

Preface

1. **Author has felt when he qualified as Chartered Accountant (CA) in Year 1985 that legal provisions' interpretations are big challenge for legal professionals, govts' officials and public at large in India and outside India.**
2. **Author has realized that something should be developed to resolve this challenge in India and outside India.**
3. **Author has started compiling Frequently Asked Questions (FAQs) on many subjects where his 100% answers are precisely based on Yes or No i.e. white or black nothing is grey**
4. **Author has compiled approximately 150 +(plus) research papers / books with 25 thousand +(plus) pages on many prevailing subjects / acts in India and outside India.**
5. **Author's 1st paper book is now being published under head FAQs on Enforcement Directorate (ED) where 571 FAQs are replied based on Yes or No i.e. white or black nothing is grey**
6. **This book is also containing**
 - (i) Foreign Exchange Management Act (FEMA) 1999 and rules / regulations
 - (ii) Prevention of Money Laundering Act (PMLA) 2002 and rules / regulations
 - (iii) Fugitive Economic Offenders Act (FEOA) 2018 and rules / regulations
7. **This book is published with Sai Kripa and dedicated to my father (late) Mr. M.R. Agarwal, Mother Mrs. R.D. Agarwal, wife Mrs. Snigdha Agarwal, daughter Ms. Soumya Agarwal, daughter Ms. Sanya Agarwal and dedicated team headed by Rajat Kumar**

● **I trust that you will be enriched by reading this book**

With best wishes,
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Author's Profile

Mr. Satish Agarwal (FCA) is heading M/s Satish S Agarwal & Co. Chartered Accountants since 1985 with a team of dynamic young professionals serving clients from various business sectors including public listed companies and government undertakings. Firm was also registered with PCAOB (USA) for undertaking audits and other work of US GAAP.

He is regularly advising on several matters to Institute of Chartered Accountant of India (ICAI) and also to Ministry of Commerce (MoC) for Foreign Trade Agreements (FTAs) and World Trade Organization (WTO) for securing India's best interests.

He is continuously advising on Foreign Investments (FIs) in India and also on Overseas Direct Investments (ODIs) outside India.

He is known for his expertise in incorporating companies in most of countries across the world.

He has written around 150 +(plus) Research papers / books containing 25 thousand +(plus) pages available "freely" on certain portals like:

https://taxguru.in/author/satishagarwal307_1957

Or

www.femainindia.com

Few out of abovementioned Research papers / books are as under:

1. *Book on Enforcement Directorate (ED) in India- (Book with 617 pages)*
2. *Director of Revenue Intelligence (DRI) in India*
3. *Central Bureau of Investigation (CBI) in India*
4. *National Investigation Agency (NIA) in India*
5. *Serious Fraud Investigation Office (SFIO) in India*
6. *Financial Intelligence Unit (FIU-IND) in India*
7. *Central Vigilance Commission (CVC) in India*
8. *Narcotics Control Bureau (NCB) in India*
9. *Research & Analysis Wing (R&AW) in India*
10. *Economic Offence Wing (EOW) in India*
11. *Intelligence Bureau (IB) in India*
12. *Director General of Income Tax Criminal Investigation (DGITCI) in India*
13. *National Company Law Tribunal (NCLT) in India*
14. *Security Exchange Board of India (SEBI) in India*
15. *Prevention of Corruption (PC) Act,1988 in India*

16. *Foreign Assets Investigation Unit (FAIU) in India*
17. *Book on International Financial Services Center (IFSC) in India (Book with 290 pages)*
18. *Replacement of Indian Penal Code (IPC) Criminal Procedure (CP) & Evidence Act (EA) in India*
19. *Undisclosed Foreign Income & Asset (UFIA)-Black Money Act, 2015*
20. *Statutory provisions for General Anti Avoidance Rule (GAAR) in India*
21. *Reserve Bank of India (RBI) Act, 1934*
22. *Foreign Exchange Management Act (FEMA) 1999 in India*
23. *Benami Transactions (Prohibition) Amendment Act, 2016 in India*
24. *Advance Pricing Agreements (APAs) in India*
25. *Annual Performance Report (APR) for Investments outside India*
26. *Foreign Trade Agreements (FTAs) executed by India*
27. *Statutory Obligations for Companies Operating in India*
28. *Significant Beneficial Owners (SBO) in India*
29. *Significant Economic Presence (SEP) in India*
30. *Place of Effective Management (POEM) in India*
31. *Liberalized Remittance Scheme (LRS) for residents of India*
32. *Foreign Liability and Asset (FLA) return in India*
33. *FATCA agreement with USA*
34. *Double Taxation Avoidance Agreement (DTAA) with USA*
35. *Foreign Tax Credit (FTC) in India*
36. *Corporate Frauds (CFs) in India*
37. *Export of Goods and Services under FEMA, 1999 in India*
38. *Imports of Goods and Services under FEMA, 1999 in India*
39. *External Commercial Borrowings (ECBs) in India*
40. *Overseas Direct Investments (ODIs) under FEMA, 1999 in India*
41. *Acquisition of Immovable Properties by Non-residents under FEMA, 1999 in India*
42. *Compounding of Contraventions under FEMA, 1999 in India*
43. *Foreign Branch Office (BO) + Liaison Office (LO) + Project Office (PO) under FEMA, 1999 in India*
44. *Annual Information Statement (AIS) in India*
45. *Investments by Non-Residents (NRIs) in India*
46. *Guidance for Doing Business in United States of America (USA)*
47. *Corporate Tax (CT) Law in UAE*
48. *Acquisition & Transfer for Immovable Properties by Non-Residents (NRs) in India*
49. *Foreign Company's Registration in India*
50. *Auditor Checks and Reporting for Indian Companies in India*
51. *Companies Auditor Report Order (CARO) 2020 in India*
52. *Tax Audit Report (TAR) + Accounting Standard (ASs) in India*
53. *World Trade Organisation (WTO) & Benefits for India*
54. *Deposits by Corporate in India*
55. *Expatriates + Foreign Citizens in India*
56. *Book on Foreign Investments (FIs) by Non-Residents of India (Non-RoI) (Book with 346 pages)*



571 FAQs on Enforcement Directorate (ED) Functioning in India

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571 FAQs on Enforcement Directorate (ED) Functioning in India

(A) ED's functioning under PMLA, 2002

1. ED functioning's introduction

- ***ED is functioning Financial Investigation Agency (FIA) for Govt. of India (govt.)***
 - (i) *ED is functioning FIA for govt. to monitor strict compliances like:*
 - (a) *For constitution of India*
 - (b) *For lawful authorities like CBI + RBI + Courts + also etc. (all)*
 - (c) *For establishing + maintaining high professional standards + also credibility for govt. (all)*
 - (ii) *ED is functioning multi-disciplinary organization authorized by govt. for economic crime's investigation + foreign exchange law's violations + etc. (all).*
 - (iii) *ED is originally formed on May 01, 1956 by govt. being enforcement unit under Department of Economic Affairs for handling Exchange Control Law's violations through Foreign Exchange Regulation Act (FERA) 1947.*
 - (iv) (a) *ED's office is originally established with headquarter located at New Delhi*
 - (b) *Also headed by 1 Legal Service Officer (LSO) as Director of Enforcement (DoE)*
 - (c) *Also assisted by 1 officer who came on deputation from Reserve Bank of India (RBI)*
 - (d) *Also supported by 3 Inspectors from Special Police Establishment (SPE) at New Delhi*
 - (e) *Also constituted by 2 branches like:*

- 1st branch at Mumbai (previously known Bombay) in 1957
- 2nd branch at Kolkata (previously known Calcutta) in 1957.

2. **Directorate of Endorsement (DoE) to Enforcement Directorate (ED) renamed**

- (i) (a) DoE was renamed ED in 1957
- (b) 3rd branch was opened at Chennai (previously known Madras) in 1960
- (ii) ED's administrative control was transferred from department of Economic Affairs to Department of Revenue
- (iii) FERA, 1947 was repealed by FERA, 1973
- (iv) ED's office was remained under administrative control for Department of Personnel and Administrative Reforms from 1973 to 1977 (4 years)
- (v) ED's office is under administrative control for Department of Revenue, Ministry of Finance (MoF) India from 1977 to 2024 (47 years)

3. **FERA, 1973 to FEMA, 1999 replaced**

- (i) (a) FERA, 1973 was replaced to Foreign Exchange Management Act (FEMA), 1999
 - (b) Also FEMA, 1999 is in actual operation from June 01, 2000.
 - (c) Therefore FERA, 1973 was in actual operation till May 31st, 2000.
- (ii) (a) Prevention of Money Laundering Act (PMLA) 2002 was enacted in 2002
 - (b) ED is entrusted for enforcement from July 01st 2005
 - (c) ED is established for matching with International Anti Money Laundering (AML) Regulations which are applicable outside India.
- (iii) Fugitive Economic Offenders Act (FEOA) 2018 + ED entrusted for enforcement from April 21st, 2018 against economic offenders those are taking shelter outside India like Nirav Modi + also Vijay Mallya (all) in UK + Mehul Choksi + etc. in other countries.

4. For 3 conditions to be satisfied

- (i) *1st scheduled offence should be committed*
- (ii) *2nd non-legitimate money should be earned through minimum 1 out of 29 scheduled offences.*
- (iii) *3rd non-legitimate money should be converted into legitimate money.*

5. For burden of proof

- *MLO's accused person is required to proof that he has not committed MLO after receiving SCN from ED.*

6. For History

- (i) *PMLA is passed in 2002*
- (ii) *PMLA is applicable from July, 01st 2005 on 100% territory of India including Jammu and Kashmir (J&K)*
- (iii) *PMLA is 1st time amended from June, 01st 2009*
- (iv) *PMLA is 2nd time amended from Feb, 15th 2013.*
- (v) *PMLA is 3rd time amended through Finance Act, 2015 from May 14th, 2015.*
- (vi) *PMLA is 4th time amended through Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 from July, 01st 2015.*
- (vii) *PMLA is 5th time amended through Finance Act, 2016 from June, 01st 2016.*
- (viii) *PMLA is 6th time amended through Finance Act, 2018 from April, 19th 2018.*
- (ix) *PMLA is 7th time amended through Prevention of Corruption (Amendment) Act, 2018 from July, 26th 2018.*
- (x) *PMLA is 8th time amended through Finance Act (No. 1), 2019 from March, 20th 2019*

- (xi) *PMLA is 9th time amended through Aadhar and other laws (Amendment) Act, 2019 from July, 25th 2019*
- (xii) *PMLA is 10th time amended through Finance Act (No.2), 2019 from August, 01st 2019*
- (xiii) *PMLA is 11th time amended through Finance Act (No.1), 2023 from May 03, 2023*

7. For Corporate Frauds

- (i) *Corporate frauds are included for PMLA 2002's application therefore its include 1 out of 29 scheduled offences under PMLA, 2002*
- (ii) *Schedule offence to include referred under section 447 of Companies Act (CA) 2013.*

8. For arrest without warrant

- (i) *29 scheduled offences are considered cognizable + also non bailable (both).*
- (ii) *ED's Director or officer authorized by him (Authority) is permitted to arrest without issue of warrant or filling of FIR (any) against MLO's accused persons.*

9. For Govt.'s powers

- *Govt. is permitted for certain activities like:*
- (i) *Setting up Inter-Ministerial Committee for inter-departmental coordination*
- (ii) *Setting up Inter-Ministerial Committee for Inter-agency coordination*
- (iii) *Setting up Inter-Ministerial Committee for policy level cooperation*
- (iv) *Setting up Inter-Ministerial Committee for consultation on anti-MLO + also terror funding activities (both).*

10. For MLOs in India

- (i) *Property's concealment*
- (ii) *Property's possession*
- (iii) *Property's acquisition*

- (iv) *Property's use*
- (v) *Property's untainted projections*
- (vi) *Property's untainted claims in other manner*

11. For MLOs outside India

- (i) *FATF for MLO is established through G-7 Summit which was held at Paris in 1989 for developing coordinating international agency.*
- (ii) (a) *1st tasks for FATF to develop recommendations for setting measures for countries + also territories (both) for effective anti-MLO measures.*
 - (b) *India is FATF's member.*
- (iii) *100% FATF's members are required to have separate PMLA similar to PMLA, 2002 in India.*

12. For 29 scheduled MLO in India

- (i) *Offence committed under section 447 of CA, 2013 like Corporate frauds*
- (ii) *Offence committed under Suppression of Unlawful Acts for Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002*
- (iii) *Offence committed under Biological Diversity Act, 2002*
- (iv) *Offence committed under Protection of Plant Varieties and Farmers' Rights Act, 2001*
- (v) *Offence committed under Information Technology Act, 2000*
- (vi) *Offence committed under Juvenile Justice (Care and Protection of Children) Act, 2000*
- (vii) *Offence committed under Trade Marks Act, 1999*
- (viii) *Offence committed under Transplantation of Human Organs Act, 1994*
- (ix) *Offence committed under SEBI Act, 1992*

- (x) *Offence committed under Prevention of Corruption Act, 1988*
- (xi) *Offence committed under Child Labor (Prohibition and Regulation) Act, 1986*
- (xii) *Offence committed under Environment Protection Act, 1986*
- (xiii) *Offence committed under NDPS Act, 1985*
- (xiv) *Offence committed under Emigration Act, 1983*
- (xv) *Offence committed under Air (Prevention and Control of Pollution) Act, 1981*
- (xvi) *Offence committed under Bonded Labor System (Abolition) Act, 1976*
- (xvii) *Offence committed under Water (Prevention and Control of Pollution) Act, 1974*
- (xviii) *Offence committed under Wildlife (Protection) Act, 1972*
- (xix) *Offence committed under Antiquities and Arts Treasures Act, 1972*
- (xx) *Offence committed under Passports Act, 1967*
- (xxi) *Offence committed under Unlawful Activities (Prevention) Act, 1967*
- (xxii) *Offence committed under Custom Act, 1962*
- (xxiii) *Offence committed under Arms Act, 1959*
- (xxiv) *Offence committed under Copyright Act, 1957*
- (xxv) *Offence committed under Immoral Traffic (Prevention) Act, 1956*
- (xxvi) *Offence committed under Foreigners Act, 1946*
- (xxvii) *Offence committed under Explosive Substance Act, 1908*
- (xxviii) *Offence committed under Explosive Act, 1884*
- (xxix) *Offence committed under Indian Penal Code (IPC) 1860*

13. For investigation agencies in India

- (i) *Enforcement Directorate (ED)*
- (ii) *State Govt.'s Police*
- (iii) *Central Govt.'s Customs*
- (iv) *Security Exchange Board of India (SEBI)*

- (v) Narcotics Control Bureau (NCB)
- (vi) Central Bureau of Investigation (CBI)

14. ED's observations for frauds using process technology

- (i) ED is observing that conman is identifying person to be victim
- (ii) ED is observing that conman is identifying govt.'s official + making call to victim (both).
- (iii) ED is observing that conman is using call spoofing technology + also making spoofing calls to victim (both)
- (iv) ED is observing that conman is convincing victim to make financial transaction
- (v) ED is observing that victim is falling in trap by getting convinced for fraudulent financial transaction.

