

# Challenges Faced with Freezing and Seizing Assets

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# ASSET

Value/ exchange value

Fixed (Non  
Liquid)

Land , Machinery, Building

Current  
(Liquid)

Cash / Cash Equivalent,

# Freezing / Seizing/ Confiscation of Assets

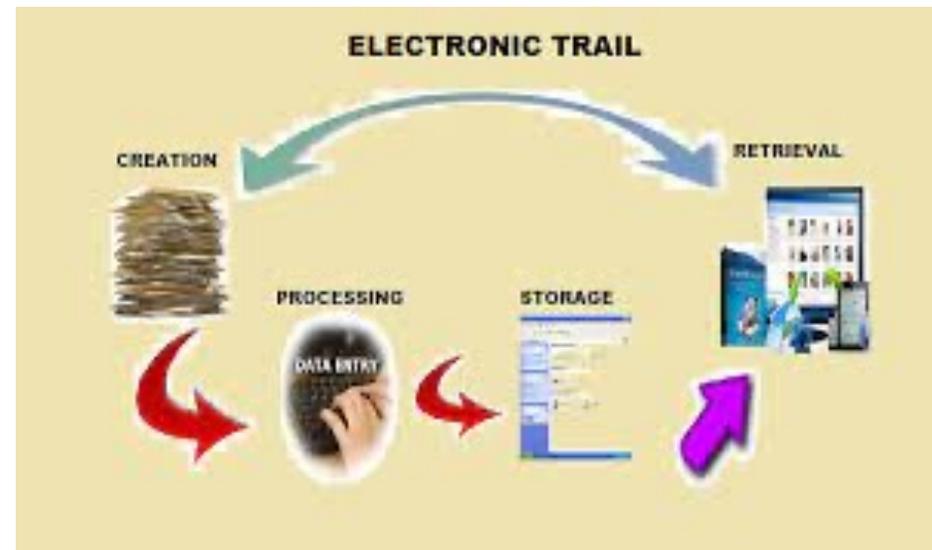
- ▶ Freezing - temporarily suspends rights over the asset. Eg freezing of bank accounts which are fungible.
- ▶ Seizure -temporarily restrain an asset or put it into the custody of the government . May apply to physical assets such as a vehicle, cash.
- ▶ Confiscation: Permanent deprivation of assets by order of a court or other competent authority. Asset forfeiture. Generally used after the final outcome of a case.
- ▶ Speed – most important when it comes to freezing and seizing assets-  
Cash Deposit cases during demonetization – money moves out of the account- Immovable Asset disposed of -Changes made in the beneficial ownership.

# Types of Confiscations:

- ▶ **Extended Confiscations:** Confiscating property associated with a specific crime, but also additional property which the court determines constitutes the proceeds of other crimes. PMLA
- ▶ **Value Based Confiscations:** Court imposes a pecuniary liability equivalent to the amount of the criminal proceeds. Available in PMLA. Searches by Income tax- instead of seizure of jewellery –bank guarantee taken. Bank Guarantee taken against the demand in MAP proceedings.
- ▶ **Third Party Confiscations:** Deprive someone other than the offender – the third party – of criminal property. Benami Act. Garnishing provision
- ▶ **Non Conviction based Confiscation:** Power to seize assets without a criminal trial and conviction - enforcement action taken against the asset itself and not the individual. Bank attachment

# Challenges

- ▶ Identify
- ▶ Trace
- ▶ Locate
- ▶ Link
- ▶ Freeze
- ▶ Realise



# Illustration 1:

Men of no Means

Shell Company



Layer 1



Layer 2 (10 concerns)

Layer 3 (1 concern)

Layer 4 (2 concerns)

Layer 5 (3 concerns)

Layer 6 (5 concerns)

Layer 7 (> 100 Concerns)



# Illustration 2:



SEIZED



# Illustration 3:



References made to  
Commissioner of Customs  
(Preventive) Kochi, Enforcement  
Directorate, Interstate Cell,  
Crime Branch Delhi and  
Customs Commissionerate



## Foreign Remittances



FOREIGN COMPANY

## Income tax APPROPRIATE



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PROVISIONAL ATTACHMENT

