According to a Union home ministry official the suspension was based on prime facie evidence that certain provisions of FCRA were not followed.
5. The ED in May 2023 arrested a Jharkhand-based IAS officer for land fraud. During a 2 (two) year term as Deputy Commissioner of Ranchi, Chhavi Ranjan facilitated the purchase and sale of land illegally, including of land belonging to the Indian Armed Forces through the use of forged papers. At the time of his arrest, Ranjan served as a Director of Social Welfare.
6. The ED, during an investigation into the IREO Group and the M3M Group had made arrests alleging evidence of bribes paid by the promoters and senior executives of both companies to a Haryana judicial officer. The ED arrested a promoter of the M3M real estate group, along with his son in connection with the bribes. The judicial officer in question served as a CBI and ED judge in Panchkula, and allegedly accepted bribes in exchange for favorable outcomes. The ED had also previously made arrests following an investigation into similar allegations of corruption and money laundering by the IREO Group.
7. In June 2023, the ED raided 14 (fourteen) premises in Mumbai and surrounding areas in connection with an alleged scam in the Brihanmumbai Municipal Corporation's Jumbo Covid Care Facility Centres.
8. The ED in May 2023 arrested Satyendra Jain, former health minister of Delhi, over charges of laundering money through the mechanism of 4 (four) shell

²⁰ 2023 SCC OnLine P&H 3598

²¹ Cr. M.P. No. 1048 of 2021

- companies. The alleged money laundering took place over the course of his duty as a public servant.
9. In June 2023, the ED arrested Senthil Balaji, former Electricity Minister of Tamil Nadu, in an alleged 'cash-for-jobs' scam that took place over the pendency of his duty as Transport Minister.
 10. In June 2023, a CBI court in Hyderabad sentenced two former Bank of India employees to 5 (five) years of rigorous imprisonment along with a fine in a bank fraud case. The two employees had helped facilitate housing loans on the basis of false documentation and without conducting adequate verifications. The loans were then utilized for purposes other than their stated use, prompting the CBI to conduct an investigation and arrest the involved parties.
 11. The ED in July 2023 arrested a Chhattisgarh cadre IAS officer in connection with a coal levy and mining revenue case pursuant to raids across 18 (eighteen) locations. The officer who is currently the director of the state's agriculture department previously served as the collector of coal-rich districts where the alleged offences took place.
 12. The ED arrested Jet Airways founder Naresh Goyal on September 1, 2023. Goyal is accused of defrauding Canara Bank of approximately INR 540,00,00,000 (Indian Rupees five hundred and forty crores). A money laundering case against Goyal was filed on the basis of a previous CBI case filed against him in May 2023.
 13. The CBI arrested the executive director and a chief general manager of Gas Authority of India Ltd along with 3 (three) private persons in an alleged bribery case of INR 50,00,000 (Indian Rupees fifty lakh).
 14. The owner and director of M/s Met Technologies Pvt Ltd was arrested by the ED for allegedly operating an illegal call center from Kolkata's Salt Lake area engaged in targeting people by offering them bogus tech support, sham loan offers and deceptive sales *via* counterfeit mobile apps domestically and internationally.
 15. The ED had filed a chargesheet under the PMLA against Akshaya Gold Farms and Villas India and its promoter-directors accused of running a Ponzi Scheme defrauding lakhs of investors of hundreds of crores. The ED had initiated a probe on basis of an FIR against the firm for cheating people and working without a permit from the RBI and SEBI.
 16. The Delhi Police in October 2023 arrested the founder and editor-in chief of an online news portal 'Newslick' in connection with irregularities in portal's cashbooks, accounts, and the presence of foreign investments for allegedly promoting Chinese propaganda. Foreign investments were alleged to have been received by Newslick from suspicious sources, and a case was also registered by the Economic Offences Wing of the Delhi Police and the ED under the IPC and the PMLA. The ED had issued summons to a Chinese-based American millionaire Neville Roy Singham in November 2023 requesting him to join investigation in relation to the case.
 17. In October 2023, the ED arrested 4 (four) executives of Vivo Mobiles India, including Hari Om Rai, founder of Lava International, in connection with the ongoing money laundering probe. The ED had alleged that proceeds worth INR 62,476 crore (Indian Rupees sixty-two thousand four hundred and seventy-six crore) were transferred by the company (through multiple incorporated entities) to China in order to avoid payment of taxes in India. The Ministry of Corporate Affairs as part of its original complaint had alleged that the company and its shareholders used "forged" identification documents and "falsified" addresses at the time of incorporation of the company in December 2014 based upon which the ED had launched its probe.
 18. The ED in November 2023 attached assets worth INR 230.4 crore (Indian Rupees two hundred and thirty point four crore) of the People's group of Bhopal. The actions of the ED were based on allegations of money laundering, misappropriation of funds received through foreign investments in 3 (three) companies of People's group. The probe had further revealed that these funds were subsequently siphoned off by the director of People's group in the form of interest-free loans and deposits owing to which the shareholders had suffered huge losses.
 19. In December 2023, the CBI undertook raids across the 13 (thirteen) locations in the country and registered an FIR in connection with suspicious IMPS transactions worth approximately INR 820 crore (Indian rupees eight hundred twenty crore) in UCO Bank. Further, as part of the raids CBI recovered electronic evidence such as mobile phones, debit / credit cards, laptops and it was

alleged that IMPS transactions from account holders of multiple private banks were directed to the account holders within UCO Bank. UCO Bank had undertaken multiple measures to block the IMPS transactions and was able to successfully recover INR 649 crore (Indian Rupees six hundred and forty-nine crore) of such suspicious payments.