15. ED's suggestions for avoiding frauds using process technology

- (i) ED is suggesting that person who is receiving calls from govt.'s official landline number should cross verify number through dialing again after sometime when he is not expecting such call.
- (ii) ED is suggesting that person who is receiving calls from govt.'s officials landline number should note down name + also designation of person who is calling (both) to cross verify number through dialing again after sometime when he is not expecting such call.
- (iii) ED is suggesting that person who is receiving calls from govt.'s official landline number should cross verify number through other source like govt.'s website or calling other number of same offices if available on website.
- (iv) ED has informed that generally govt.'s officials' phone number is available on website.
- (v) ED is suggesting that person who is receiving calls from govt.'s officials landline number should make direct call to govt.'s official + also cross verify (both)

- (vi) *ED is suggesting that person who is receiving calls from govt.'s officials landline number should avoid sharing of personal + also family details (both) to anyone on phone when has not met before or don't have established credential (any)*
- (vii) *ED has informed that 100% official correspondences from ED offices are made through letters + summons + notices + also etc. (all) issued under relevant provisions of laws + also being dispatched through post or emails only.*
- (viii) *ED is suggesting that person who is receiving calls from govt.'s official landline number should cross verify through official website*

16. ED's recovery against attachments

- (i) *ED is permitted to attach immovable properties + other assets involved in MLO from 3rd party like purchasers + banks + also etc. (all) through special court.*
- (ii) (a) *ED has attached immovable properties + other assets from Vijay Mallya + Nirav Modi + also Mehul Choksi (all) those have defrauded Public Sector Banks (PSBs) through siphoning funds for INR 22,585.83 Crore.*
- (b) *ED has taken quick action for attachment of immovable properties + also other assets (both) through special court to avoid disappearance from ED's recovery process.*
- (iii) (a) *ED has attached immovable properties + also other assets (both) for INR 19,111.20 crore.*
- (b) *ED has delivered immovable properties + also other assets (both) to PSBs for INR 15,113.90 crore + also for INR 3,997.30 crore to govt. = 19,111.20 crore.*
- (c) *ED has delivered immovable properties + also other assets (both) to consortium of banks led by SBI for INR 7,975.27 crore*

17. Govt.'s expectations for integrity

- (i) *ED is required to ensure soundness for moral principle + honesty + also sincerity (all) about official workings*
- (ii) *ED is required to ensure high standards for personal conduct + also character (both) about interactions with MLO's accused persons*
- (iii) *ED is required to ensure 100% trustworthiness in handling information's for MLO's accused persons.*

18. Govt.'s expectations for accountability

- (i) *ED is required to ensure work accountability to be evaluated + success to be measured + also to be determined (all) about ED.*
- (ii) *ED is required to ensure responsibility for consequences of efforts + also actions (both) about MLO's accused persons.*

19. Govt.'s expectations for work commitment

- (i) *ED is required to ensure to complete 100% task + also with responsibility (both) about MLO's accused persons*
- (ii) *ED is required to ensure to achieve team + also organizational objectives (both).*

20. Govt.'s expectations for Excellency

- (i) *ED is required to ensure constant improvement in work performance through upgrading systems + methods + to remove wastes + also inefficiencies of work (all).*
- (ii) *ED is required to ensure sharpen in investigative skills + also learning from best practices being followed globally (outside India) both.*
- (iii) *ED is required to ensure support for teamwork + communicate with each other to encourage delegation of task + also to deal strictly with discipline issues (all).*

21. Govt.'s expectations for impartiality

- (i) *ED is required to ensure fair + also reasonableness in investigations (both)*
- (ii) *ED is required to ensure to pursue to reveal truth*
- (iii) *ED is required to ensure to take decision without any fear + also favor (both)*
- (iv) *ED is required to ensure to act without any malice + prejudice + bi+ also not to allow abuse of powers (all).*

22. ED's Organization structures in India

- (i) *PMLA, 2002 is enacted in January, 2003.*
- (ii) *Inserted Act + framed Rules (both) for implementation applicable from July 01, 2005*
- (iii) *PMLA, 2002 is permitted to instruct banking companies + financial institutions + intermediaries for verifications + maintenance of records against identity for 100% clients + 100% transactions + also furnishing information's of transactions in prescribed form to FIU-IND (all).*
- (iv) *PMLA, 2002 is permitting Director FIU-IND to impose penalty on banking companies + financial institutions + also intermediaries (all) when they fails to comply with PMLA, 2002's provisions.*
- (v) *PMLA, 2002 is permitting ED to carry investigations when MLOs is involved + also to attach property involved in MLOs (both).*
- (vi) *PMLA, 2002 is setting-up Adjudicating Authority (AA) under section 6(1) of PMLA, 2002 to exercise jurisdiction + powers + authority to confirm attachment + also to pass order for confiscation against attached properties (all).*
- (vii) *PMLA, 2002 is setting-up Appellate Tribunal (AT) to hear appeals against AA's orders + Director FIU-IND + also etc. (all).*
- (viii) *PMLA, 2002 is setting-up 1 or more than 1 special courts to try MLOs + also offences punishable under Code of Criminal Procedure (CCP) 1973 (both) under same trial.*

(ix) *PMLA, 2002 is allowing govt. to enter into agreement by govt. of countries outside India for enforcing India's provisions + Exchange of Information (EoI) for prevention of MLOs in India + also similar provisions for MLOs outside India (all).*

23. ED's Statutory structures in India

- (i) *Govt. has setup special courts in many states + also Union territories (UTs) both to conduct trials against MLOs.*
- (ii) *Govt. has appointed Director + AA to carry proceedings for attachments + also confiscation of properties which are derived from MLOs (all).*
- (iii) *Govt. has signed Bilateral Agreements (BAs) with several countries for cooperation with each other + also to curb MLOs (both).*
- (iv) *BAs are enforcing PMLA, 2002's provisions + also EoIs for prevention of MLOs in India + outside India (both).*
- (v) *ED is permitted to receive + to give assistance to countries located outside India for investigations + also forwarding of evidences which are collected during investigations (all).*
- (vi) *ED is providing reciprocal arrangements for processes + also assistances (both) against MLO's accused persons.*
- (vii) *ED is permitted for investigations + also prosecutions against MLOs (both)*
- (ix) *Govt. has constituted AA under section 6 of PMLA, 2002*
- (x) *Govt. has constituted AT under section 25 of PMLA, 2002*

24. Banking companies' STRs to FIU-IND

- *100% banking companies are required to furnish STRs when suspicious transactions are made in cash + also made not in cash (both) like:*

- (i) When banking companies are having reasonable ground for suspicion that transaction is involving crime's proceeds
- (ii) When circumstances are not usual or not justified or having complexity (any)
- (iii) When concluded that transaction have no economic rationale or bonafideness (any).

25. *Preventions against Black Money's generation in India*

S.No	Title of efforts	Date of Publication
(i)	<i>Baseline Report</i>	<i>November 16, 2015</i>
(ii)	<i>White Paper on Black money</i>	<i>November 16, 2015</i>
(iii)	<i>Shri Ramdev's letter to Prime Minister</i>	<i>November 16, 2015</i>
(iv)	<i>Reports of Committee headed by Chairman CBDT for preventing generation of Black Money in India + also Outside India (both)</i>	<i>November 16, 2015</i>

26. *MLOs outside India*

- (i) International Monetary Fund (IMF) + also FATF (both) have estimated money laundering offences transactions from 2% to 5% of global GDP
- (ii) UN has estimated MLOs transactions around USD 2.1 trillion or 3.6% of global GDP (any)
- (iii) MLOs transactions are biggest international challenges in India + also outside India (both).
- (iv) Individual country's level measures are not adequate for handling international MLOs + also accused persons (both).
- (v) Its suggested that necessary steps to be taken to establish effective international co-operation mechanisms + needed 100% countries' co-operation for prevention + prosecutions against MLOs + also crimes proceeds' hunting (all).

(B) Meaning for ED's role for MLO under PMLA, 2002

27. For Introduction

- *To include PMLA referred under section 3 of PMLA, 2002 + also to include any activity for MLO through converting non legitimate money into legitimate money which earned through minimum 1 out of 29 scheduled offences.*

28. ED's role under PMLA, 2002

- ED is permitted under PMLA, 2002 to prevent Money Laundering Offence (MLO) + to provide powers for property's confiscation which are derived from or involved in MLO + for connected matters + also for incidental matters (all).*
- Also ED is permitted to enforce PMLA, 2002's provisions through conducting investigations for tracing assets which are derived from crimes' proceeds*
- Also ED is permitted for provisional property' attachment + to ensure prosecution against accused person + also confiscation of property (all)*

29. ED's role under FEMA, 1999

- ED is permitted under FEMA, 1999 to consolidate + to amend laws for facilitating external trade + payments + to promote orderly development + also foreign exchange market's maintenance in India (all).*
- ED is permitted to conduct investigations for suspected foreign exchange laws' contraventions + regulations + to adjudicate + also to impose penalties on accused person (all).*
- ED is permitted to collect + develop + also disseminate intelligence (all) against violations under FEMA, 1999*
- ED is permitted to receive Intelligence inputs from several sources like Central + State Intelligence agencies + complaints + etc. (all) for violations under FEMA, 1999*

- (v) *ED is permitted to investigate suspected violations like hawala foreign exchange racketeering + export proceeds' non-realization + foreign exchanges' non-repatriation + also other violations (all) under FEMA, 1999*
- (vi) *ED is permitted to adjudicate violations' cases under FEMA, 1999*

30. ED's role under FEOA, 2018

- (i) *ED is permitted under FEOA, 2018 to stop economic offenders from evading process of legal Indian laws through staying outside India to avoid Indian courts' jurisdiction.*
- (ii) *ED is permitted under FEOA, 2018 to attach fugitive economic offenders' properties those are absconded from India for avoiding arrest in India + also to confiscate accused persons' properties in India (both).*

31. ED's role under FERA, 1973

- *ED is permitted under FERA, 1973 to adjudicate through Show Cause Notice (SCN) issued up to May 31st, 2002 like for 2 years from date of repealed FERA, 1973 for alleged contraventions under FEMA, 1999 + to impose penalties + to pursue prosecutions which are launched under FERA, 1973 with courts in India + also outside India if any needed (all).*

32. ED's role under COFEPOSA 1974

- *ED is permitted to sponsor cases for preventive detention against contraventions under FEMA, 1999.*

33. ED's role under FIU-IND

- (i) *ED is permitted to take action against information's collected by Financial Intelligence Unit - India (FIU-IND) through Cash Transaction Reports (CTRs) + Suspicious Transactions Reports (STRs) both for MLOs*

- (ii) *FIU-IND is responsible for coordinating + strengthening efforts of national + international intelligence + investigations + enforcement agencies for pursuing global efforts against MLOs + also related crimes (all).*
- (iii) *FIU-IND is independent body reporting directly to Economic Intelligence Council (EIC) headed by Finance Minister of India.*
- (iv) *FIU-IND's under PMLA, 2002*
 - (a) *Govt. has constituted FIU-IND in November, 2004*
 - (b) *FIU-IND is headed by director in rank of govt.'s Joint Secretary*
 - (c) *FIU-IND has started receiving CTRs + STRs from banking companies + also etc. (all) under section 12 of PMLA, 2002.*
 - (d) *FIU-IND has applied for membership with FIU's Egmont Group*
 - (e) *FIU's Egmont Group is umbrella for FIUs outside India*

34. ED's Role for evaded incomes under ITA, 1961

- (i) *ED is receiving information's from Income Tax Department (ITD) when ITD is forwarding thousands of cases to ED for investigations under PMLA, 2002 where ITD is alleging that taxpayer's evaded incomes also involved for MLOs.*
- (ii) *Imprisonment & financial penalty under Income Tax Act (ITA) 1961 + PMLA, 2002 (both)*
 - (a) *Imprisonment proceedings are to be initiated & financial penalty is to be levied by ITD for taxpayer's evaded incomes under ITA, 1961*
 - (b) *Also imprisonment proceedings are to be initiated & financial penalty is to be levied by ED for MLOs under PMLA, 2002*
 - *Hence ITD + also ED (both) are exercising similar act on same amount like Imprisonment proceedings & financial penalty are being exercised.*

35. ED's Role for time barred cases under ITA, 1961

- (i) *ED is receiving information's from ITD when ITD is forwarding thousands cases to ED for investigations under PMLA, 2002 where ITD is realizing that taxpayer had evaded incomes*
But
- (ii) *Case is time barred for issuing notice under section 148A of ITA, 1961 after expiry of 10 Assessment years against likely escaped incomes exceeding 50 lac per assessment year.*

36. ED's Role for data mining + analyzing under ITA, 1961

- (i) *ED is receiving information's from ITD when ITD is forwarding thousands cases to ED for investigations under PMLA, 2002 where ITD is realizing that MLOs is evolved based on latest digital techniques like Artificial Intelligence (AI) data mining + data analyzing + also etc. (all)*
- (ii) *Hence ITD + other offices under revenue department of MoF are extra vigilant for MLOs + also forwarding cases to ED for investigations under PMLA, 2002 (all).*

37. ED's role for fraud by Sukesh Chandrasekhar using spoofing technology

- (i) *ED is permitted to take action against conman who has robbed public through conned or cheated (any) under PMLA, 2002.*
- (ii) *ED has taken action against Sukesh Chandrasekhar (conman) who spoofed phone numbers of senior govt. officials + also offering help from senior govt. officials in lieu of money.*
- (iii) *ED has arrested Sukesh Chandrasekhar who has extorted money approximately INR 200 Crore.*
- (iv) *Also ED observed that other conmen are sending fake notices for extorting money.*
- (v) *Also ED has arrested some conmen + also most conmen are still absconding till date (both).*

38. ED's role for frauds by others using spoofing call technology

- (i) *ED is permitted to take action against conman who has robbed public using spoofing call under PMLA, 2002*
- (ii) *ED is observing that spoofing call to include act for disguising phone call from unknown sources but looks from known source.*
- (iii) *ED is observing that spoofing is process for changing Caller ID of any number other than actual calling number.*
- (iv) *ED is observing that spoofing is enabling caller to reflect any desired number on screen of called number beside call is not made from reflected number.*
- (v) *ED is observing that receiver of spoofed call to believe that call is made from reflected number where reflected number is changed using spoofing technology.*
- (vi) *ED is observing that people are getting conned or falling in trap from conman.*
- (vii) *ED is observing that conman is using various decoys to convince victim for making payment fraudulently.*
- (viii) *ED is observing that victim is getting in conman's trap + also being exploited financially (both)*
- (ix) *ED is observing that conmen are spoofing govt. officials' phone number*
- (x) *ED is observing that true caller app verification is not able to identify that phone number is not belonging to govt. official.*

39. ED's role for frauds by conman using process technology

- (i) *ED is observing that process is starting with identification of victim by conman.*
- (ii) *ED is observing that conman is cheating by taking advantage where general public is not aware about govt.'s structure + hierarchy + functions + also duties of govt. officials (all).*

- (iii) *ED is observing that conman is cheating by taking advantage where general public is not aware by govt.'s information's.*
- (iv) (a) *ED is observing that conman is cheating by taking advantage where general public is not aware by govt.'s functioning*
 - (b) *Also conman is cheating by making false promises + impersonating govt.'s officials.*
- (v) *ED is observing that conman is cheating by making attractive + also doable promises (both)*
- (vi) *ED is observing that conman is cheating by creating faith + also exploiting using offer for help (both)*

