



OECD Asia-Pacific Academy for Tax and Financial Crime Investigation: VAT/GST Fraud Investigations (Specialty) Virtual Programme

Presentation by

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Preface

- ▶ Enforcement Directorate (ED) is a Specialized Financial Investigation Agency in India which enforces the following laws-
 1. Prevention of Money Laundering Act, 2002 (PMLA)
 2. Foreign Exchange Management Act, 1999 (FEMA)
 3. Fugitive Economic Offenders Act, 2018 (FEOA)

- ▶ Under PMLA, ED conducts investigation into Money Laundering Cases to trace Proceeds of Crime & attach them, file Complaints before Courts, imprisonment of the culprits and to strive for Confiscation of the Proceeds of Crime.

- ▶ The trigger point to investigate cases under PMLA, it is mandatory that a First Information Report/ Similar Type has to be registered by Law Enforcement Agencies such as Police, Drug Enforcement, Narcotics Division, etc. for investigation of criminal offence i.e. a scheduled offence.



Genesis of the Case

- ▶ Bank 'X' filed Complaint with Police Authorities alleging that Company 'A' availed loan of Rs.150 Crore (US\$ 20 Million) from it, siphoned of the funds by diverting them for other purposes and defrauded them.
- ▶ Based on the above, a First Information Report (FIR) registered by Police Authorities (Predicate Agency) against 'A' under Indian Penal Code for Cheating, Forgery, Falsification of documents, etc.
- ▶ Police Authorities shared the FIR with ED which was examined under Money Laundering Angle. As it appeared that the ABC diverted loan funds taken from X Bank and FIR was already registered, a Case under PMLA was initiated against 'A' & its management and conducted investigations.



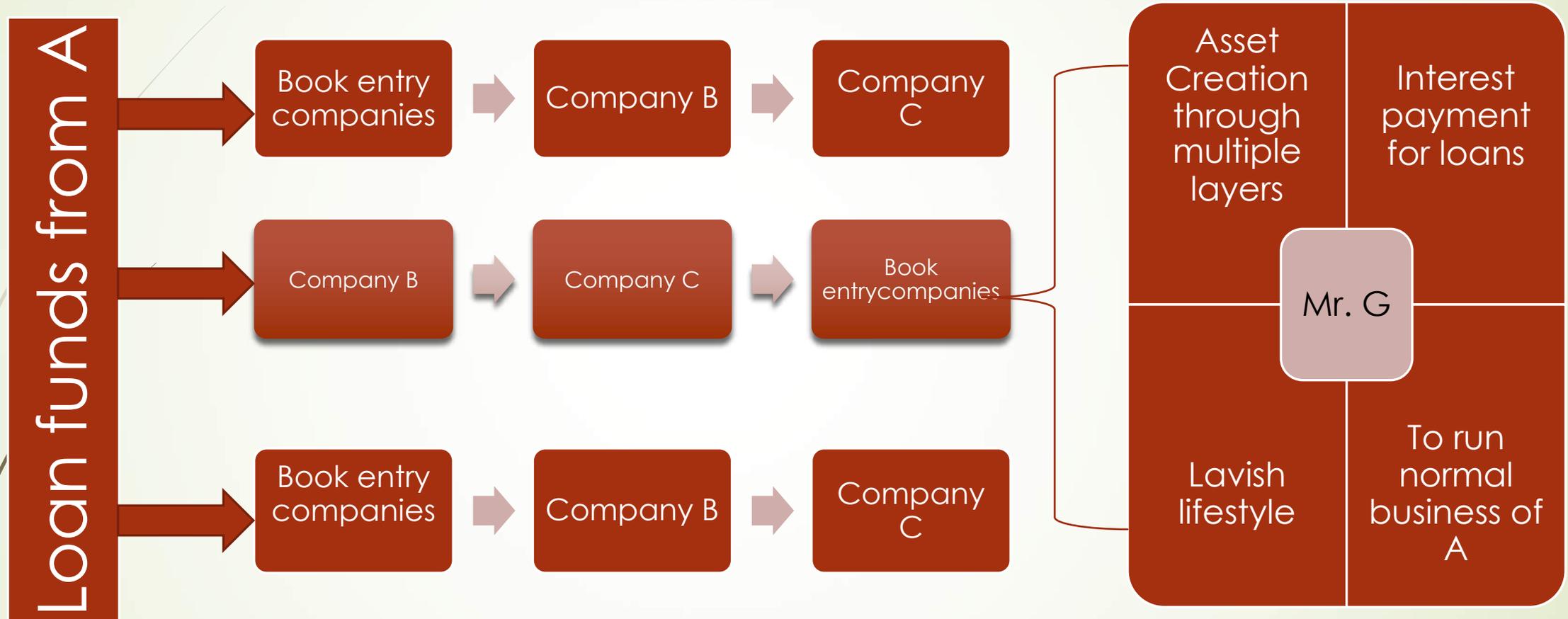
Money Laundering – Creation of Companies

