

PARTICIPANTS PRESENTATION

BY

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ABC PRIVATE LTD

- ABC LTD was incorporated in the year 1995 as a private limited company.
- The Company was engaged in :-
 - Software development, engineering design, software integration into systems, ERP solutions, consultation, IT outsourcing, electronic commerce, customer relationship management, and system maintenance.
 - It had clients in US,UK, Canada,Europe and also in (THC)Tax Heaven Countries.(Then like Mauritius, Caveman Islands e.t.c.,)
- During the F.Y. 2000-2005, the company had made huge software exports to several countries through THC , amounting to Rs. 150 Crores. (Approximately 18.3MILLION DOLLARS).
- The company share capital was less than 40 thousand dollars with no major assets in balance sheet.

REGULATORY STRUCTURE OF SOFTWARE EXPORTS

- The company dealing in software exports was to require a certificate from Software Technology Park of India .
- It is required to submit a certificate from a chartered accountant w.r.t. the valuation of the quantum of software exported out of India.
- A software exporting company during this period derived benefits from two provision of Income Tax Act, 1961 of Government of India –
 - Section 10 A and (2001 to 2012) – 100% Export Oriented Unit
 - Section 10 AA (2006 to 2020) – SEZ unit variable %
 - Section 10B (where a 100 percent deduction of profits was allowed w.r.t. a 100 percent export oriented unit)
 - Section 80HHE (60 percent of the profits derived by the company coupled with a proportion as profits derived from exporting of software would bear to total profits of the company).

ROUTINE INQUIRY IN THE CASE



- During a routine inquiry it was observed that the total manpower engaged in software development of the company was not more than 12 (In India 6 3 at THC and Onsite 3).
- Further, it was noticed that the company claimed that it developed software for Aviation Turbines – which was specialized software used particularly by Aircraft Manufacturing Companies.
- Further, the company claimed that it developed only 80 percent of the software in India and rest 20 percent of the software development and customization was done either in THC or at the site of the client.
- The entire software exported from India was encrypted and was beyond verification as it was partially developed.
- Discrete Inquiries from STPI revealed that no major verification was done by them except obtaining a self-serving certificate and documentation (SOFTEX FORMS) about the software exported.
- Inquiries from the bank revealed large amount of moneys coming from THC or Clients located in other countries.

INVESTIGATIONS



- A notice was issued to company to give the details of –
 - The parities to whom exports were made – along with address, telephone numbers and registered offices- the nature and type of software exported, the value thereof and the remittances received from them including copies of invoices.
 - Copies of Bank statements and certificate of STPI and the self-certified documents filled with STPI.
 - From bank details of inward remittances received– with details of the bank branch from where the amounts were transferred and the details parities who have remitted the amount.
 - References were made through competent authority to THC and other countries for exchange of information , to obtain details of parities – their location and address, the business they are in, the bank account details from where the remittances were made, the local tax returns filled by these entities, the details of ownerships and branches thereof.

RESULT OF INQUIRY

- 1) **Shell Companies** was created in THC
- 2) **Offshore Bank Accounts** were opened of **Shell Cos.**
- 3) **Fabricated Software Export**
- 4) **Billing Process-Issue Invoices to Clients (fake and genuine)**
 - Real companies or individuals also included (to lend credibility)
- 5) **Clients Make Payments** -Funds deposited into the offshore account
- 6) **Money Movement-Transfer Funds to Other Offshore Accounts**
 - Money routed through Multiple banks to obfuscate source
- 7) **Use Intermediaries**-Employed other shell companies to further obscure transactions
- 8) **Layering Transactions -Conduct Multiple Transfers**
 - Moved money through various accounts to disguise origin
- 9) **Currency Conversion**-Exchange funds into different currencies
- 10) **Withdraw as Legitimate Income**-Claim as consulting or service fees
- 11) **Investment in Assets**:Real estate, Fixed Assets or legitimate businesses exp
- 12) **Employed Legal Experts**-Advisors specialized in tax evasion and offshore structures.
- 13) **Utilized Complex Structures**-Make it difficult for authorities to trace funds