40. ED's role under FATF

- (i) *ED is required to monitor execution of provisions of PMLA, 2002*
- (ii) *Financial Action Task Force (FATF) is established G7 countries + also by European Commission (EC) both through submit held at Paris in July, 1989 + accepted 25 point for introducing 40 recommendations for stopping MLOs + evaluations + also enforcements (all) across the world inter-governmental policy-making body for preparing international standards to promote effective implementation of legal + regulatory + operational measures to prevent illegal activities like:*
 - (a) *Money Laundering (ML)*
 - (b) *Terrorist Financing (TF)*
 - (c) *Proliferation of Weapons of Mass Destruction (WMD)*
 - (d) *Other Related Threats (ORT) for integrity of international financial system.*
- (iii) *FATF has reviewed ML + TF + WMD + ORT techniques of member countries + continuously strengthening international standards to address new risks like regulation of virtual assets + also etc. (all)*
- (iv) *India has enacted PMLA, 2002 + also applicable from July 01, 2005 after receiving FATF's recommendation (both)*

- (v) *India became FATF's member in 2010.*
- (vi) *FATF's recommendations + international standards are accepted by exceeding 200 countries + also jurisdictions (all)*
- (vii) *FATF is conducting mutual evaluations of member countries through evaluating levels of FATF recommendation's implementation.*
- (viii) *FATF has conducted India's mutual evaluation in 2009.*
- (ix) *FATF has introduced Non-Cooperative Countries or Territories (NCCT) concept on February 14, 2020*
- (x) *FATF has established review process for delinquent countries + territories where AML regulations are ineffective for practicing + also for taking step against these countries (all).*
- (xi) *FATF is permitted to take conditioning + restricting + targeting + prohibiting financial transactions with non co-operative + also non-compliant countries (all).*
- (xii) *Relevant links for FATF in general + India's mutual evaluation (both) like:-*
 - **Mutual Evaluation Report (MER) of India**
 - **Executive Summary Report of MER of India**
 - **FATF 2013 Methodology**
 - **FATF Recommendation**

41. ED's role for red corner notices against absconding offenders

- (i) *ED is permitted to monitor Red Corner Notice (RCN) issued by CBI against absconding accused persons those are avoiding imprisonment in India through hiding outside India.*
- (ii) *RCN to include request by CBI to parallel enforcement agencies outside India to locate absconding accused persons + also to provisionally arrest (both) for extradition or surrender or similar legal action in India (any).*

- (iii) *INTERPOL to include designated National Central Bureau (NCB) in 195 member countries a single point for communication between law enforcement agencies in 1st member country and 2nd member country.*
- (iv) *CBI is officially designated India's NCB + responsible for publishing + maintaining + also updating RCN (all) against absconding accused persons from time to time.*
- (v) *Link for CBI's official website to view RCN issued by CBI:
(<https://cbi.gov.in/interpol-red-notice>).*

42. ED's role for cross verifications for avoiding frauds

- *ED is suggesting to make phone call to Ankur Jaiswal Delhi-I + Jogender Delhi-II designated officers on their telephone numbers or email addresses when anyone has doubt about any call + summon + letter + notice + also etc. (all) received from ED*

43. ED's Delhi office-I for cross verification for avoiding frauds

Ankur Jaiswal

Assistant Director

ED, A - Block, Pravartan Bhawan, APJ Abdul Kalam Road, New Delhi-110011

Phone number : +9111-23339178 & E-mail : adint.hq-enforce@gov.in

44. ED's Delhi office-II for cross verification for avoiding frauds

Jogender

Assistant Director

ED, A - Block, Pravartan Bhawan, APJ Abdul Kalam Road, New Delhi-110011

Phone Number : +9111-23339173 & Email : adiinv2-ed@gov.in

45. ED's procedure for cross verification for avoiding frauds

(i) **Enter Summon No. mentioned on summon**

Summon Number

(ii) **Enter Pass-code mentioned on summon**

Pass-code

(iii) **Enter Captcha**

Captcha

46. ED's QR code for cross verification for avoiding frauds

- 2 procedures are permitted for verification of authenticity of system generated summon 1st through scanning QR code + unique Pass-code
- Also 2nd through entering details of summon (both) after 24 hour of summon' receipt except public holiday + Saturday + also Sunday (all).

(i) **Verification through scanning QR code + also unique Pass-code (both)**

Step-I	Scan QR code printed on summon to redirect user to ED's website page
Step-II	Enter unique Pass-code printed on summon in given field on web page opened after scanning QR code
Step-III	Name of party + name and designation of officer + also date of summon (all) will be shown on screen for verification of authenticity of summon

(ii) **Verification through entering summons's details**

Step-I	Open url https://enforcementdirectorate.gov.in/ and click on Verify Your Summon menu
Step-II	Enter summon no. mentioned on top of summon + also unique Pass-code (both) printed on bottom of summon in respective fields
Step-III	Name of party + name and designation of officer + also date of summon (all) will be shown on screen for verification of authenticity of summon

(C) Meaning for ED's important operational information's

(Source of Information's: www.enforcementdirectorate.gov.in)

47. For recorded cases up to Jan 31, 2023			
S.No.	Description of Subject	Total number or Total amount in INR in crore for Jan 31, 2023	Total number or Total amount in INR in crore for March 31, 2022
(i)	<i>Number of Provisional Attachments Orders (PAOs) issued</i>	1919	1739
(ii)	<i>Number of PAOs confirmed by AA</i>	1632	1369
(iii)	<i>Value of assets under PAOs confirmed by AA</i>	71290	58591
(iv)	<i>Number of Persons arrested</i>	513	400
(v)	<i>Number of Prosecution Complaints number of cases filed + also under trial (both)</i>	1142	992
(vi)	<i>Number of Persons finally convicted</i>	45	25
(vii)	<i>Number of Enforcement Case Information Report (ECIR) recorded</i>	5906	----
(viii)	<i>Number of ECIR where search conducted</i>	531	----
(ix)	<i>Number of search warrants issued against 531 ECIR</i>	4954	----
(x)	<i>Percentage of ECIR where search warrants issued (531/4954*100)</i>	10.72	----
(xi)	<i>Number of ECIR recorded against existing + former MPs + ML+ also MLCs (all)</i>	176	----
(xii)	<i>Percentage of ECIR recorded against existing + former MPs + ML+ also MLCs (all) out of total ECIR recorded (176/4954*100)</i>	3.55	----
(xiii)	<i>Amount of PAOs issued (INR in crore)</i>	1,15,350	----
(xiv)	<i>Number of PAOs pending for confirmation before AA</i>	260	----

(xv)	<i>Amount of PAOs pending for confirmation before AA (INR in crore)</i>	40,904	----
(xvi)	<i>Number of cases where trial is completed under PMLA, 2002</i>	25	----
(xvii)	<i>Number of trial cases resulted in conviction under PMLA, 2002</i>	24	----
(xviii)	<i>Number of trial cases resulted in acquittal</i>	01	----
(xix)	<i>Percentage of conviction (24/25*100)</i>	96	----
(xx)	<i>Amount of confiscation under Section 8(5) of PMLA (INR in crore)</i>	36.23	----
(xxi)	<i>Amount of fine imposed on accused (INR in crore)</i>	4.62	----
(xxii)	<i>Amount of confiscation under Section 8(7) of PMLA (INR in crore)</i>	15587.44	----
(xxiii)	<i>Total amount of confiscation (19 = 16+18) (INR in crore)</i>	15623.66	----
(xxiv)	<i>Number of cases recorded for investigations</i>	----	5422
(xxv)	<i>Value of assets under attachments</i>	----	104702
25	Total		

48. For initiated cases under FEMA up to Jan 31, 2023

S.No.	Particulars	Total number/Total amount in INR in crore for Jan 31, 2023	Total number/Total amount in INR in crore for March 31, 2022
(i)	<i>Cases initiated for investigations</i>	33988	30716
(ii)	<i>Cases disposed against Investigations</i>	16148	15495
(iii)	<i>Cases where SCNs issued</i>	8440	8109
(iv)	<i>Cases where SCNs adjudicated</i>	6847	6472
4	Total		

49. For investigated cases under FEOA up to Jan 31, 2023

S.No.	Particulars	Total number/Total amount in INR in crore for Jan 31, 2023	Total number/Total amount in INR in crore for March 31, 2022
(i)	<i>Cases initiated for investigations</i>	15	14
(ii)	<i>Number of persons declared FEO</i>	9	9
(iii)	<i>Amount of properties confiscated</i>	862.43	433
3	Total		

(D) Meaning for International cooperation for MLO from outside India

50. For MLOs

- *India has taken membership for World Customs Organization (WCO) on February 15, 1971 + also attended 11 WCO Conventions (both) like:*
 - (i) *India has attended customs convention on temporary importation for scientific equipment on March 09, 1971.*
 - (ii) *India has attended customs convention on temporary importation for pedagogic material on December 04, 1973.*
 - (iii) *India has attended Kyoto Convention on October 18, 1976.*
 - (iv) *India has attended Nairobi Convention on June 09, 1977.*
 - (v) *India has attended Harmonized system Convention on June, 23 1996.*
 - (vi) *India has attended customs convention for facilities against importation for goods to display + to use in exhibitions + in fairs + in meetings + also etc. (all) on June, 20 1988.*
 - (vii) *India has attended Nairobi Convention on June, 20 1988.*
 - (viii) *India has attended ATA Convention on July, 05 1989*
 - (ix) *India has attended Convention on customs valuation on December 30, 1994.*
 - (x) *India has attended Johannesburg Convention on June 23, 2005.*
 - (xi) *India has attended Revised Kyoto Convention on November 2005.*
- *India has entered into Customs Mutual Administrative Assistance Agreement (CMAAA) with 15 countries or group of countries (both) like:*
 - (i) *EU*
 - (ii) *Israel*
 - (iii) *Russia*
 - (iv) *UK*

- (v) *Hongkong*
- (vi) *Maldives*
- (vii) *Uzbekistan*
- (viii) *Iran*
- (ix) *Egypt*
- (x) *USA*
- (xi) *China*
- (xii) *SAARC Countries*
- (xiii) *South Korean*
- (xiv) *Australia*
- (xv) *Brazil*

- *India has entered in 8 agreements under CMAAA for EoIs to enable detection of false declarations like:*

- (i) *For false*
- (ii) *For description*
- (iii) *For goods' origin*
- (iv) *For goods' diversion*
- (v) *For documents' authenticity*
- (vi) *For maintaining surveillance over suspected goods*
- (vii) *For persons*
- (viii) *For transports*

51. For Illicit drug trades

- (i) *Illicit drug trade is mainly being operated through trans-national business.*
- (ii) *Illicit drug trade traffickers are not obeying national boundaries + trying to make best use of loopholes + also asymmetries through different legal systems (all).*
- (iii) *International co-operation is needed between policy makers and enforcement officers for alimentering about anti drug trafficking efforts.*

52. For United Nations (UNs)

- (i) *3 UNs Conventions are held for drug related matters like:*
 - (a) *Single Convention on Narcotic Drugs, 1961*
 - (b) *Convention on Psychotropic Substances, 1971*
 - (c) *UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*
- (ii) *Abovementioned 3 UNs convention has concluded certain things like:*
 - (a) *Prepared list for drugs to be controlled*
 - (b) *Regulations to be prepared + also be imposed (both)*
 - (c) *Prepared list of drugs for punishment + also penalty against drug offenders (both)*
 - (d) *Established mechanisms for international co-operation between govt.'s and authorities.*
- (iii) *India has attended abovementioned 3 UNs convention + also enacted NDPS Act in 1985 (both) for meeting India's obligations under 3 UNs convention.*
- (iv) *India is actively involved in 100% international operations for drug matters like Project Prism + Project Cohesion + also Paris Pact (all) at regional level.*
- (v) *India has signed SAARC Convention with SAARC countries for Illicit Traffic in Narcotic Drugs and Psychotropic Substances.*
- (vi) *India has signed several BAs with other countries for cooperation in drug control.*

53. For FIU-IND

- (i) *FIU-IND has signed 3 bilateral MoUs with 3 countries on June 30, 2008 like :*
 - (a) *Mauritius*
 - (b) *Philippines*
 - (c) *Brazil*

(ii) FIU-IND's 3 MoUs to facilitate exchange of intelligences between 2 countries for co-operations + developments + also analyze information's (all) against financial transactions which are suspected for MLOs or TF (any).

54. For APG's membership

(i) Asia Pacific Group (APG) is established in February 1997 at 4th Asia Pacific Money Laundering Symposium held in Bangkok (Thailand).

(ii) APG is able to facilitate adoption + implementation + enforcement of internationally accepted AML standards + also anti-TF standards based on FATF's recommendations (all).

55. For APG's role

(i) APG is able to assist regional jurisdictions to connect with crime's proceeds + legal assistances + confiscations + forfeitures + MLO accused person's extraditions (all).

(ii) Also APG is able to prepare provisions for guidance in setting up system against reporting + investigating suspicious transactions + also helping in establishment of FIU across the world (all).

(iii) Also APG is able to undertake studies for methods + trends for MLO + also terrorism financing in Asia Pacific region (all).

(iv) Also APG to allow regional factors in AML's implementation + also anti-TF measures (both) for peer review through mutual evaluation process.

(v) APG is considered voluntary + also co-operative international body (both) established through agreement between members and autonomous bodies.

(vi) APG is not deriving from international treaty + also not part of international organization (both).

(vii) APG is required to inform against actions taken + formal agreements made by international + regional organizations + to promote consistent global response for MLOs + also TF (all).

(viii) APG's executed work + also procedures (both) have decided through consensus agreement between members.

(ix) APG's membership is taken by India in March, 1998.

56. For FATF's role

(i) FATF has provided 40 general recommendations + 9 special recommendations = 49 recommendations to provide complete set for counter measures against MLOs like criminal justice system + laws enforcement for financial system + regulations + also international co-operations (all).

(ii) 49 (40+9) recommendations are recognized + endorsed + also adopted (all) international standards by several international bodies for preventing MLOs.

(iii) FATF's membership is taken by India in 2010.

57. For Egmont Group's role

(i) FIU-IND is member of Egmont Group for stimulating co-operation between FIUs.

(ii) Egmont Group is serving international network for improving communication + also interaction between different FIUs (both).

(iii) Egmont Group to provide forum for FIUs around the world for improving support to member countries' for fighting MLOs + TF + also other financial crimes (all).

(iv) Egmont Group's membership is taken by India in May 2007.

58. For FIU-IND's Bilateral MoUs

- FIU-IND has signed 15 bilateral Memorandum of Understanding (MoUs) with 15 countries on May, 2011 to facilitate exchange of intelligences between member countries for joint cooperation to develop + to analyze information's about financial suspected transactions against MLOs + TFs + also other financial crimes (all).