Overseas Developments

DOJ updates Corporate Enforcement Policies related to Corporate Crime and Compliance Programs

Between March 2-3, 2023, the U.S. Department of Justice (“**DOJ**”) announced several updates to its corporate enforcement policies. The DOJ revised its guidance to federal prosecutors relating to the Evaluation of Corporate Compliance Programs, most notably regarding how companies approach the use of personal devices and different communications platforms as well as corporate compensation systems. The DOJ initiated a ‘Compensation Incentives and Clawbacks Pilot Program’ that mandates companies settling lawsuits to integrate compensation-related criteria in their compliance programs. The program also provides companies with criminal fine reductions if they clawback compensation from individuals who engaged in wrongdoing. Further, the DOJ updated its ‘Evaluation of Corporate Compliance Programs’, a set of queries used to evaluate the compliance programs of companies while making charging decisions. The revised version includes additional requirements for monitoring off-system communications and establishing compensation structures that encourage compliance.

Albemarle to pay over \$218M to resolve Foreign Corrupt Practices Act Investigation

In September, the Albemarle Corporation agreed to pay more than \$218,000,000 (US Dollars two hundred and eighteen million) to resolve investigations by the DOJ and U.S. Securities and Exchange Commission. Albemarle admitted to engaging in paying bribes to government officials in Vietnam, Indonesia, and India between 2009 and 2017 aimed to secure and maintain chemical catalyst contracts with state-owned oil refineries.

US enacts the Foreign Extortion Prevention Act (FEPA) to target the foreign government officials’ conduct and broaden the scope of Anti bribery laws

In December 2023, the Foreign Extortion Prevention Act (“**FEPA**”) was enacted and signed into law, as a part of the National Defense Authorization Act. The FEPA makes it a crime for a foreign officials to demand or accept bribes from issuers, domestic concerns, and foreign non-issuers while in the territory of U.S.. The legislation seeks to address the “demand” of foreign bribery, an area not covered by the provisions of the Foreign Corrupt Practices Act (“**FCPA**”) which only extends to the bribe payer—or “suppliers”. The FEPA acts a complement to the FCPA by penalising demand of bribes and expanding the scope of the overall U.S. antibribery laws.

Anti-Corruption, White Collar Crimes & Investigations Practice

JSA has a well-established and extensive White-Collar Crimes and Investigations practice which assists domestic and multinational corporates with internal investigations and fact-finding exercises along with advice on white collar crimes such as corruption, bribery, misgovernance, fraud, misconduct, money laundering, cybercrime, embezzlement and all other economic offences. We also advice on ancillary matters such as employment issues and data privacy concerns. JSA's white-collar practice provides comprehensive assistance and advice, from internal governance concerns to litigation, supported by trainings on white-collar crime laws and internal frameworks including internal policies and controls for senior executives, employees, and appropriate third parties.

Our experienced white-collar teams undertake complex risk assessments and anti-corruption compliance diligences as part of M&A and PE transactions, vetting target entities for compliance with white-collar crime laws and best practices. We have extensive experience in investigating internal issues arising out of misconduct, fraud, corruption, money laundering and other such matters with implications under various Indian laws. We have an in-depth understanding of the legal framework as well as the real-life nuances of operating a business in a high-risk jurisdiction, which we leverage to our clients' benefit while assisting on diverse matters. We specialise in investigations which include compliance investigations arising out of FCPA and UKBA matters in India, whistle blower complaints, HR / employee misconduct and breach of company policies.

Our white-collar crimes litigation team routinely represent clients from across industries and sectors in different fora including all courts, tribunals and judicial bodies in India, along with arbitrations and other forms of dispute resolution.

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<p>18 Practices and 25 Ranked Lawyers</p>	<p>13 Practices and 38 Ranked Lawyers</p>	<p>19 Practices and 19 Ranked Lawyers</p>
		
<p>12 Practices and 42 Ranked Partners IFLR1000 APAC Rankings 2023</p> <p>-----</p> <p>Banking & Finance Team of the Year</p> <p>-----</p> <p>Fintech Team of the Year</p> <p>-----</p> <p>Restructuring & Insolvency Team of the Year</p>	<p>Among Top 7 Best Overall Law Firms in India and 9 Ranked Practices</p> <p>-----</p> <p>11 winning Deals in IBLJ Deals of the Year</p> <p>-----</p> <p>12 A List Lawyers in IBLJ Top 100 Lawyer List</p>	<p>Innovative Technologies Law Firm of the Year 2023</p> <p>-----</p> <p>Banking & Financial Services Law Firm of the Year 2022</p> <p>-----</p> <p>Dispute Resolution Law Firm of the Year 2022</p> <p>-----</p> <p>Equity Market Deal of the Year (Premium) 2022</p> <p>-----</p> <p>Energy Law Firm of the Year 2021</p> <p>-----</p> <p>Employer of Choice 2021</p>
		
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