Changes in the Prevention of Money Laundering Act

Recently, the Union government has issued a notification on certain changes in the **Prevention of Money Laundering Act (PMLA)**, which will further empower the Enforcement Directorate (ED) in tackling the cases of Money Laundering.

What are the proposed amendments?

- The amendment seeks to treat **money laundering as a stand-alone crime.**
    - Till now Money Laundering was not an independent crime; rather depended on another crime, known as the **'predicate offence'** or 'scheduled offence', the proceeds of which are made the subject matter of crime of money laundering.
- It also **expands the ambit of "proceeds of crime"** to those properties which "may directly or indirectly be derived or obtained as a result of any criminal activity relatable to the scheduled offence.
- The most crucial amendments are the **deletion of provisions** in sub-sections (1) of Section 17 (Search and Seizure) and Section 18 (Search of Persons).
    - These provisions required the pre-requisite of an FIR or charge sheet by other agencies that are authorised to probe the offences listed in the PMLA schedule.
- An explanation is added to Section 45 that clarifies that all **PMLA offences will be cognisable and non-bailable.**
    - **Therefore, ED will be empowered to arrest an accused without a warrant, subject to certain conditions.**
- Another vital amendment makes concealment of proceeds of crime, possession, acquisition, use, projecting as untainted money, or claiming as untainted property as independent and complete offences under the Act.
- Section 72 will now give power to the Centre to set up an **Inter-Ministerial Coordination Committee** for inter-departmental and inter-agency coordination for operational and policy level cooperation, for consultation on anti-money laundering and counter-terror funding initiatives.

What is Money Laundering?

- **Money laundering is the process of making large amounts of money generated by criminal activity, such as drug trafficking or terrorist funding, appear to have come from a legitimate source.**
- Criminal activities like illegal arms sales, smuggling, drug trafficking and prostitution rings, insider trading, bribery and computer fraud schemes produce large profits.
- Thereby it creates the incentive for money launderer to "legitimize" the ill-gotten gains through money laundering.
- The money so generated is called 'dirty money' and **money laundering is the process of conversion of 'dirty money', to make it appear as 'legitimate' money.**

How does Money Laundering take place?

- Money laundering is a three-stage process :
  - **Placement:** The first stage is when the crime money is injected into the formal financial system.
  - **Layering:** In the second stage, money injected into the system is layered and spread over various transactions with a view to obfuscate the tainted origin of the money.
  - **Integration:** In the third and the final stage, money enters the financial system in such a way that original association with the crime is sought to be wiped out and the money can then be used by the offender as clean money.
- **Bulk Cash Smuggling, Cash Intensive Businesses, Trade-based laundering, Shell companies and trusts, Round-tripping, Bank Capture, Gambling, Real Estate, Black Salaries, Fictional Loans, Hawala, False invoicing are some of the common methods of Money Laundering.**

The legal framework in India to deal with Money Laundering

- In India, the specific legislation dealing with money laundering is the Prevention of Money-Laundering Act((PMLA), 2002
- The law was enacted to combat money laundering in India and has three main objectives :
  - To prevent and control money laundering.
  - To provide for confiscation and seizure of property obtained from laundered money.
  - To deal with any other issue connected with money-laundering in India.
- **Under the PMLA Act, the Enforcement Directorate is empowered to conduct a Money Laundering investigation.**
- Apart from the provisions of PMLA, there are other specialised provisions such as RBI/SEBI/IRDA anti-money laundering regulations

Enforcement Directorate

- Directorate of Enforcement is a specialized financial investigation agency under the Department of Revenue, Ministry of Finance, Government of India.
- On 1 May 1956, an 'Enforcement Unit' was formed, in Department of Economic Affairs, for handling Exchange Control Laws violations under Foreign Exchange Regulation Act, 1947.
- In the year 1957, this Unit was renamed as 'Enforcement Directorate'.
- ED enforces the following laws:
  - Foreign Exchange Management Act,1999 (FEMA)
  - Prevention of Money Laundering Act, 2002 (PMLA)

Source: TH