- (i) *Mauritius*
- (ii) *Philippines*
- (iii) *Brazil*
- (iv) *Malaysia*
- (v) *Russia*
- (vi) *Australia*
- (vii) *Canada*
- (viii) *USA*
- (ix) *Srilanka*
- (x) *Georgia*
- (xi) *San Marono*
- (xii) *Bermuda*
- (xiii) *Nigeria*
- (xiv) *Japan*
- (xv) *Indonesia*

59. For EAG's role

- (i) *Eurasian Group (EAG) is FTF Styled Regional Body (FSRB).*
- (ii) *EAG is world's leading global political risk research + also consulting firm (both).*
- (iii) *EAG is to prevent MLOs + to work for financing of terrorism typologies analysis + also exchange of experiences for preventing crimes with regional peculiarities (all).*

(E) Supreme Court's judgment for Vijay Madanlal vs. Govt. in PMLA's validity case

60. Choudhary's Judgment passed by Supreme Court

- Supreme Court has provided opinion on July 27, 2022 for PMLA's validity like:
 - (i) (a) PMLA's application is valid when development is happened outside India
 - (b) Also Legal obligations are arises in India (both together)
 - (ii) (a) PMLA's application is valid when offence is committed in 1st country
 - (b) Also crimes proceeds is laundered in 2nd country (both together)
 - (iii) Supreme Court has accepted need for PMLA's application in India for enhancing better economic fabric of country + to regulate MLOs + to confiscate crimes' monies + also to punish accused persons (all).
 - (iv) (a) Supreme Court has considered legislative actions taken by house of lords in United Kingdom (UK) against crimes' proceeds after receipt of recommendation from Hodgson committee
 - (b) Also considered Drug Trafficking Offences Act, 1986 which is replaced with Drug Trafficking Act, 1994 to empower courts to confiscate proceeds of drug trafficking in UK.
 - (v) Supreme Court has recorded govt.'s recognition for MLOs + also introduction of PMLA, 2002 (both).

61. Choudhary's replies submitted by himself

- (i) Vijay Madanlal Choudhary submitted that cases for investigation are increasing sharply from 111 case in 2015-16 to 981 case in 2020-21.
- (ii) Also submitted that registration of cases in India are lower due to robust mechanism for risk-based selection of cases for investigations.

- (iii) *Also submitted that ED is focusing his attention on high value cases for crimes' proceeds when cases are involving serious offences + terror financings + narcotics + corruptions + national security offences + also etc. (all)*
- (iv) *Also submitted that attachment proceedings are substantially increasing + attached properties for INR 19111.20 against MLOs*
- (v) *Also submitted that investigations are made in 57 cases for terror financing where crime's proceeds identified for INR 982 crore against 256 properties*
- (vi) *Also submitted that 37 complaints are filed for prosecution + convicted 2 terrorists under PMLA, 2002.*
- (vii) *Also submitted that quantum of crimes' proceed against crime committed is INR 67104 crore.*

62. Choudhary's replies submitted by solicitor general

- *Solicitor General has discussed about MLOs under section 3 of PMLA, 2002*
- (i) *That origin of definition for MLOs under section 3 of PMLA, 2002 is based on article 3.1(b)(i) + (ii) + (c)(i) of Vienna Convention*
- (ii) *That Vienna Convention was limited to trafficking offences (only)
But*
- (iii) *That Palermo Convention has extended to cover several serious offences (also)*
- (iv) *That FATF has recommended to expand list for other serious crimes after Vienna + also Palermo (both) Conventions.*
- (v) *That FATF's recommendation for serious crimes are known recommendation no. 1 + 3 = 2.*
- (vi) *That India has enacted PMLA, 2002 + also allowed for evaluation in 2010 through FATF's 40 recommendations (both).*
- (vii) *That FATF has adopted mutual evaluation in India for AML + also Combating Financing of Terrorism (CFT) methodologies.*

- (viii) *That recommendation no. 1 for mutual evaluation is not covering concealments + possessions + dispositions + also use of crimes' proceeds (all).*
- (ix) *That India has amended section 3 of PMLA, 2002 through Prevention of Money-Laundering (Amendment) Act, 2012 to include concealments + possessions + dispositions + also use of crimes' proceeds (all).*
- (x) *That concealments through possessions + use of crimes' proceeds + also activities connected with crimes' proceeds (all) are treated offences under PMLA, 2002.*
- (xi) *That concealing crimes' proceeds + keeping in possessions + also using (all) are treated offences under PMLA, 2002 besides projecting untainted.*
- (xii) *Hence concealing of crimes' proceeds + also committed knowingly (both) are covered under PMLA, 2002.*

(F) Supreme Court's judgment for M.Gopal Reddy vs. Govt. in anticipatory bail case

63. Reddy's Judgment passed by Supreme Court

- (i) Supreme court has passed judgment based on facts + circumstances + also reasoning given in High Court (all) that rigorousness under section 45 of PMLA, 2002 be applied beside application filed under section 438 of Cr.PC for granting anticipatory bail
- (ii) Supreme Court has passed judgment that order passed by High court granting anticipatory bail is unsustainable therefore bail be rejected
- (iii) Supreme Court has concluded that order passed by High court be quashed + also set aside (both).
- (iv) Supreme Court has passed judgment that ED is required to deal freshly in accordance with existing laws like PMLA, 2002 + IPC, 1860 + also etc. (all).
- (v) Supreme Court has passed judgment that M. Gopal Reddy is permitted to file regular bail application after arrest + bail application be considered in accordance with existing laws and merits + considering material collected during enquiry + also investigations (all) therefore M. Gopal Reddy is not permitted for anticipatory bail.
- (vi) Supreme Court has concluded that appeal filed by Solicitor General is to be allowed without cost on M. Gopal Reddy.

64. Reddy's replies submitted by solicitor general

- (i) That High Court not considered nature of allegations + also seriousness of offences (both) against M. Gopal Reddy
- (ii) That High court not given consideration of decision observed in case of P. Chidambaram (supra) against economic offences having impact on society.

- (iii) *That High court normally very slow in exercising discretion available under section 438 of Cr.PC.*
- (iv) *That High Court allowed bail application + also granted anticipatory bail (both) in favor of M. Gopal Reddy to release on bail against apprehending for arrest vide F.No.ECIR/HYZ0/36/2020 dated December 15, 2020.*
- (v) *That ED has aggrieved + also dissatisfied (both) with judgment dated March 02, 2021 passed by High Court of Telangana at Hyderabad against Criminal Petition No. 1148/2021.*
- (vi) *That ED at Hyderabad has registered case for offence under section 3 of PMLA, 2002 + also punishable under section 4 of PMLA, 2002 (both)*
- (vii) *That Solicitor General has filed appeal before Supreme Court for not granting anticipatory bail in favor of M. Gopal Reddy.*

(G) Meaning for interpretations under PMLA, 2002

● Meaning for Preliminary (Chapter-I)

65. For Introduction (Section- 1)

- (i) *PMLA, 2002 in India is applicable in 100% part of India including J & K.*
- (ii) *PMLA, 2002 is notified by Central Government (Govt.) through notification in Official Gazette.*

66. For Adjudicating Authority (AA) (Sec- 2(1) (a))

- *AA is to be appointed under section 6(1) of PMLA, 2002*

67. For Attachment (Sec- 2(1) (d))

- *Attachment is permitted through written order to be issued under Chapter III of PMLA, 2002 like prohibition on transfers + conversions + dispositions + also property's movements (all)*

68. For Authorized person (AP) (Sec- 2(1) (da))

- *Authorized person is defined under section 2(c) of FEMA, 1999 (42 of 1999)*

69. For Banking company (Sec- 2(1) (e))

- *Banking company + co-operative bank (both) are defined section 51 of RBI Act 1934.*

70. For Beneficial Owner (BO) (Sec- 2(1) (fa))

- *Individual + non individual (juridical person) both are treated Beneficial Owner (BO) when he is ultimately owning or controlling or exercising ultimate control against any transaction.*

71. For Chit fund company (Sec- 2(1) (h))

- (i) *Chit Fund company who is managing or conducting or supervising foreman or agent or in other capacity (any).*
- (ii) *Chit is defined under section 2 of Chit Funds Act, 1982 (40 of 1982)*

72. For Client (Sec- 2(1) (ha))

- *Client to include person or entity who is engaged in financial transactions or financial activities with Reporting Entity (RE) + also includes person who is acting on behalf of other person.*

73. For Corresponding law (Sec- 2(1) (ia))

- *Corresponding laws in foreign country outside India is to include dealing with MLOs similar under PMLA, 2002 in India.*

74. For Dealer (Sec- 2(1) (ib))

- *Dealer is defined under section 2(b) of Central Sales Tax Act, 1956 (74 of 1956).*

75. For Financial institution (FI) (Sec- 2(1) (l))

- *Financial institution is defined under section 45-I(c) of RBI Act, 1934 (2 of 1934) + also include chit fund company + Housing Finance Institution (HFI) + authorized person + payment system operator + Non-Banking Financial Company (NBFC) + Department of Posts (DoPs) + also etc. (all).*

76. For Housing Finance Institution (HFI) (Sec- 2(1) (m))

- *HFI is defined under section 2 (d) of National Housing Bank (NHB) Act, 1987 (53 of 1987)*

77. For Intermediary (Sec- 2(1) (n)(i))

- (i) *Intermediary is registered under section 12 of Securities and Exchange Board of India (SEBI) Act, 1992 (15 of 1992) like stock broker + share transfer agent + banker to issue + trustee to trust deed + registrar to issue + merchant banker + underwriter + portfolio manager + investment adviser + also other intermediary associated with securities market (all)*

- (ii) *Also intermediary is registered under section 12 of SEBI Act, 1992 (15 of 1992)*

78. For Recognized association (Sec- 2(1) (n)(ii))

- *Recognized association + also member of association (both) are registered under Forward Contracts (Regulation) Act, 1952 (74 of 1952)*

79. For Registered intermediary (Sec- 2(1) (n)(iii))

- *Registered intermediary is specified by Pension Fund Regulatory and Development Authority (PFRDA)*

80. For Recognized Stock Exchange (RSE) (Sec- 2(1) (n)(iv))

- *Recognized stock exchange is defined under section 2 (f) of Securities Contracts (Regulation) Act, 1956 (42 of 1956)*

81. For Investigation (Sec- 2(1) (na))

- *Investigation is to include proceedings to be conducted by ED or officer authorized by him for collection of evidences under PMLA, 2002.*

82. For MLOs (Sec- 2(1) (p))

- *MLOs are defined under section 3 of PMLA, 2002 when MLOs are involved for conversion from non-legitimize to legitimize money which is earned through 1 out of 29 scheduled offences in India + also outside India (both) under PMLA, 2002.*

83. For NBFC (Sec- 2(1) (q))

- *NBFC is defined under section 45-I (f) of RBI Act, 1934*

84. For MLOs outside India (Sec- 2(1)(ra)(i))

- (i) *MLOs are committed outside India by resident of India defined under Part A or Part B or Part C (any) of schedule of PMLA , 2002*
- (ii) (a) *When MLOs are committed outside India*
(b) *Also crimes' proceeds are transferred to India (both) be treated cross border offences*

(iii) Provisions under section 2(1)(ra)(i) are not applicable for investigations + enquiries + trials + proceedings by PMLA's authorities like Authority or AA against MLOs specified under Part A or Part B of Schedule to PMLA, 2002 before commencement of Prevention of Money laundering (Amendment) Act, 2009 (21 of 2009)

85. For MLOs in India (Sec- 2(1)(ra)(ii))

- (i) (a) When MLOs are committed by resident of outside India
 - But
- (b) MLOs are executed in India defined in Part A or Part B or Part C of schedule of PMLA, 2002

- (ii) (a) When MLOs are committed outside India
 - (b) Also crimes' proceeds are transferred to India be treated cross border offences
- (iii) Provisions under section 2(1)(ra)(ii) are not applicable for investigations + enquiries + trials + proceedings by PMLA's authorities like Authority or AA against MLOs specified under Part A or Part B of Schedule to PMLA, 2002 before commencement of Prevention of Money laundering (Amendment) Act, 2009 (21 of 2009)

86. For Person (Sec- 2(1) (s))

- (i) To include Individual
- (ii) To include Hindu undivided family (HUF)
- (iii) To include Domestic (Indian) Company
- (iv) To include Domestic (Indian) Partnership Firm + LLP (both)
- (v) To include Association of Persons (AOP) + Body of Individuals (BOI) beside incorporate or non-incorporate (any).
- (vi) To include other artificial juridical person not covered under above Para i to v.
- (vii) To include agency office + branch office owned + also controlled by persons (all) under abovementioned Para i to vi.
- (viii) To include other legal entity, if any.

87. For Designated business (Sec- 2(1)(sa))

- *When person is carrying activities for playing games of chance against cash or kind + also includes activities associated with casino (both) like :-*
 - (i) *To include real estate agents + also activities notified by govt. (both)*
 - (ii) *To include dealer in precious metals or precious stones or other high value goods + also activities notified by govt. (both)*
 - (iii) *To include person engaged in safekeeping or cash's administration or liquid securities + also activities notified by govt. (both)*
 - (iv) *To include carrying other activities + also activities notified by govt. (both)*

88. For Precious metal (Sec- 2(1) (sb))

- *Precious metal to include gold or silver or platinum or palladium or rhodium or other metal + also activities notified by govt. (both)*

89. For Precious stone (Sec- 2(1) (sc))

- *Precious stone to include diamond or emerald or ruby or sapphire or other stone + also activities notified by govt. (both)*

90. For Crimes' proceeds (Sec- 2(1) (u))

- (i) *Properties derived or obtained directly or indirectly through MLOs under 1 out of 29 scheduled offences in India + also outside India (both) under PMLA, 2002*
- (ii) *Foreign properties' value located outside India are to be taken in equivalent value against Indian properties located in India under MLOs of PMLA, 2002*
- (iii) *AA is permitted to seize or confiscate Indian properties located in India belonging to alleged Indian resident MLO's accused persons with prior approval from designated special court in equivalent to foreign properties when foreign properties located outside India are involved in MLOs*

91. For Property (Sec- 2(1) (v))

- Any description's property or asset in cash or in kind used for MLOs 1 out of 29 scheduled offences in India + also outside India (both) under PMLA, 2002 like:
 - (i) Corporeal + Incorporeal in India + also Outside India (both)
 - (ii) Movable + Immovable in India + also Outside India (both)
 - (iii) Tangible + Intangible in India + also Outside India (both)
 - (iv) Deeds + Instruments + documentary proof for titles in India + also Outside India (all)
 - (v) Interest in any property + asset located in India + also Outside India (all)

92. For Records (Sec- 2(1) (w))

- To include records maintained in form of books or stored in computer or other prescribed form (any) under PMLA, 2002

93. For Reporting Entity (RE) (Sec- 2(1) (wa))

- Banking company or financial institution or intermediary or person who is carrying designated business or profession (any) under PMLA, 2002

94. For Scheduled offence (Sec- 2(1) (y))

- (i) To include 100% scheduled offences committed by resident of India prescribed under Part A of schedule under PMLA, 2002

Or

- (ii) To include 100% scheduled offences committed by resident of India prescribed Under Part B of scheduled offence under PMLA, 2002 when value is minimum INR 1 crore

Or

- (iii) To include 100% scheduled offences committed by resident of India prescribed under Part C of schedule under PMLA, 2002

- Presently 29 schedule offences are covered under PMLA, 2002.