- ▶ Company 'A' was into Chemical manufacturing & trading business which was controlled by Mr. G. Mr. G used to supply material from Company 'A' to several reputed companies and had a turnover of over Rs.750 Crore (100 Million) at the time of FIR registration.
- ▶ Company 'A' used to take loans from Bank 'X' for last 15 years and its credit limits were increased from Rs.10 Crore to Rs.150 Crore over a period of time depending on turnover, profit and asset offering.
- ▶ Mr. G has been running the business in losses for so many years as he was enjoying lavish lifestyle with loan funds and to cover up the same, he resorted to inflate turnover by making fictitious entries in the books of accounts of Company 'A'. For this purpose, Mr. G floated Company 'B', &'C' which are only paper entities controlled by Mr. G through his Cartel.

Money Laundering – Fake invoicing

- ▶ Since Mr. G has been running business for last 10-15 years, he knew a bunch of business groups who makes book entries by taking a commission of 1% to 2 % which are called as 'Book Entry Companies'.
- ▶ Mr. G used to raise fake invoices in the name of Company B/ Company C/ Book Entry Companies and through a complex web structure of transactions, diverted funds so as to run his lavish lifestyle.
- ▶ Mr.G is found to have also exploited the VAT structure by issuing sale invoices to multiple companies thus providing VAT credit to such book entry companies without actually making any sales.
- ▶ Such creation of fictitious sales and issuing of VAT invoices provided huge amounts of VAT credits to the such companies who in turn passed on such VAT credit to the companies of Mr. G. This modus-operandi caused huge revenue loss to the Federal Tax structure which had a major impact on the fiscal of the nation.

Flow Chart of fund diversion





Investigation

- ▶ Over 100 Bank Accounts have been analyzed to understand the modus operandi orchestrated by Mr. G.
- ▶ Audited Balance Sheets and Income Tax Returns are compared with Bank Statements
- ▶ Fake invoices identified with evidence and proven how VAT system was exploited by Mr. G
- ▶ Creation of assets with diverted funds identified
- ▶ Examined over 50 witnesses
- ▶ Confessional statements recorded by confronting Mr. G and his associates with evidence



Inter-Agency Cooperation

- ▶ Banks assisted by engaging support staff in analyzing complex web of transactions
- ▶ Chartered Accountants assisted in understanding Audited Balance Sheets and discrepancies through a Forensic Audit Report
- ▶ VAT authorities assisted in identifying fake invoices raised by Mr. G
- ▶ Registration authorities assisted in identifying properties generated by Mr. G
- ▶ Several witnesses from various Statutory Agencies appeared before the authorities and gave their statements in strengthening evidence



Result

- ▶ A Prosecution Complaint has been filed before the designated Court against Mr. G, his associates and companies.
- ▶ The Court initiated trial in the case and the same is under progress.

THANK YOU