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F.No. 9-7/2009/FIU-IND
Government of India
Ministry of Finance
Department of Revenue
Financial Intelligence Unit-India

6th Floor, Hotel Samrat
Kautilya Marg, Chanakyapuri
New Delhi-110 021
Dated: the 5th February, 2014

ORDER IN ORIGINAL NO. 1/DIR/FIU-IND/2014

Name & Address of the Reporting Entity	M/s Allahabad Bank Ltd., 2, Netaji Subhash Road, Kolkata – 700 001
Show Cause Notice No. & Date	F.No.9-7/2009/FIU-IND Dated 27 th Nov., 2009
Section under which order passed	Section 13 of PMLA, 2002
Date of Order	5 th February, 2014
Authority passing the order	Director, FIU-IND

An appeal against this order shall lie 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. The appeal against this order should be in the form and manner prescribed. (refer to sub-section (3) of section 26 of the Prevention of Money Laundering Act, 2002).

1. This order is being passed in pursuance of the directions dated 30.12.2011 of Prevention of Money Laundering Appellate Tribunal, New Delhi in the case of Allahabad Bank Ltd (ABL), which stated as follows:

"The matter relating to imposing of fine for failure of the Bank to examine, detect and report 846 transactions which were apparently suspicious is restored to the file of respondent. The respondent will decide quantum of fine afresh on these transactions which shall not be more than the original amount of fine of Rs. 5.1 lakhs".

2. After the above mentioned order of the Tribunal, another opportunity was given to Allahabad Bank Limited (ABL) on 21.2.2012 to make written submissions before re-adjudication of the case. As no reply was received, another letter was sent on 17 August 2012 offering opportunity for personal hearing on 04th September, 2012. Subsequently, a written submission was made by ABL on 28 August 2012 followed by personal appearance on 04th September, 2012 by S/Shri TR Chawla, Executive Director; Sanjay Sachdeva, Senior Manager and Shiv Om Sharma, Senior Manager (Law). They requested further time for filing written submissions for which three weeks' time was given. The ABL submitted a written submission on 15th September, 2012 arguing that it had challenged the order of the Ld Tribunal and it was under consideration of the High Court of Delhi (Criminal Appeal No. 402/2012), which had already stayed the recovery of fine. The ABL prayed that Director, FIU-IND may await the outcome of the appeal pending consideration of the High Court.

3. I have carefully gone through the facts and circumstances of the cases. The order dated 30.12.2011 of the Appellate Tribunal has two components:

- (i) upholding the fine of Rs 7 lakh imposed by Director, FIU-IND in his order dated the 25th October, 2010 for the ABL's failure to furnish information relating to 19,428 cash transactions that took place over a period of 14 months; and
- (ii) restoring to the file of respondent (i.e. Director, FIU-IND) the fine of Rs. 5.1 lakh imposed by the respondent for ABL's failure to examine, detect and report 846 transactions that took place in a branch of ABL during the period from June 2006 to March 2007.

4. As stated in paragraph 3, only the first component of the fine i.e. Rs 7 lakh was upheld by the Appellate Tribunal. Since the matter of the remaining fine of Rs 5.1 lakh was restored to the file of respondent for re-adjudication, this fine cannot be imposed and, there would be no cause for stay on the fine of Rs. 5.1 lakhs. Therefore, it is clear that the stay imposed by the High Court is applicable only to that component of the fine which was upheld by the Appellate Tribunal i.e. Rs. 7 lakh.

5. The 846 transactions mentioned in the impugned order of Director, FIU-IND dated 25th October, 2010 occurred over a period of 10 months from June 2006 to March 2007. The fact that 846 apparently suspicious transactions that took place over a period of ten months from June 2006 to March 2007 were not examined from the point of view of filing STRs clearly shows that there was no system in place for detection and filing of STRs during this period.

6. As per section 12 of PML Act read with Rule 3,5,7 & 8 of PML Rules, the obligations of the reporting entities inter alia include obligation to report (a) prescribed cash transactions; (b) report suspicious transactions; (c) evolve an internal mechanism to detect and report the prescribed cash transactions; and (d) to evolve an internal mechanism to detect and report suspicious transactions. Each of these are distinct obligations and failure to meet any of these obligations would constitute a failure in terms of Section 13 of the PMLA for which fine can be imposed on the reporting entity. The rates of fine have been prescribed in Section 13 of PMLA and range from Rs. 10,000 minimum and Rs 1 lakh maximum for each failure.

7. In the impugned order dated 25th October, 2010, Director, FIU had imposed fine only for the failure to evolve internal mechanism to detect and report cash transactions over a period of 14 months. No fine was imposed for failure to report CTRs per se. Similarly, the impugned order determined that during June 2006 to March 2007, there were 846 transactions which were not examined for the purpose of reporting suspicious transactions. The order also determined that during this period of ten months there was no system or mechanism to detect and file STRs. Hence, the ABL failed to meet both the obligations i.e. the obligation to report suspicious transactions and the obligation to evolve an internal mechanism to detect and report suspicious transactions during this period. However, no fine was imposed for failure to

examine 846 transactions from the point of reporting suspicious transactions. The fine was imposed only for failure to establish an internal mechanism. The fine was imposed at the minimum prescribed rate of Rs. 10,000 for each month taking a lenient view.

8. Although ABL failed to report both suspicious transactions and the prescribed cash transactions, the then Director, FIU-IND took a lenient view and imposed fine only for failure to evolve an internal mechanism. I find that the failure of ABL has been glaring as a result of which 846 apparently suspicious transactions were not examined for reporting. In view of the fact that no fine was imposed for failure to report both cash and suspicious transactions, I see no reason for leniency in imposing fine for failure to evolve internal mechanism to examine, detect and report suspicious transactions over the 10 months period from June, 2006 to March, 2007, for which I impose a fine of Rs. 10 lacs, applying the rate of Rs. 1,00,000 for each of the 10 months from June, 2006 to March, 2007. However, the amount of fine payable by ABL would be limited to Rs. 5.1 lakh in terms of the Appellate Tribunal's order dated 30.12.2011.

9. ABL is accordingly ordered to pay fine of Rs 5.1 lakh for its failure to evolve an internal mechanism to detect and report suspicious transactions during the period from June 2006 to March 2007, thus contravening the provisions of Sections 12(1)(b) of the PMLA read with Rules 3,5,7 and 8 of PML Rules.

**(Praveen Kumar Tiwari),
Director, FIU-IND**

M/s Allahabad Bank Ltd.,
2, Netaji Subhash Road,
Kolkata – 700 001

Through: ms Shubalakshmi Panse, Chairman & Managing Director

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