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# PMLA Act 2002.

**Prevention of Money Laundering Act, 2002** was enacted to fight against the criminal offence of legalizing the income/profits from an illegal source. The Prevention of Money Laundering Act, 2002 enables the Government or the public authority to confiscate the property earned from the illegally gained proceeds.

‘Proceeds of Crime’, means and includes, any property obtained or is derived directly or indirectly as a result of criminal activity relating to a **Scheduled Offence**.

- **Schedule Offences**
- Under PMLA, the commission of any offence, as mentioned in Part A and Part C of the Schedule of PMLA will attract the provisions of PMLA. Some of the Acts and offences, which may attract PMLA, are enumerated below:
- **Part A** enlists offences under various acts such as: Indian Penal Code, Narcotics Drugs and Psychotropic Substances Act, Prevention of Corruption Act, Antiquities and Art Treasures Act, Copyright Act, Trademark Act, Wildlife Protection Act, and Information Technology Act etc .
- **Part B** specifies offences that are Part A offences, but the value involved in such offences is Rs 1 crore or more.
- **Part C** deals with trans-border crimes and reflects the dedication to tackle money laundering across global boundaries.



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## Method of Operation

- The first stage is when the money derived through crime is introduced into the formal financial system called '**placement**'.
- In the second stage, the money so introduced into the system is layered and spread over various transactions with a view to clear the tainted origin of the money and is called '**layering**'.
- In the third and the final stage, the money enters the financial system in such a way that original association with the crime is sought to be cleared so that the money can then be used by the offender or person receiving it as clean money and this is called '**integration**'.

## Actions that can be Initiated Against the Person Involved in Money Laundering

- Seizure/freezing of property and records and attachment of property obtained with the proceeds of crime.
- Any person who commits the offence of money laundering shall be punishable with –
  - Rigorous imprisonment for a minimum term of three years and this may extend up to seven years.
  - Fine (without any limit).



# PMLA Act 2002.

- **The Enforcement Directorate is the Agency entrusted with the implementation of the PMLA Act.**

**The Act was formulated for the following objectives:**

- Prevent money-laundering.
- Combat/prevent channelising of money into illegal activities and economic crimes.
- Provide for the confiscation of property derived from, or involved/used in, money-laundering.
- Provide for matters connected and incidental to the acts of money laundering



# Brief Facts of the case

- Mr. 'X' was a member of the Legislative Council (MLC) in the Government . Prior to his joining politics, he was a small time businessman in Saharanpur engaged in farming and fruit trading business. Mr. 'X' was granted mining lease in State auction for mining of minor minerals in and around Saharanpur. Subsequently, mining lands were regularly allotted in the name of his family members. Gradually, the family members undertook the illegal mining activities under various partnership firms.
- Many Environmentalist and local public raised an issue about adverse impact of illegal mining on the ecological balance in the region which led to filing of various petitions before the judicial authorities. The Hon'ble Supreme Court had taken cognizance of illegal mining in Saharanpur and directed the Central Empowered Committee (CEC) to submit a report on the alleged illegal mining in certain parts of the state after carrying out onsite inspections.
- Central Empowered Committee (CEC) found that illegal and unauthorized mining was being carried out in 13 leases, which were awarded to different partnership firms with 6 common partners. These 6 persons included 2 brothers of Mr. 'X' and his son. Mr. 'X' and his family/associates were found to have been involved in illegal and unauthorized mining.

