

Case study in the case of M/s ABC Builders Pvt. Ltd.
(Builder-Buyer Fraud)

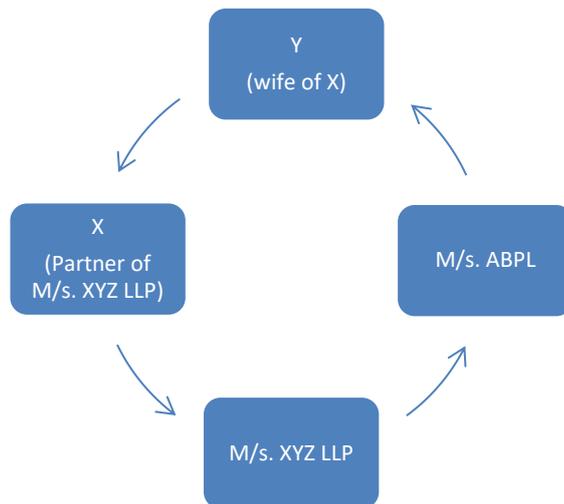
1. Details of Schedule Offence and recording of case by Enforcement Directorate:
 - a) 4 FIRs were registered by LEA against M/s ABC Builders Pvt. Ltd. (hereafter referred to as M/s. ABPL), its Directors and others under section 420 and 120-B of Indian Penal Code, 1860 wherein it was alleged that the company M/s. ABPL through its Directors in connivance with others, duped and cheated the hard-earned money of innocent buyers of residential and commercial properties, by promising them to hand over the said properties within promised time period, but failed to do so.
 - b) On the basis of the aforesaid FIRs, as the offences were under section 120-B and 420 of the Indian Penal Code, 1860 which are Schedule Offence under Paragraph 1 of the schedule of The Prevention of Money-laundering Act, 2002, an Enforcement Case Information Report (ECIR) was recorded by Directorate of Enforcement.

2. Gathering of information:
 - a) Local level coordination with **LEA** was done and further **ICJS portal** was made use of for collecting records of other FIRs registered against M/s. ABPL and its Directors. The exercise revealed that further 24 FIRs were registered against the company. All the FIRs were called for and the information present was examined and used for the purpose of investigation.
 - b) Data from the **Ministry of Corporate Affairs** was obtained vide which essential information about the company like details of Directors, shareholding details, its balance sheets and profit and loss account statements etc. was obtained.
 - c) Data was obtained from **financial institutions** including **public and private sector banks** and important documents like account opening forms, KYC documents and bank account statements of the company as well as its Directors were obtained.
 - d) Documents were also collected from **Real Estate Regulatory Authority (RERA)**, disclosing the agreements and blueprints which forms the basis of developing the project by company for residential/commercial purposes.
 - e) Lastly, documents were received from **revenue authorities** i.e. office of **sub-registrars and Tehsildars** to ascertain the details of ownership of land on which real estate project was based as well as to obtain the copy of registered/sale deeds.
 - f) **Summons** were issued to various persons including Directors of the company, other persons associated with the companies, accomplices etc and statement was recorded **u/s 50 of PMLA, 2002**.

3. Investigation of diversion of funds by M/s. ABPL and its Directors:
 - a) Investigation has revealed that the funds received from investors and homebuyers were siphoned off by the company to various associate concerns.
 - b) Further, the company has parked its assets with other companies so as to avoid detection. This was done by creating a false loop by fraudulently rotating small amount again and again through banking channels so as to show receipt of consideration against the property sold.

- c) Investigation revealed that one property was purchased by M/s XYZ LLP from M/s ABPL. However, no payment for the same was done. By rotating the funds again and again, it was shown that the payment for the purchase of the property was done when in actual not a single penny was paid. The true owner of the property therefore was M/s. ABPL and it was merely parked with M/s. XYZ to escape detection by the Enforcement Directorate.

The above modus is depicted with the help of flow chart as below:



- M/s. XYZ LLP is an associate concern of M/s. ABPL. One of the partners of the LLP is X and Y is the wife of X.
 - A sum of Rs. 20 Lakhs was transferred from the account of Y to X. Thereafter, the same was transferred to M/s. XYZ LLP. From M/s. XYZ LLP, the amount was transferred to M/s. ABPL. The same was again transferred back to X.
 - The above transaction was repeated again and again to show payment of Rs. 6.61 crores approx. to M/s ABPL and immovable property was transferred to M/s. XYZ LLP.
4. Provisional Attachment of properties:
- a) From the investigation, it has been revealed that various other assets of the company M/s. ABPL were parked with other persons/associated concerns using similar modus as explained above. Such transactions were identified from the analysis of the bank statements and property documents. Further, the properties were identified and ownership of the properties was ascertained.
 - b) Finally, a Provisional Attachment Order (PAO) was issued attaching therein properties/assets of M/s. ABPL, its associated concerns and other persons.