95. For Special court (Sec- 2(1) (z))

- *Its include Special Court designated by govt. under section 43 (1) of PMLA, 2002*

96. For Transfer (Sec- 2(1) (za))

- *Transfer to include Sale or purchase or mortgage or pledge or gift or loan or other form of transfer of rights or title or possession or lien or etc. (any)*

97. For Value (Sec- 2(1) (zb))

(i) *Value to include Fair Market Value (FMV) of property on date of acquisition by MLO's accused persons.*

Or

(ii) *FMV of property on date of possession by AA when date of acquisition is not available.*

● **Meaning for Money Laundering Offences (MLOs) (Chapter-II)**

98. For MLOs (Sec- 3)

(i) When person is directly or indirectly attempting to indulge or knowingly assisting or knowingly parting or actually involving in process or activity for crimes' proceeds or concealment or possession or acquisition or use or projecting or claiming untainted property (any) is treated guilty of offence therefore certain activities are carried under PMLA, 2002 like:

(a) *Concealing*
Or

(b) *Possessing*
Or

(c) *Acquisitioning*
Or

(d) *Using*
Or

(e) *Projecting untainted property*
Or

(f) *Claiming untainted property*

(ii) Process + also activity (both) for crimes' proceeds are to continue + also to continue till person directly or indirectly enjoying crimes' proceeds through concealing or possessing or acquisitioning or using or projecting untainted property or claiming untainted property (any).

99. For Punishment (Sec- 4)

(i) Rigorous imprisonment is required minimum for 3 years or maximum for 7 years against MLOs under PMLA, 2002.

Or

(ii) Rigorous imprisonment is required minimum for 3 years or maximum for 10 years against MLOs specified under Para 2 of Part A of schedule of PMLA, 2002

● **Meaning for Adjudicating Authority (AA) powers / duties (Chapter-III)**

100. For attachment by AA (Sec- 5)

- (i) Authority is permitted through recording reason in writing to attach property alleged involved in MLOs after having material in possession like:
 - (a) When alleged MLO's accused person is in possession of crimes' proceeds
 - (b) Also when crimes' proceeds are likely to be concealed or transferred or dealt (any) for stopping confiscation
 - (c) Also authority is permitted for passing order in writing for attachment not exceeding 180 days from date of MLO is determined.
- (ii) (a) Authority is not permitted for passing order in writing for attachment when report is not forwarded to Magistrate under section 173 of CCP, 1973 (2 of 1974)
 - (b) Also when complaint is not received from authorized person to investigate MLOs
 - (c) Also when report or complaint is not forwarded to other country before forwarding to Magistrate or judicial court for taking cognizance of MLOs of PMLA, 2002 in India.
- (iii) Authority is required to send copy of order + also material in possession (both) in sealed envelope to AA.
- (iv) Interested person for claiming or entitling is permitted to enjoy attached immovable property.
- (v) Authority is required to file complaint before AA in 30 days + also to state facts for attachment (both).

101. For appointment by AA (Sec- 6)

- (i) Govt. is permitted to appoint AA for exercising jurisdictions + powers + also authorities (all) conferred under PMLA, 2002
- (ii) AA is required to consist 1 chairman + minimum 2 members = 3 persons

- (iii) AA's members are required to have experience in laws or administration or finance or accountancy (any).
- (iv) AA's chairman is to be appointed 1 out of 3 members
- (v) AA's functions are to be monitored by Department of Revenue (DoR) MoF of India having headquarter at New Delhi.

102. For Staff by AA (Sec- 7)

- (i) Govt. is required to provide AA's officers + also employees (both) considered necessary.
- (ii) AA's officers + also employees (both) are required to discharge their functions under general superintendence of AA's chairman.
- (iii) AA's officers + also employees' salaries + allowances + also terms and conditions of service (all) are to be determined by govt.

103. For Show Cause Notice (SCN) by AA (Sec- 8(1))

- (i) AA is permitted to issue SCN in 30 days to any person for asking incomes' source + earnings + also assets (all) after receiving complaint under section 5(5) or application under section 17(4) or application 18 (10) (any) when AA has reason to believe that person has committed MLO specified under section 3 + also having in possession crimes' proceeds (both) under PMLA, 2002.
- (ii) Also AA is permitted to issue SCN in 30 days to person who has acquired property through MLO specified under section 3 + also attached (both) under section 5(1) or seized under section 17 or frozen under section 18 (any) under PMLA, 2002
- (iii) Also AA's SCN is required to be based on evidences or other relevant information's or particulars (any) that property is involved in MLOs is to be confiscated?
- (iv) Also AA's SCN is required to be issued to other person when property is held by other person instead of by original person.
- (v) Also AA's SCN is required to be issued to more than 1 person when property is held jointly.

104. For Powers by AA (Sec- 8(2))

- *AA is permitted for certain activities after SCN issued*
- (i) *AA is permitted to consider reply received against SCN issued under section 8(1) of PMLA, 2002*
- (ii) *AA is permitted to allow aggrieved person or authority for opportunity of being heard*
- (iii) *AA is permitted to take into account 100% relevant materials placed on records + also to record findings (both) that property referred in SCN is involved or not involved in MLOs (any).*
- (iv) *AA is permitted to allow other person for opportunity of being heard to prove that property is not involved in MLO when SCN was issued to other person.*

105. For order by AA (Sec- 8(3))

- *AA is permitted for certain activities after attachment*
- (i) *AA is permitted to confirm property's attachment through order in writing when attachment was made under section 5(1) or retention under section 17 or seizure or frozen under section 18 (any) of PMLA, 2002*
- (ii) *Also AA is not permitted to continue property's attachment for exceeding 365 days during proceeding's pendency in special court in India or also before competent court for MLOs outside India*
- (iii) *Also attachment's order is to be treated final order when confiscation order is passed under section 8(5) or 8(7) or section 58B or section 60(2A) (any) under PMLA, 2002 by special court.*

106. For possession by authority (Sec- 8(4))

- (i) *Authority is permitted to take possession of attached property under section 5 or frozen property under section 17(1A) when attachment's provisional order is passed under section 5(1) + also confirmed under section 5(3) both of PMLA, 2002*

(ii) Authority is permitted to treat deemed possession when actual possession of frozen property is not practical possible under section 17(1A) of PMLA, 2002.

107. For confiscation powers by special court (Sec- 8(5))

- Special court is permitted to issue order after trial's conclusion that alleged property was involved in MLO + also confirmed by MLO's accused person (both) thereafter stand confiscated

108. For release powers by special court (Sec- 8(6))

- Special court is permitted to issue order after trial's conclusion that alleged property was not involved in MLO therefore allowed to be released

109. For confiscation after death by special court (Sec- 8(7))

(i) Special court is permitted to issue order after trial's conclusion that alleged property was involved in MLO

But

(ii) MLO's accused person is died + also authority has made application (both) thereafter stand confiscated

110. For confiscation after quantifiable loss by special court (Sec- 8(8))

(i) Special court is permitted to issue order after trial's conclusion when alleged MLO's accused person has suffered quantifiable loss due to MLO + also property is confiscated under section 8(5) of PMLA, 2002 (both)

(ii) Also Special Court is required to satisfy that alleged MLO's accused person has acted in good faith + suffered loss despite having 100% reasonable precautions + also not involved in MLOs (all)

(iii) Also Special Court is permitted to release property after trial's proceedings when considered necessary + in prescribed manner (both) therefore to be released 100% (wholly) or released not 100% (partly).

111. For rights in property by govt. (Sec- 9)

- (i) *Govt. is permitted to have 100% property's rights + property's titles + absolutely free from encumbrance + also confiscation's order is made (all) under section 8(7) or 10(5) or 58B or 60(2A) (any) of PMLA, 2002.*
- (ii) *Also Special court or AA is permitted to pass order to declare encumbrance + lease hold interest is to be void after giving opportunity of being heard when encumbrance property + also lease hold interest (both) have defeated provisions of Chapter III of PMLA, 2002*

112. For management by govt. (Sec- 10)

- (i) *Govt. is permitted to appoint administrator to perform functions for confiscated property's management.*
- (ii) *Also administrator appointed under section 10(1) is permitted to receive + also to manage confiscated properties (both) when confiscation's order is passed under section 8(5) or 8(6) or 8(7) or section 58B or section 60 (2A) (any) of PMLA, 2002*
- (iii) *Also administrator is required to take 100% measures directed by govt. for property's disposal.*
- (iv) *Govt. is permitted to direct for property's disposal under section 9 of PMLA, 2002.*

113. For powers by AA (Sec- 11)

- (i) *AA is permitted to have same powers available in civil court under Code of Civil Procedure, 1908 (5 of 1908) while trying suits against certain matters like:*
 - (a) *For discovery + also inspection (both)*
 - (b) *For enforcing person's attendance or officer's attendance of banking company or financial institution or other company (any) for examining on oath*
 - (c) *For compelling records' production*

- (d) For receiving evidences on affidavit
- (e) For issuing orders for examination of witnesses + also documents (both)
- (f) For any other matter to be prescribed by govt.
- (ii) 100% summoned persons are bound to attend personally or through Authorized Representative (AR)
- (iii) AA is permitted to direct to state 100% truth on examination or to make statement or to produce document (any).
- (iv) AA's proceedings under section 11 of PMLA, 2002 be deemed judicial proceedings specified under section 193 + also section 228 (both) under IPC (45 of 1860).

114. For duties with Banking company (Sec- 11A(1))

- Banking company RE is required to verify client's identity + also actual BO's identity (both) through 1 mode out of several modes for identifications like:
 - (i) Authentication under Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016)
 - (ii) Offline verification under Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016)
 - (iii) Use of passport issued under section 4 of Passports Act, 1967 (15 of 1967)
 - (iv) Use of other officially valid document + mode of identification (any) to be notified by govt. from time to time.

115. For duties with Non-Banking company (Sec- 11A(1))

- (i) Govt. is permitted to allow in same manner specified under section 11(A)(1) of PMLA, 2002 for non-banking company RE when govt. is satisfied + considered necessary to verify client's identity + also actual BO's identity (all).

(ii) *Govt. is required to consult with Unique Identification Authority of India (UIAI) established under Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) + also with appropriate regulator (both) before allowing for non-banking company RE.*

116. For duties by RE (Sec- 11A(2))

- *RE is required to perform authentication through verifying client's identity + also actual BO's identity (both) in specified mode under section 11(1A)(a) or (b) or (c) or (d) (any) of PMLA, 2002.*

117. For Client/BO's rights (Sec- 11A(3))

- *Client + also actual BO (both) are voluntary permitted to choose in specified mode under section 11(1A)(a) or (b) or (c) or (d) (any) of PMLA, 2002*

118. For duties by RE (Sec- 11A(4))

- (i) *RE is not permitted to store clients' + actual BO's core biometric information's + also Aadhaar number (all).*
- (ii) *RE is permitted to verify clients' + actual BO's core biometric information's + also Aadhaar number (all).*

119. For powers by govt. (Sec- 11A(5))

- *Govt. is permitted to notify additional safeguards for verification of client's identity + also actual BO's identity (both).*

● **Meaning for Reporting Entity (RE) powers / duties (Chapter-IV)**

120. For record's maintenance duties by RE (Sec- 12(1))

- (i) *RE is required to maintain records for 100% transactions + information's specified under clause 12(1)(b) of PMLA, 2002 + also in manner to enable to reconstruct individual transaction (all).*
- (ii) *RE is required to furnish information's in time for transactions attempted + executed + nature + also value prescribed (all) to ED under PMLA, 2002.*
- (iii) *RE is required to maintain documents evidence for clients' identity + actual BO's identity + account files + also clients' business correspondence (all).*

121. For duties by RE (Sec- 12(2))

- *RE is required to keep confidential information's maintained + furnished + also verified under laws for time being in force (all).*

122. For records' time limit by RE (Sec- 12(3))

- *RE is required to maintain records referred under section 12(1)(i) of PMLA, 2002 for 100% transactions executed with client for minimum 5 years.*

123. For records' time limit by RE (Sec- 12(4))

- *RE is required to maintain records referred under section 12(1)(iii) of PMLA, 2002 for 100% transactions executed with client for minimum 5 years after business relationship over or account is closed whichever is later.*

124. For time limit's power by govt. (Sec- 12(5))

- *Govt. is permitted to exempt RE or class of REs from 100% obligations under chapter IV of PMLA, 2002*

125. For information's powers by ED (Sec- 12A(1))

- *ED is permitted to call records + information's referred under section 11A + section 12(1) + section 12AA(1) of PMLA, 2002 + also additional information's considered necessary (all) from RE.*

126. For information's duties by RE (Sec- 12A(2))

- *RE is required to furnish information's in time + also in manner specified (both) to ED.*

127. For information's duties by ED (Sec- 12A(3))

- *ED is required to keep confidential 100% information's received under laws for time being in force.*

128. For due diligence's duties by RE (Sec- 12AA(1))

- (i) *RE is required to verify clients' identity for executing Specified Transactions (ST) through authentication under Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) + in manner + also with conditions specified by govt. (all).*
- (ii) *RE is required to verify clients' identity for executing ST through other process or mode prescribed by govt. (any) when client is not legally required to obtain Aadhar number like non-resident of India*
- (iii) (a) *RE is required to take additional steps to examine for ownership + financial position + also source of clients' fund prescribed (all).*
(b) *Also RE is required to take additional steps to enquire for reasons against executing ST + also nature of relationship between transactions parties (both).*

129. For ST's powers by RE (Sec- 12AA(2))

- *RE is permitted not to allow to carry ST when client is failed to fulfill conditions laid down under section 12AA(1) of PMLA, 2002.*

130. For extra monitoring powers by RE (Sec- 12AA(3))

- *RE is permitted to increase monitoring for business relationship with client + extra scrutiny for transactions in prescribed manner when ST or series of STs undertaken by client is considered suspicious or likely to involve crimes' proceeds (any).*

131. For records' time limit by RE (Sec- 12AA(4))

- *RE is required to maintain information's obtained under section 12(AA)(3) of PMLA, 2002 against extra monitoring for minimum 5 years*

132. For ST by RE (Sec- 12AA)(4))

- (i) *When transactions for cash withdrawals are exceeding specified limit*
- (ii) *When transactions for cash deposits are exceeding specified limit*
- (iii) *When transactions for foreign exchanges are exceeding specified limit*
- (iv) *When transactions for high value imports are exceeding specified limit*
- (v) *When transactions for remittances are exceeding specified limit*
- (vi) *When other transactions or class of transactions having high risk or MLOs or TF is involved (any)*

133. For enquiry's powers by ED (Sec- 13(1))

- *ED is permitted su-moto or receipt of application from authority or officer or person (any) to make inquiry considered necessary for REs obligation's compliances under chapter IV of PMLA, 2002.*

134. For action's powers by ED (Sec- 13(1A))

- *ED is permitted to direct RE to give specified records duly audited from list of chartered accountant Firms empaneled with CAG when ED considered necessary due to nature + also complexity of case (both).*

135. For audit fee's duties by govt.'s (Sec- 13(1B))

- *Govt. is required to pay for audit fee + also audit expenses (both)*

136. For action's powers by ED (Sec- 13(2))

- *ED is permitted to take certain actions when RE or designated director or officer or employee (any) is failed to comply obligations referred under Chapter IV of PMLA, 2002 like:*