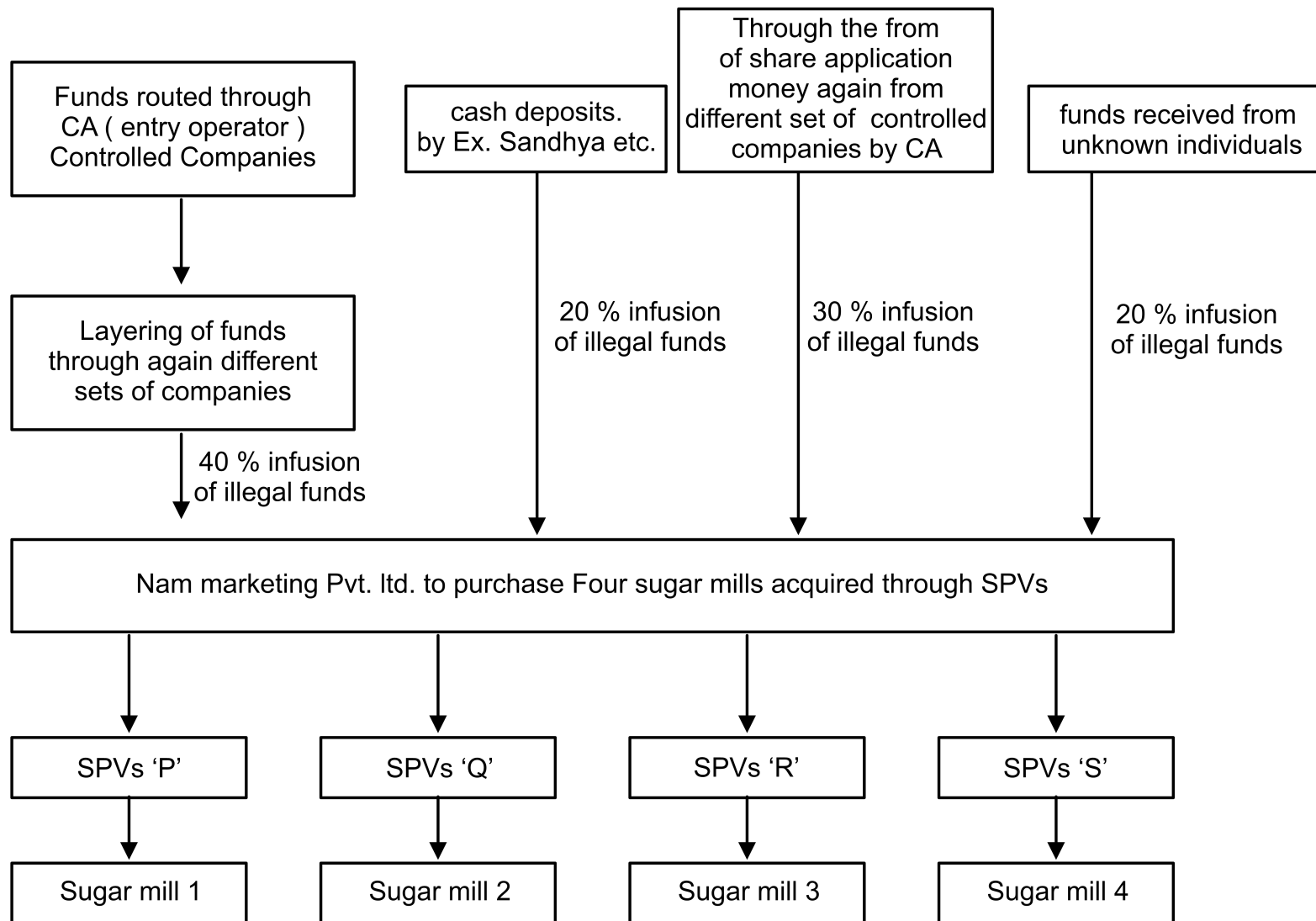


# Investigation under PMLA

- Through fabricated balance sheets filed during 2005-09, high net worth companies like Giri Company Private Limited and Nam Marketing Private Limited were available with CA (Entry Operator ).
- These companies in earlier balance sheet filed had shown false loans and advances to various other shell companies and inflated share capital money from various other shell companies which were under control by CA, thereby, increasing their “**worth**”.
- Infusion of funds in the companies, namely, Giri Company Private Limited and Nam Marketing Private Limited, which were acquired by family members of Mr. ‘X’ and his associates, took place in mainly in during 2010-2011.



## Infusion of Funds into Nam Marketings pvt. Ltd.





- For the purpose of registration and execution of sale deeds, the two companies, Giri Company Private Limited and Nam Marketing Private Limited had purchased seven paper companies, and treated them as their **Special Purpose Vehicles (SPV)**.
- Through investigation it was ascertained that the proceeds of crime generated through illegal mining was laundered through a whole ecosystem of numerous shell companies (“**Cluster**”), dummy directors, sham transactions and fabricated balance sheets with active assistance of associates, CA and entry operators. The money, which was laundered through shell companies and multiple stages of bank transaction during 2010-2016 was used to acquire immovable assets including 7 sugar mills of state. It was revealed during the investigation that two companies Giri Company Private Limited and Nam Marketing Private Limited through their SPVs had funded acquisition of 7 sugar mills auctioned by the state Government during 2011.



# Investigation under PMLA

The three aspects of money laundering, involving placement, layering and integration of Proceeds of Crime, were manifested in the criminal conspiracy orchestrated by Mr. 'X' and his family members to beneficially own assets in the form of seven sugar mills, which in the instant case can be explained as below:

- **Placement**: The unaccounted money relating to illegal mining activities was placed into shell companies into the legal financial system maintaining a carefully designed façade and guarded distance to avoid drawing the attention of banks, financial institutions or law enforcement agencies.
- **Layering**: The unaccounted money so placed into the legal financial system was layered through staged and sham transactions among shell companies having dummy directors during 2010-2011, involving CAs and entry operators. These entities through set of fictitious and sham transactions were used as a front for converting tainted money to project them as untainted to be used for acquisition of assets. In this process, Mr. 'X' and others through their controlled shell companies indulged in commission of scheduled offences like cheating, forgery, etc. under Companies Act and Indian Penal Code.
- **Integration**: The Proceeds of Crime so derived and obtained by Mr. 'X', his family members and associates, through commission of scheduled offences, were projected as untainted funds and integrated into the payments made for purchase of seven sugar mills in the disinvestment process of the government.



# Action Taken

- Attachment Order was issued in the case attaching seven sugar mills of about Rs.1758,55,78,250/- ( Approx \$24 million USD). The Attachment Order was argued and defended before the Adjudicating Authority which resulted in its confirmation by the Adjudicating Authority. Massive exercise was undertaken in coordination with police and district administration across the state for possession of the sugar mills.



# Challenges

- 1 . Collecting evidences from third party sources like individual and entities used in layering.
2. As Mr. 'X' was very popular with the downtrodden and considered as robin hood it became difficult to examine persons on field with respect to illegal mining activities.
3. The cash deposit made by unknown persons were difficult to trace as many deposits were in small amounts and person depositing did not file returns of income – which is rather a peculiar problem for a country like India due to massive population.
4. It was also difficult to collect information from inter governmental agencies.
5. Due to the complexity and vastness of the case and the resource crunch the case took a lot of effort to be cracked.



Thank You