

Amendments to PMLA 2002 – Finance Bill 2019

In the Finance Bill 2019 which was recently passed in Parliament the following important amendments under PMLA were introduced.

Sec.3 deals with provisions relating to “offence of money laundering”. An Explanation was inserted to Sec. 3 to the following effect. Explanation (i) A person shall be guilty of money laundering offence if he is actually involved or knowingly a party to one or more of the following processes (a) concealment (b) Possession (c) acquisition (d) use (e) projecting as untainted property (f) claiming it as untainted property, in any manner whatsoever. Explanation (ii) The process/activity connected to the proceeds of crime is a continuing offence and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment/possession/acquisition etc.

Sec. 2 (1) (u), defines the term “proceeds of crime” In the above Section, the following Explanation shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby clarified that "proceeds of crime" including property not only derived or obtained from the scheduled offence but also any property which may directly or indirectly be derived or obtained as a result of any criminal activity relating to the scheduled offence;'

Proviso has been inserted to Sec. 44 (1) (b) as per which on conclusion of investigation, if no offence of money laundering is made out requiring filing of such complaint, the said authority shall submit a closure report before the Special Court.

After Sec 44 (1) (d) an Explanation has been inserted as per which the jurisdiction of the Special Court while dealing with the money laundering offence under this Act, during investigation, enquiry or trial under this Act, shall not be dependent upon any orders passed in respect of the scheduled offence, and the trial of both sets of offences by the same court shall not be construed as joint trial. The Explanation further clarifies that “Complaint” includes subsequent Complaint as a result of further investigation against any accused person involved in the offence whether named in original complaint or not.

Explanation inserted to Sec.45 which clarifies that offences under the Act shall be cognizable offence and non-bailable notwithstanding anything contained in CrPC and accordingly officers empowered can arrest an accused without warrant subject to fulfillment of conditions laid down under Sec. 19.

The above provisions will come into effect in due course after assent of the President of India and notification in the official Gazette (Finance Act 2019)

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