- (i) *To issue written warning*
- (ii) *To direct RE or designated director or officer or employee (any) for complying specified instructions*
- (iii) *To direct RE or designated director or officer or employee (any) for sending reports in specified intervals*
- (iv) *To impose penalty on RE or designated director or officer or employee (any) for not exceeding INR 1 lac per failure*

137. For orders' duties by ED (Sec- 13(3))

- *ED is required to forward order passed under section 13(2) of PMLA, 2002 to banking company or financial institution or intermediary or also other person who is party of proceedings (any).*

138. For penalty not permitted by ED (Sec- 14)

- *ED is not permitted to forward penalty order to RE or designated director or officer or employee (any) for civil or criminal proceedings against non-furnishing information's under 12(1)(b) of PMLA, 2002.*

139. For prescribing information's powers by govt. (Sec- 15)

- *Govt. is permitted in RBI's consultation to prescribe procedure + manner for maintaining + furnishing information's by RE under section 11A + section 12(1) + also section 12AA(1) (all) for implementing PMLA, 2002's provisions.*

● **Meanings for Authority powers / duties (Chap-V)**

140. For order by authority (Sec- 16(1))

- *Authority is permitted for passing written order for survey after recording reason to belief + also having material in possession (both) when 1 out of 29 scheduled offence assigned under section 3 of PMLA, 2002 is committed like:*
 - (i) *To survey within jurisdiction's limit specified to him.*
 - (ii) *To inspect required available records at specific place.*
 - (iii) *To check + verify for crimes' proceeds + also transactions (all).*
 - (iv) *To collect information's for proceedings under PMLA, 2002.*

141. For survey by authority (Sec- 16(2))

- *Authority is required to forward recorded reasons + also material in his possession (both) to AA in sealed envelope.*

142. For survey by authority (Sec- 16(3))

- (i) *Authority is required for placing identification's marks on inspected records or allow to take extracts or copies (any).*
- (ii) *Authority is required for preparing inventory of checked + also verified properties (both)*
- (iii) *Authority is required for recording statement of available person at place of survey when same is useful for proceedings under PMLA, 2002.*

143. For search and seizure by authority (Sec- 17(1))

- *ED is permitted to conduct search and seizure based on information's in his possession + reason to belief is recorded in writing (both) under PMLA, 2002 like:*
 - (i) *When person is involved in MLO's activity*
 - (ii) *When person is possessed MLO's proceeds*

- (iii) When person is possessed MLO's records
- (iv) When person is possessed MLO's properties

144. For search and seizure by authority (Sec- 17(1))

- (i) Authority is permitted to enter + to search building or place or vessel or vehicle or aircraft when he has reason to belief that MLO's records or MLO's proceeds is kept
- (ii) Also authority is permitted to open or break lock for door or box or locker or safe or almirah + also to exercise power conferred under PMLA, 2002 when keys are not available.
- (iii) Also authority is permitted to seize MLO's records or properties (any) found during search
- (iv) Also authority is required to place identification's marks on MLO's records or properties or to take extract or MLO records' copy or property (any) is seized.
- (v) Also authority is required to prepare inventory for searched MLO's records + also properties (both)
- (vi) Also authority is permitted to examine on oath during investigation under PMLA, 2002 when accused person in possession or in control of MLO's records or properties

145. For property's freezing by authority (Sec- 17(1A))

- (i) Authority is permitted to freeze property when practically not possible to seize property.
- (ii) Authority is permitted to freeze property thereafter freeze property is not to be transferred or otherwise dealt without his permission.

146. For forwarding reasons by authority (Sec- 17(2))

- Authority is required to forward recorded reasons in writing + also material in his possession (both) in sealed envelope to AA.

147. For search after survey by authority (Sec- 17(3))

- (i) *Authority is permitted to enter + to search building or place after recording reasons in writing when evidences are found + also he has satisfied based on information's collected during survey under 16 of PMLA, 2002 that evidences are likely to be concealed or tampered (any)*
- (ii) *Also authority is not required authorization for conducting search referred in section 17(1) against search after survey under section 17(3) of PMLA, 2002.*

148. For records' retention by authority (Sec- 17(4))

- *Authority is required to file request application to AA for seized records + also properties (both) within 30 days from date of seizure or freeze (any)*

149. For search and seizure by authority (Sec- 18(1))

- *Authority is permitted to search + also to seizure / freeze after passing general or special order when he has reason to belief recorded in writing that accused person is secreted anything in his possession or ownership or MLO's records or crimes' proceeds (any) useful for proceedings under PMLA, 2002.*

150. For forwarding reasons + materials by authority (Sec- 18(2))

- *Authority is required to forward recorded reasons + also material in possession (both) to AA in sealed envelope.*

151. For taking to Magistrate by authority (Sec- 18(3))

- *Authority is required to take accused person who is to be searched to Magistrate or Gazetted Officer (any) within 24 hours*

152. For not taking to Magistrate by authority (Sec- 18(4))

- *Authority is not permitted to retain accused person who is to be searched beyond 24 hours without taking him to Magistrate or Gazetted Officer (any).*

153. For Magistrate not allowing search by authority (Sec- 18(5))

- (i) *Magistrate or Gazetted officer (any) is permitted for not allowing accused person's search when considered that search is not needed*
- (ii) *Also Magistrate or Gazetted officer (any) is permitted for discharging accused person who is to be searched when considered that search is not needed*

154. For 2 persons' attendance by authority (Sec- 18(6))

- *Authority is required to call minimum 2 persons from public for attending + also witnessing search and seizure (both) when he is carrying search under section 18(1) or 18(5) of PMLA, 2002.*

155. For seized records + properties by authority (Sec- 18(7))

- *Authority is required to prepare list for records + properties seized during search + also to get witnesses' signatures on list (all)*

156. For female's search by authority (Sec- 18(8))

- (i) *Male authority is not permitted to search female*
- (ii) *Female authority is permitted to search female*

157. For persons' statement recording by authority (Sec- 18(9))

- *Authority is permitted to record statement of accused person for MLO's records or crimes' proceeds (any) seized during search under section 18(1) or 18(5) of PMLA, 2002*

158. For records or property's retention by authority (Sec- 18(10))

- *Authority is required to file application to AA for requesting retention against seized records or properties beyond 30 days under section 18(1) of PMLA, 2002.*

159. For arresting person by authority (Sec- 19(1))

- *Authority is permitted to arrest accused person through passing general or special order when he has reason to belief after recording reasons in writing that person is having MLO's material in possession*

160. For forwarding arrest's order by authority (Sec- 19(2))

- *Authority is required to forward arrest order with material in his possession to AA in sealed envelope under section 19(1) of PMLA, 2002.*

161. For taking to special court by authority (Sec- 19(3))

- *Authority is required for taking arrested person to special court or Judicial Magistrate (JM) or Metropolitan Magistrate (MM) having jurisdiction within 24 hours from time of arrest under section 19(1) of PMLA, 2002*

162. For properties' retention order by authority (Sec- 20(1))

- *Authority is permitted to retain seized properties up to 180 days from date of seizure or frozen when seized under section 17 or section 18 or frozen under section 17(1A) for adjudication proceedings by AA under section 8 of PMLA, 2002*

163. For forwarding order by authority (Sec- 20(2))

- *Authority is required to forward order + also material in possession (both) to AA in sealed envelope after passing retention's order under section 20(1) for adjudication proceedings by AA under section 8 of PMLA, 2002.*

164. For returning retained property by authority (Sec- 20(3))

- (i) Authority is required to return retained property after completing 180 days*
- (ii) Authority is not required to return retained property after completing 180 days when AA has allowed extension for further retention.*

165. For AA's satisfaction by authority (Sec- 20(4))

- AA is required to satisfy himself that retained property is *prima facie* involved in MLO + also needed for adjudication proceedings by him under section 8 of PMLA, 2002 (both) before allowing extension for further retention beyond 180 days.

166. For Special court's release by authority (Sec- 20(5))

- (i) Special court is permitted to release 100% retained properties when 100% properties are not involved in MLO after passing confiscation order under section 8(5) or 8(7) of PMLA, 2002.
- (ii) Special court is not permitted to release retained 100% properties when partly properties are involved in MLO after passing confiscation order under section 8(5) or 8(7) of PMLA, 2002 therefore permitted to release partly properties (only).

167. For authority's withhold release by authority (Sec- 20(6))

- Authority is permitted to withhold property's release for maximum 90 days when considered necessary for AT's proceedings beside release order is passed by special court under section 8(6) or by AA under section 58B or 62A of PMLA, 2002 (any)

168. For record's retention by authority (Sec- 21(1))

- (i) Authority is permitted to retain seized records under section 17 or 18 or frozen under section 17(1A) (any) for maximum 180 days
- (ii) Also Authority's investigating officer has reason to belief that records may be required in future for enquiry under PMLA, 2002 both conditions are to be satisfied together.

169. For seized record's copies by authority (Sec- 21(2))

- Authority is required to give seized record's copies to MLO's accused person.

170. For seized record's return by authority (Sec- 21(3))

- (i) Authority is required to return seized records after 180 days
- (ii) Authority is not required to return seized records after 180 days when AA has allowed to retain for further period

171. For AA's satisfaction by authority (Sec- 21(4))

- AA is required to satisfy himself before passing order for further retention that records shall be needed for adjudication proceedings by him under section 8 of PMLA, 2002

172. For record's release by authority (Sec- 21(5))

- AA is permitted to instruct authority to release seized when records shall not be needed for adjudication proceedings by him under PMLA, 2002

173. For additional 90 day's retention by authority (Sec- 21(6))

- Authority is permitted to retain seized records for additional 90 days when he has considered necessary for AT's proceedings under section 26 of PMLA, 2002 beside special court or AA (any) has passed order to release seized records.

174. For presumptions against records by authority (Sec- 22(1))

- Authority is permitted to believe certain presumptions against records or properties found in possession or in control of accused person like:
 - (i) That found records or properties are presumed to be belongs to person who is possessing them
 - (ii) That records' contents are presumed to be 100% true + also correct (both)
 - (iii) That signatures or handwritings on records are presumed to be made by searched person himself.

175. For presumptions against foreign records by authority (Sec- 22(2))

- AA + Special court + also AT (all) are permitted to believe certain presumptions against records received from outside India like:
 - (i) That documents' contents are presumed to be 100% true + also correct (both) which are duly authenticated by competent authority from outside India
 - (ii) That signatures or handwritings on records are presumed to be made by sender himself which are duly authenticated by competent authority from outside India
 - (iii) That documents are presumed to be evidences beside stamped or not stamped for AT's adjudication + also AT (both) proceedings which are duly authenticated by competent authority from outside India

176. For presumptions against inter-connected transactions by authority (Sec- 23)

- AA or Special court is permitted to believe certain presumptions against inter-connected transactions like:
 - (i) When MLO is involved in 2 or more than 2 inter-connected transactions
 - (ii) Also when MLO is proved in 1 or more than 1 inter-connected transactions
 - (iii) AA or Special court is permitted to presume that balance transactions are treated inter-connected transactions

177. For Burden of proof by accused person (Sec- 24)

- AA or Special Court is permitted to presume that accused person is involved in MLO after charging him by authority under section 3 of PMLA, 2002 except when accused person has proved himself that he was not involved in MLO.

● **Meanings for Appellate Tribunal (AT) powers / duties (Chapter-VI)**

178. For Introduction (Sec- 25)

- (i) *AT is constituted under section 12(1) of Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976)*
- (ii) *Also AT is permitted to hear appeals against AA's orders + Special Court's orders (both) are established under PMLA, 2002.*

179. For appeal by aggrieved person (Sec- 26(1))

- *Authority or aggrieved person is permitted to file appeal before AT against AA's order passed under PMLA, 2002.*

180. For appeals by aggrieved RE (Sec- 26(2))

- *Aggrieved RE is permitted to file appeal before AT against AA's order passed under section 13(2) of PMLA, 2002.*

181. For appeal's filing time limit (Sec- 26(3))

- (i) *Authority or aggrieved person is permitted to file appeal before AT within 45 days from date of receipt of AA's order with prescribed filing fee + also appeal form (both)*
- (ii) *AT is permitted to extend periods for filing appeal beyond 45 days after giving opportunity of being heard + also AT to satisfy that appellant was prevented with sufficient cause (both).*

182. For order by AT (Sec- 26(4))

- *AT is permitted to pass certain order like:*
- (i) *Confirming AA's or special court's order*
- (ii) *Modifying AA's or special court's order*
- (iii) *Setting aside AA's or special court's order*

183. For sending order by AT (Sec- 26(5))

- *AT is required to send order to aggrieved person + also authority (both) under PMLA, 2002.*

184. For order's time limit (Sec- 26(6))

- *AT is required to pass order within 6 months from appeal's filing date*

185. For AT compositions (Sec- 27)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

186. For AT member's qualifications (Sec- 28)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

187. For AT office's term (Sec- 29)

- *Omitted through Finance Act, 2016 from July 01, 2005.*

188. For AT service conditions (Sec- 30)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

189. For AT vacancies (Sec- 31)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

190. For AT member's resignations + removals (Sec- 32)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

191. For AT Chairman (Sec- 33)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

192. For AT staff (Sec- 34)

- *Omitted through Finance Act, 2016 from June 01, 2016.*

193. For AT procedures + powers (Sec- 35(1))

- (i) *AT is not bound by procedure laid down by Code of Civil Procedure, 1908 (5 of 1908)*
- (ii) *AT is bound by principles for natural justice + also other provisions of PMLA, 2002 (both)*
- (iii) *AT is permitted to prepare own procedures + also to regulate them (both)*

194. For AT powers (Sec- 35(2))

- *AT is permitted to discharge its functions under PMLA, 2002 having with same powers vested in civil court under Code of Civil Procedure, 1908 (5 of 1908) while trying suit against certain matters like:*
 - (i) *For summoning + enforcing attendance of person + also examining on oath (all)*
 - (ii) *For requiring discovery + also producing documents (both)*
 - (iii) *For receiving evidence on affidavit*
 - (iv) *For requisitioning public record + document + record's copy + document from any office after satisfaction of provisions of sections 123 + also 124 (all) of Indian Evidence Act, 1872 (1 of 1872).*
 - (v) *For issuing commissions for witnesses' examination + documents (both)*
 - (vi) *For reviewing its decisions*
 - (vii) *For dismissing representation of default or deciding ex-parte (any)*
 - (viii) *For setting aside dismissal's order of representations of default or passed ex-partes' order (any)*
 - (ix) *For other matter if any prescribed by govt. from time to time.*

195. For AT order's validity (Sec- 35(3))

- *AT's order is executable like civil court's decree + also having 100% civil court's powers (both).*

196. For AT judicial proceedings (Sec- 35(4))

- (i) AT's 100% proceedings are treated judicial proceedings conferred under section 193 + also 228 of IPC (45 of 1860) both
- (ii) Also civil court is required to execute AT's order similar to passed by themselves

197. For AT treated civil court (Sec- 35(5))

- AT is treated civil court for exercising powers available under section 345 + also 346 of CCP, 1973 (2 of 1974) for judicial proceedings conferred under section 193 + also 228 of IPC (45 of 1860) all

198. For AT work's distribution (Sec- 36)

- AT's chairman is permitted to distribute work between different benches from time to time through notification + also permitted for providing specific matters to be dealt by each bench (both)

199. For AT transfer of bench (Sec- 37)

- AT's Chairman is permitted to transfer any case from 1st to 2nd bench after receipt of application from any party + also permitted su-moto (both).