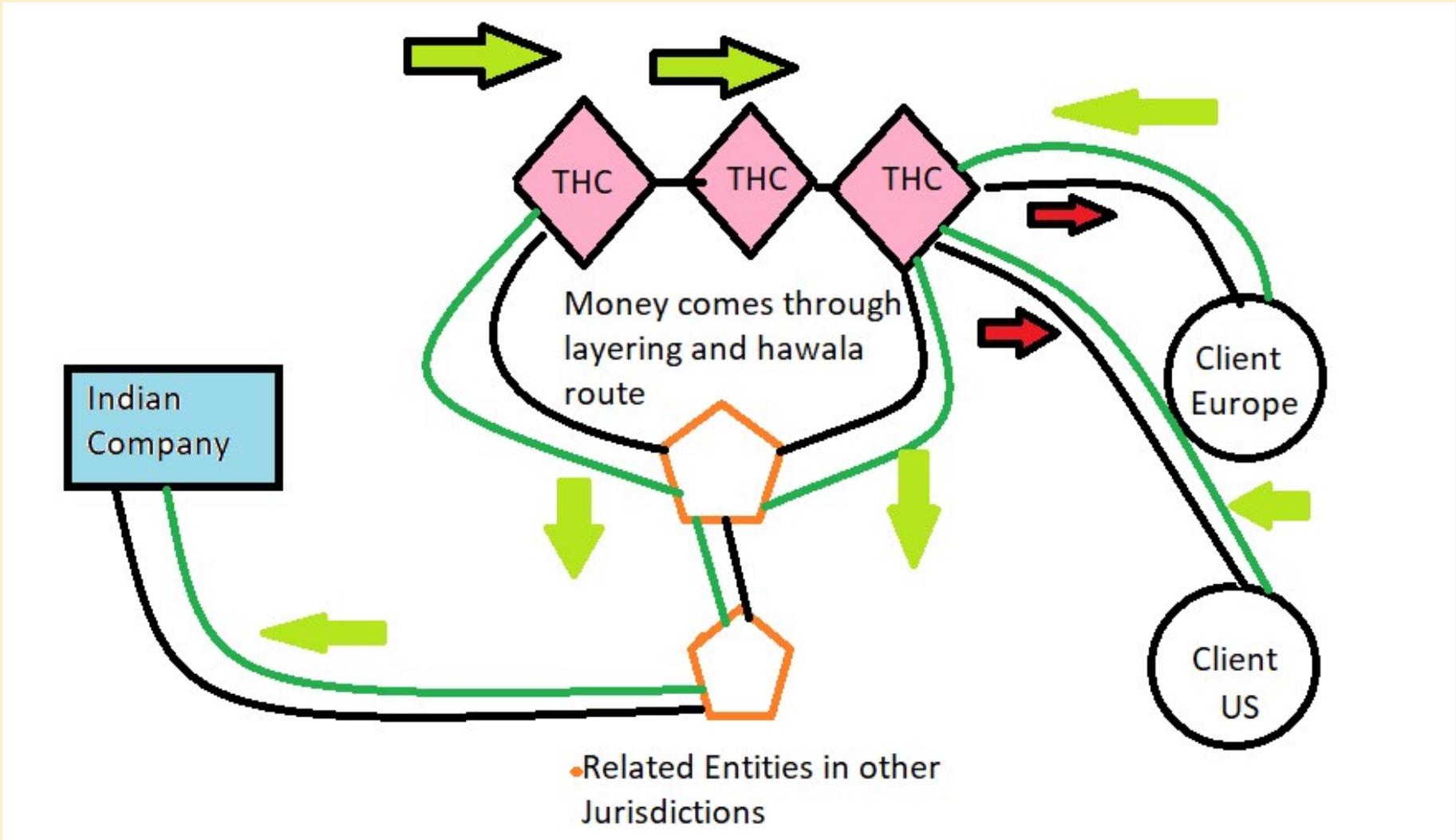
RESULT OF INQUIRY



The reply was received from Tax Authorities abroad revealed that:

- All the parties to whom exports were made were not in the line of aviation.
- Most of these parties were small times entities dealing in miscellaneous items. They had filled meager incomes in local tax returns.
- The bank account revealed that huge deposits had come from THC into their accounts, just before they had transferred their remittances to the company in India.
- There was no major establishment of the company in THC and all the 3 employees located at THC were operating and residing in a two room apartment of dimension in 800 Sq Ft and did not have any major equipment / high end systems for software development.
- None of the employees had travelled outside the THC nor had business visitors as immigration records.

BASIC OUTLINE OF FLOW OF MONEY



OUTCOME OF INVESTIGATION



- A search operation was mounted on the software Company and clinching evidence was secured ,These evidences and facts were confronted to the Directors and Managing Director of the company and key officials /persons and their statements was recorded under oath .
- After comprehensive interrogation in the face of evidence , they admitted to falsification of records , bogus software exports and reverse Hawala Money (Money sent through Hawala out of India and brought back to India through official channels, to claim tax benefits in India , under the Indian Tax Regime).
- Enforcement Directorate, Directorate of Revenue Intelligence, the Vigilance Section of Bank and RBI mounted their parallel investigations, with Criminal and Civil Complaints lodged against them.
- Being proceeds of crime –the accounts were frozen , assets seized/confiscated in India.
- Persons responsible arrested and placed in custody of agencies- both in India and abroad.
- Civil and Criminal prosecution launched against them under various statutory provisions including PMLN Act.



Thank you

BASIC OUTLINE OF TRANSACTIONS