200. For AT decision making process (Sec- 38)

- (i) AT's chairman is permitted to hear himself or refer to AT's 3rd member when 2 bench's members are different in their opinion for any point
- (ii) AT's chairman is permitted to take decision himself or by AT's 3rd member when difference in opinion is arise between 2 bench's members.

201. For appellant's rights (Sec- 39(1))

- Appellant is permitted to appear himself or to take assistance from Authorized Representative (AR) assigned under section 288(2) of ITA 1961 for appearing before AT under PMLA, 2002.

202. For AT appellant's rights (Sec- 39(2))

- *Appellant is permitted to take assistance from govt. or ED for appearing before AT under PMLA, 2002*

203. For AT treated public servant (Sec- 40)

- *AT's chairman + members + other officers + employees + AA + ED + also ED's officers (all) are treated public servants assigned under section 21 of IPC (45 of 1860).*

204. For AT supersedes Civil court (Sec- 41)

- *Civil court is not permitted to have jurisdiction like for granting injunction (stay) + entertaining suits or proceedings when AA or special court or AT (any) is empowered under PMLA, 2002*

205. For AT appeal to High court (Sec- 42)

- (i) *Aggrieved party like ED or accused person under PMLA, 2002 is permitted to file appeal to high court against AT's order within 60 days from date of AT order's communication*
- (ii) *High Court is permitted to allow extension to file appeal after 60 days when satisfy that appellant was genuinely prevented with sufficient reasons for appeal's not filing within 60 days.*

● **Meaning for Special Courts' powers / duties (Chapter-VII)**

206. For Introduction (Sec- 43(1))

- *Govt. in consultation with Chief Justice of High Court of state is permitted to designate 1 or more than 1 session court special court(s) for trying MLO punishable under section 4 of PMLA, 2002 through official notification*

207. For special powers by special court (Sec- 43(2))

- Special court is permitted for trying MLOs under section 43(1) of PMLA, 2002*
- Also special court is permitted for trying MLOs under CCP, 1973 (2 of 1974).*
- Hence special court is permitted for trying MLOs under 43(1) of PMLA, 2002 + also CCP, 1973 (2 of 1974) both in same trial simultaneously.*

208. For MLO's trial by special court (Sec- 44(1))

- *Special courts are permitted for MLOs trial like:*

- When MLOs are punishable under section 4 of PMLA, 2002*
- When authority's complaint filed to take cognizance against MLOs committed under section 3 of PMLA, 2002.*
- When authority's complaint filed to take cognizance against MLOs committed under section 3 of PMLA, 2002 from original date for committing MLO beside case is under trial in civil court*

209. For High court supersede special court (Sec- 44(2))

- *High court is permitted for granting bail being special power assigned under section 439 of CCP, 1973 beside proceedings are pending in special court.*

210. For Cognizable + non-bailable MLOs by special court (Sec- 45(1))

- Special court is not permitted to release on bail or own bond (any) to MLO's accused person under PMLA, 2002.*

(ii) *Special court is permitted to release on bail or own bond (any) to MLO's accused person under PMLA, 2002 when certain circumstances are arise like:*

- (a) *When special court has given opportunity to public prosecutor for opposing application against releasing on bail or own bond (any)*
- (b) *When special court is satisfied that reasonable grounds are existed to believe that applicant is not guilty for MLO + also not likely to commit MLO (both) during bail's period.*
- (c) *Special court is permitted to release on bail when accused person is exceeding 60 years age or woman or sick or infirm or MLO not exceeding 1 crore (any).*

(iii) *Special court is not permitted to take cognizance against MLO punishable under section 4 of PMLA, 2005 when application received from certain persons like:*

- (a) *From ED*
- (b) *From authorized officer of Central or State govt. through general or special order (any).*

211. For investigation by police officer (Sec- 45(1A))

- *Police officer is not permitted to investigate against MLO under PMLA, 2002 except when specifically authorized by Govt. through general or special order (any).*

212. For limitation to grant bail by special court (Sec- 45(2))

- *Limitation for granting bail under PMLA, 2002 is in addition to limitation assigned under CCP, 1973 (2 of 1974) or under other law (any).*

213. For deemed public prosecutor (Sec- 46(1))

(i) *Special court is permitted to apply provisions of CCP, 1973 during proceedings under PMLA, 2002 like release on bail or own bond (any)*

(ii) *Special court is treated deemed civil court for prosecution proceedings against MLO's accused person under PMLA, 2002.*

(iii) *Person on behalf of govt. who is appearing for prosecution proceedings before special court shall be treated deemed public prosecutor*

214. For public prosecutor's qualifications (Sec- 46(2))

- *Pubic prosecutor is required to be in advocate's practice for minimum 7 years under Central or State + also must be having special knowledge for law (both).*

215. For public prosecutor's powers (Sec- 46(3))

- *Public Prosecutor or Special Public Prosecutor (any) under section 46(1) of PMLA, 2002 is permitted to utilize 100% powers + duties assigned under section 2(u) of CCP, 1973 (2 of 1974) + also permitted for applying provisions of Code (all).*

216. For appeals + revisions before high court (Sec- 47)

(i) *High Court is permitted for accepting appeals + also revisions (both) from aggrieved person or AA (any)*

(ii) *High Court is permitted for availing 100% powers conferred under Chapter XXIX or XXX of CCP, 1973 (2 of 1974) against AT's order.*

● **Meaning for Authority's powers / duties (Chapter-VIII)**

217. For introduction (Sec- 48)

- *Authority is to include certain ED's officers for application of provisions of PMLA, 2002 like:*
 - (i) *ED's director or ED's Additional director or ED's Joint Director (any)*
 - (ii) *ED's Deputy Director*
 - (iii) *ED's Assistant Director*
 - (iv) *ED's officers appointed by govt. for application of provisions of PMLA, 2002*

218. For appointments authority (Sec- 49(1))

- *Govt. is permitted to appoint any person who is considered appropriate authority for application of provisions of PMLA, 2002*

219. For appointing other authority (Sec- 49(2))

- *Govt. is permitted to authorize ED's director or additional director or joint director or deputy director or assistant director (any) to appoint other authorities who should be below rank of assistant director*

220. For prescribing conditions (Sec- 49(3))

- *Govt. is permitted to prescribe 100% (wholly) or not 100% (partly) conditions + limitations + powers + also duties (all) conferred under section 49 of PMLA, 2002.*

221. For summons by authority (Sec- 50(1))

- *Authority is permitted to have same powers vested in civil courts under Code of Civil Procedure, 1908 (5 of 1908) while trying suit under section 13 of PMLA, 2002 for certain matters like:*
 - (i) *For discovering + also inspecting (both)*
 - (ii) *For enforcing attendance of any person + RE's officer + also to examine on oath (all)*

- (iii) For compelling records' production
- (iv) For receiving evidences based on affidavits
- (v) For issuing commissions for witnesses' examination + also documents (both)
- (vi) For relating to other matters to be prescribed by govt.

222. For attendance by authority (Sec- 50(2))

- ED's director or additional director or joint director or deputy director or assistant director permitted to send summon to any person whose attendance is considered necessary for giving evidence or producing record during investigations or proceedings (any) under PMLA, 2002.

223. For documents by authority (Sec- 50(3))

- (i) Authority is permitted to have attendance or through AR (any)
- (ii) Authority is permitted to listen truth from summoned person
- (iii) Authority is permitted to examine summoned person
- (iv) Authority is permitted to have desired documents

224. For judicial proceedings by authority (Sec- 50(4))

- Authority's 100% proceedings under section 50(2) + 50(3) are to be treated deemed judicial proceedings assigned under section 193 + also 228 of IPC (all)

225. For impounding / retaining by authority (Sec- 50(5))

- (i) Authority is permitted to impound + also to retain (both) records produced before him under PMLA, 2002 for period consider reasonable by him.
- (ii) Authority being ED's deputy director or assistant director (any) is not permitted to impound + also to retain (both) records produced before him under PMLA, 2002 without recording reasons for same by him.
- (iii) Authority being ED's deputy director or assistant director (any) is not permitted to impound + also to retain (both) records produced before him

under PMLA, 2002 without obtaining prior approval from ED's director when has desire to retain beyond 3 months

226. For Jurisdiction (Sec- 51(1))

- *Authority is permitted to exercise 100% powers + to perform 100% functions conferred / assigned under PMLA, 2002 + also MLOs' rules (all).*

227. For directions' criteria (Sec- 51(2))

- *Govt. is permitted to issue directions or orders (any) referred under section 51(1) of PMLA, 2002 through 1 or more than 1 criteria like:*
 - (i) *Criteria for territorial area*
 - (ii) *Criteria for class of persons*
 - (iii) *Criteria for class of cases*
 - (iv) *Criteria other to be specified by govt.*

228. For Govt. directions (Sec- 52)

- (i) *Authority + other officers employed for proper execution of provisions of PMLA, 2002 are required to obey govt.'s directions + orders + also instructions (all) issued for administration*
- (ii) (a) *Authority + other officers employed for proper execution of provisions of PMLA, 2002 are not required to obey govt.'s directions + orders + instructions issued for proper administration by govt. when same are issued to decide specific case + also in specific manner (all)*
- (b) *Also not required to obey govt.'s directions + orders + also instructions issued for proper administration by govt. (all) when same are issued to interfere AA's discretion*

229. For appointment (Sec- 53)

- (i) *Govt. is permitted to appoint authority not below rank of director through special or general order (any) to act under PMLA, 2002*

(ii) *Govt. is permitted to appoint authority below rank of director when person is not available rank of director through special or general order (any) to act under PMLA, 2002*

230. For officers' assistance (Sec- 54)

- *Govt. is permitted to allow authority to take assistance from certain officers in investigations + inquiries + also etc (all) like:*
 - (i) *Officers from Customs and Central Excise Department (CCED)*
 - (ii) *Officers from Narcotic Drugs and Psychotropic department appointed under section 5(1) of Narcotic Drugs and Psychotropic Substances Act (NDPSA) 1985 (61 of 1985)*
 - (iii) *Officers from ITD assigned under section 117(1) of ITA 1961 (43 of 1961)*
 - (iv) *Officers from Recognized Stock Exchange (RSE) appointed under section 2(f) of Securities Contracts (SC) (Regulation) Act, 1956 (42 of 1956).*
 - (v) *Officers from RBI appointed under section 3(1) of RBI Act, 1934 (2 of 1934)*
 - (vi) *Officers from police*
 - (vii) *Officers from enforcement appointed under section 36(1) of FEMA, 1999 (40 of 1999)*
 - (viii) *Officers from Securities and Exchange Board of India (SEBI) appointed under section 3 of SEBI Act, 1992 (15 of 1992)*
 - (ix) *Officers from Insurance Regulatory and Development Authority (IRDA) appointed under section 3 of IRDS Act, 1999 (41 of 1999)*
 - (x) *Officers from Forward Markets Commission (FMC) appointed under section 3 of Forward Contracts (Regulation) Act, 1952 (74 of 1952)*
 - (xi) *Officers from Recognized Association (RA) appointed under section 6 of Forward Contracts (Regulation) Act, 1952 (74 of 1952)*

- (xii) *Officers from Pension Fund Regulatory and Development Authority (PFRDA)*
- (xiii) *Officers from Department of Posts (DoPs) in Govt.*
- (xiv) *Officers from Registrar of Companies (ROC) appointed by State Govt. under section 6 of Registration Act, 1908 (16 of 1908)*
- (xv) *Officers from Registering Authority (RA) appointed under Chapter IV of Motor Vehicles Act, 1988 (59 of 1988)*
- (xvi) *Officers from Institute of Chartered Accountants of India (ICAI) appointed under section 3 of Chartered Accountants Act, 1949*
- (xvii) *Officers from Institute of Cost and Works Accountants of India (ICWAI) appointed under section 3 of Cost and Works Accountants Act, 1959 (23 of 1959)*
- (xviii) *Officers from Institute of Company Secretaries of India (ICSI) appointed under section 3 of Company Secretaries Act, 1980 (56 of 1980)*
- (xix) *Officers from Other Body Corporate (OBC) appointed under Central Act + also State Act (both)*
- (xx) *Officers from Central Govt. + State Govt. + local authorities + also REs (all) authorized by Govt. through notification in official gazette.*

● **Meaning for Attachment's powers / duties (Chapter-IX)**

231. For arrangements outside India by govt. (Sec- 55(a))

- *Govt. is permitted to make arrangement with contracting state (country or jurisdiction) located outside India through treaty or otherwise for assisting each other against MLOs*

232. For identification by authority (Sec- 55(b))

- *Authority is permitted to identify (establish) that property was derived from or used in MLO referred under section 3 of PMLA, 2002*

233. For tracing by authority (Sec- 55(c))

- *Authority is permitted to trace (determine) like nature or source or disposition or movement or title or ownership of property (any).*

234. For foreign agreements by govt. (Sec- 56(1))

- *Govt. is permitted to enter into agreement with foreign countries' govt. located (placed) outside India for certain matters like:*
 - For enforcing PMLA, 2002's provisions outside India.*
 - For EOI against MLOs' preventions + also for understanding corresponding laws in foreign countries for investigating about MLOs under PMLA, 2002 (both).*

235. For foreign reciprocal arrangements by govt. (Sec- 56(2))

- Govt. is permitted to instruct for applying provisions referred under Chapter IX against contracting state located outside India having reciprocal arrangements with India through notification*
- Also govt. is permitted to instruct for specific conditions or exceptions or qualifications (any) specified in abovementioned notification.*

236. For request letter to contracting state by special court (Sec- 57(1))

- (i) *Special court is permitted to send request letter to foreign court or competent authority located outside India (any) in contracting state for needed records + also information's (both).*
- (ii)
 - (a) *Special court is permitted to send request letter based on application received from investigating officer against MLO or other offences under PMLA, 2002 (any)*
 - (b) *Also Special court is required to satisfy that needed evidences are available in contracting state + needed in investigation against MLO or other offences under PMLA, 2002 (any)*
- (iii) *Special court is permitted to write certain things in abovementioned request letter like:*
 - (a) *To examine certain case's facts + also circumstances (both)*
 - (b) *To take certain specific needed steps*
 - (c) *To forward 100% needed records + also information's (both)*

237. For request letter in specified manner by special court (Sec- 57(2))

- *Special court is required to send request letter in govt.'s specified manner*

238. For evidences' validity collected from outside India (Sec- 57(3))

- *Authority is permitted to treat deemed evidences under PMLA, 2002 against 100% statements recorded or documents or things (any) received from outside India.*

239. For request letter from contracting state by govt. (Sec- 58)

- *Govt. is permitted to receive request letter from foreign court or foreign competent authority (any) in contracting state located outside India for certain things like:*

- (i) *To carry investigations against offences or proceedings under PMLA, 2002*
- (ii) *To forward evidences or information's to foreign court or foreign competent authority (any)*
- (iii) *Govt. is required to forward request letter to special court or authority under PMLA, 2002 (any) for execution against matter in request letter in accordance with provisions of PMLA, 2002 or other law (any) for time being in force.*

240. For confiscated property's release by special court (Sec- 58A)

- (i) (a) *Special court is required to release confiscated property based on application received from accused person or authority under PMLA, 2002 after criminal case's closure in India or trial's conclusion in criminal court located outside India*
- (b) *Also special court has concluded that MLO has not taken place or property in India is not involved in MLO committed in India or outside India (any)*
- (ii) *Special court is required to issue property's release order in favor of eligible person after serving notice to counter party*

241. For confiscated property's release by special court (Sec- 58B)

- (i) *Govt. is required to forward application to authority under PMLA, 2002 received from contracting state located outside India that MLO's proceedings can't be conducted due to accused death or accused is declared proclaimed MLO's accused person or other reason or proceedings commenced but can't be concluded (any).*
- (ii) *Authority is required to file application to special court to release property (any)*
- (iii) *Special court is required to pass appropriate orders to release property involved in MLO which was confiscated based on request letter received from foreign court or competent authority in contracting state located outside India (any).*

242. For accused transfer from outside India by special court (Sec- 59(1))

- *Special court is permitted to transfer accused from outside India against MLO referred under section 4 under reciprocal arrangements made by govt. with contracting state located outside India for processes + also assistance (both) like:*
 - (i) *For summoning to accused person outside India*
 - (ii) *For issuing arrest warrant to accused person outside India 17 + also 18 (both) of PMLA, 2002*
 - (iii) *For summoning any person for attendance or to produce document or to do other thing or to produce other thing (any) outside India.*
 - (iv) *For issuing search warrant to be exercised in contracting state located outside India under section 19 of PMLA, 2002.*
- *Special court is required to send summons or notices or warrant in duplicate form to Court or Judge or Magistrate (any) to authority specified by govt.*

243. For accused transfer to outside India by special court (Sec- 59(2))

- *Special court is permitted to transfer accused from India against MLO referred under section 4 of PMLA, 2002 under reciprocal arrangements made by govt. with contracting state located outside India for processes + also assistance (both) like:*
 - (i) *For summoning to accused person in India*
 - (ii) *For issuing arrest warrant to accused person in India under section 17 + also 18 (both) of PMLA, 2002*
 - (iii) *For summoning any person for attendance or to produce document or to do other thing or to produce other thing (any) in India.*
 - (iv) *For issuing search warrant to be exercised in India under section 19 of PMLA, 2002.*

244. For prisoner's transfer to outside India by special court (Sec- 59(3))

- *Special court or govt. (any) is permitted to impose conditions considered necessary for transferring prisoner who is in India's jail to contracting state located outside India*

245. For prisoner's transfer from outside India by special court (Sec- 59(4))

- Special court is required to ensure that 100% conditions are complied when prisoner is transferred from contracting state located outside India.*
- Also special court is required to keep prisoner's custody in India after satisfying conditions to be prescribed by govt.*

246. For attachment outside India by special court (Sec- 60(1))

- *Special court is permitted to send request letter to foreign court or competent authority in contracting state for request's execution based on application received from authority or administrator appointed under section 10(1) of PMLA, 2002 in certain circumstances like:*
 - When authority has passed order for seizure under section 5 or freezing under section 17(1A) of PMLA, 2002 (any)*
 - Also when AA has passed order for seizure under section 8 of PMLA, 2002*
 - Also when special court has passed order for confiscation under section 8(5) or 8(6) of PMLA, 2002*
 - Also when abovementioned suspected property is to be in contracting state located outside India*

247. For attachment in India by govt. (Sec- 60(2))

- Govt. is permitted to receive request letter from foreign court or competent authority in contracting state for attachment or seizure or freezing or confiscation of property (any) located in India*

- (b) Also abovementioned property should be derived or obtained directly or indirectly by any person from MLO referred under section 3 of PMLA, which is similar in corresponding law in contracting state located outside India
- (ii) Govt. is required to forward abovementioned request letter to authority in India for execution in accordance with provisions under PMLA, 2002.

248. For attachment in India by special court (Sec- 60(2A))

- (i) Special court is permitted to pass order that property is involved in MLO or used for MLO is confiscated in govt.'s favor
- (ii) Also Special court is required to pass abovementioned order after receiving application from authority for confiscation's execution under section 60(2) of PMLA, 2002
- (iii) Director is required to make application to special court after receiving directions from govt.
- (iv) Govt. is required to issue directions to authority after closure of criminal case or conclusion of trial in foreign court located outside India under corresponding law of contracting state + also foreign court has found that MLO is committed (both)

249. For direction to authority by ED (Sec- 60(3))

- ED's director is required to direct authority to take 100% necessary steps for tracing + also identifying property (both) after receipt of request letter from foreign court or competent authority in contracting state located outside India through India's govt. under section 58 or 59 of PMLA, 2002

250. For property identification's steps by authority (Sec- 60(4))

- Authority is required to make inquiry or investigation or survey of person or place or property or asset or document or books or account in bank or public financial institution or other relevant matter (any) under necessary

steps for tracing + also identifying property (both) referred under section 60(3) of PMLA, 2002.

251. For inquiry / investigation by authority (Sec- 60(5))

- *Authority is permitted to make inquiry or investigation or survey referred under section 60(4) in accordance with directions issued under section 60(3) of PMLA, 2002.*

252. For attachment in India by authority (Sec- 60(6))

- Authority is required to apply provisions for attachment + adjudication + confiscation + also vesting of property in govt. (all) contained in chapter III of PMLA, 2002 when request letter is received from foreign court or competent authority of contracting state located outside India*
- Authority is required to apply provisions for survey + search + also seizure (all) contained in chapter V of PMLA, 2002 when request letter is received from foreign court or competent authority of contracting state located outside India*

253. For property's disposal in India by govt. (Sec- 60(7))

- Govt. is required to return or to compensate to contracting state located outside India through property's disposal in India based on mutually agreed terms and conditions being execution against request letter received.*
- Govt. is permitted to deduct for reasonable expenses incurred in investigation or prosecution or judicial proceedings (any) for execution against request letter received*

254. For receiving / sending requests' procedure by govt. (Sec- 61)

- Govt. is permitted to prescribe procedures for receiving request letter + to receive summons or warrants from foreign court or competent authority in contracting state (any) located outside India*
- Govt. is permitted to prescribe procedures for sending request letter + to send summons or warrants to foreign court or competent authority in contracting state (any) located outside India*

● **Meaning for Punishment' powers / duties (Chapter-X)**

255. For vexatious search by authority (Sec- 62)

- (i) *Authority is permitted to exercise certain powers available under PMLA, 2002 with recording reasons in writing like :*
 - (a) *For searching building or place (any)*
 - (b) *For detaining or searching or arresting person (any)*
- (ii) *Authority is liable for maximum 2 years imprisonment or maximum fine INR 50 thousands or both (any) when he has exercised abovementioned powers without recording reasons in writing*

256. For false information's by authority (Sec- 63(1))

- (i) *Any person is liable for punishment against providing false information's or failure to give information's + etc. willfully + also maliciously (all) for arresting or searching (any)*
- (ii) *Abovementioned person is liable for maximum 2 years imprisonment or maximum INR 50 thousands fine or both (any)*

257. For specific reasons by authority (Sec- 63(2))

- *Any person is liable for punishment against certain matters like:*
 - (i) *For refusing to give answer against question asked by authority during exercising his assigned powers for MLO under section 3 of PMLA, 2002.*
 - (ii) *For refusing to sign statement made during proceedings specified under PMLA, 2002.*
 - (iii) *For failing to attend or produce books of accounts or documents at specific place or at specific time (any) against summon issued under section 50 of PMLA, 2002*
 - (iv) *Abovementioned person is liable for maximum INR 10 thousands fine per default or per failure (any).*

258. For without opportunity by authority (Sec- 63(3))

- *Authority is not permitted to pass order without giving opportunity of being heard to accuse person.*

259. For IPC by authority (Sec- 63(4))

- *Authority is permitted to proceed under section 174 of IPC (45 of 1860) when any person is intentionally disobeying directions issued under section 50 of PMLA, 2002.*

260. For cognizance of offence's approval by govt. (Sec- 64(1))

- *Special court is not permitted to take cognizance of offence under section 62 or 63(1) without prior approval from govt.*

261. For time limit's approval by govt. (Sec- 64(2))

- *Govt. is required to give approval or refuse to give approval within 90 days from date of request from special court.*

"

262. For Code of Criminal Procedure's application by authority (Sec- 65)

- *Authority is not permitted to apply provisions of CCP, 1973 (2 of 1974) when provisions of code are not consistent with PMLA 2002's provisions for arrest + search + seizure + attachment + confiscation + investigation + prosecution + also other proceedings (all).*

263. For officers' disclose by authority (Sec- 66(1))

- *Authority is required to furnish to certain information's to authority to officer or body (any) like:*
 - (i) *When authority to officer or body is required for imposing tax or duty or cess or dealings in foreign exchange or prevention of illicit traffic in narcotic drugs and psychotropic substances under Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) any*

(ii) When govt. is considered necessary in public interest to specify certain information's to furnish to authority or officer or body received by authority in performance of his functions under PMLA, 2002.

264. For agencies sharing by authority (Sec- 66(2))

- Authority is required to share information's to concerned enforcement govt.'s agencies for necessary action when he is in opinion that information's or material in his possession are contravening of provisions of Other laws (non PMLA, 2002)

265. For govt. employees' protections by civil court (Sec- 67)

- Civil courts are not permitted to entertain suits for setting aside or modifying proceedings or for prosecution against govt. or govt.'s officers (any) under PMLA, 2002 when acted in good faith "

266. For notice / summon' validity by authority (Sec- 68)

(i) Authority or AA or AT's notices or summons or orders or documents or proceedings are to be treated valid beside existence of mistake or defect or omission (any) when these were furnished or made or issued or taken in accordance with provisions of law

(ii) Also substance in abovementioned in conformity with laws + intend + purpose (all) are bona fide under PMLA, 2002.

267. For fine / penalty's recovery by authority (Sec- 69)

(i) Authority is permitted to recover amount for fine or penalty imposed on accused person under section 13 or 63 of PMLA, 2002 when not paid within 6 months from imposition's date

(ii) Also authority is permitted in same manner prescribed in schedule II of ITA, 1961 (43 of 1961) for arrears' recovery

(iii) Also authority is permitted to have 100% powers of Tax Recovery Officer (TRO) mentioned in schedule II of ITA, 1961 for arrears' recovery

268. For company's MLO by authority (Sec- 70(1))

- (i) *Authority is permitted to make liable to 100% officers those were in charge of conducting company's business at time of MLO for contravention's punishment*
- (ii) *Abovementioned officers are not liable for punishment against MLO when they are able to proof that contravention was took placed without their knowledge or they have exercised 100% due diligence to prevent contravention*

269. For MLO committed by company's officers by authority (Sec- 70(2))

- (i) *Company's director or manager or secretary or other officer (any) is liable for punishment when contravention of PMLA, 2002 or Rules, 2005 or directions or order has been committed by company (any)*
- (ii) *Also its proved that contravention was took placed with consent or connivance or attributable to neglect on part of abovementioned company's director or manager or secretary or other officer of company (any)*

270. For company's definition (Sec- 70(2)(i))

- *Its include company + LLP + partnership firm + also other association of individuals (all)*

271. For director's definition (Sec- 70(2)(ii))

- *It's include company's director + also partnership firm's partner (both)*

272. For company's prosecution (Sec- 70(2)(iii))

- *It's include prosecution of company's director or manager or secretary or other officer (any) therefore Legal Juridical Person (LJP) can't be prosecuted*

273. For PMLA overrides other laws (Sec- 71)

- *PMLA, 2002's provisions are overriding other laws' provisions in India when these are not consistent.*

274. For proceeding's after death or insolvent (Sec- 72(1))

- (i) Legal Heir (LH) or Official Assignee (OA) or Official Receiver (OR) is permitted to continue proceedings after accused person's death or adjudicated insolvent (any) when property is attached under section 8 under PMLA, 2002
- (ii) LH or OA or OR is permitted for preferring appeal with AT under section 26 of PMLA, 2002 when appeal is not preferred before accused person's death or adjudicated insolvent (any) where property is attached under section 8 of PMLA, 2002

275. For proceeding's after death or insolvent (Sec- 72(2))

- (i) LH or OA or OR is permitted to continue proceedings after accused person's death or adjudicated insolvent (any) when property is attached under section 8 of PMLA, 2002
- (ii) LH or OA or OR is permitted for appeal to High court under section 42 of PMLA, 2002 when appeal is not filed before accused person's death or adjudicated insolvent (any) where property is attached under section 8 of PMLA, 2002

276. For Official Assignee (OA) / Official Receiver (OR) (Sec- 72(3))

- OA or OR is permitted to exercise powers available under section 72(1) or 72(2) subject to provisions of Presidency-towns Insolvency Act, 1909 (3 of 1909) or Provincial Insolvency Act, 1920 (5 of 1920) any

277. For inter-ministerial Co-ordination Committee (Sec- 72A)

- Govt. is permitted to constitute Inter-ministerial Co-ordination Committee for inter-departmental + also inter-agency co-ordination (both) for certain matters in India like:
 - (i) For operational co-operation between govt. and law enforcement agency + FIU-IND + regulators + also supervisors (all).

- (ii) For policy co-operation + co-ordination across 100% relevant + also with competent authorities (all).
- (iii) For consultation between concerned authorities and financial sector + other sectors + related to AML + countering financing of terrorism + laws + regulations + also guidelines (all).
- (iv) For developing + implementing policies on AML + also countering financing of terrorism (all).
- (v) For other matter is to be specified by govt. through notification in official gazette.

278. For making rules by govt. (Sec- 73(1))

- Govt. is permitted to make rules for implementing provisions of PMLA, 2002

279. For making rules by govt. (Sec- 73(2))

- Govt. is permitted for making rules to provide standards for implementing certain matters under PMLA, 2002 like:
 - (i) For records preparing form standards are to be maintained of PMLA, 2002
 - (ii) For preparing property's provisional attachment standards under section 5(1) of PMLA, 2002.
 - (iii) For order's + also materials in possession standards (both) to be maintained under section 5(2) of PMLA, 2002.
 - (iv) For member's experience standards under section 6(3) of PMLA, 2002.
 - (v) For salaries' determination + allowances + also other terms and conditions of services standards (all) for AA's members under section 6(9) of PMLA, 2002.
 - (vi) For salaries' determination + allowances + also other terms and conditions of services standards (all) for AA's officers + employees under section 7(3) of PMLA.
 - (vii) For preparing seizing + also taking attached property's possession standards (both) under section 5 or frozen under section 17(1A) or 8(4) of PMLA, 2002 (any)

- (viii) For preparing confiscated property's standards are to be received + also managed (both) under section 10(2) of PMLA, 2002.
- (ix) For additional matters standards against civil courts' powers to be exercised by AA under section 11(1) (f) of PMLA, 2002.
- (x) For preparing nature's + value of transactions + also timeline standards (all) for transaction's information's to be furnished under section 12(1)(b) of PMLA, 2002.
- (xi) For preparing clients identity authentication's standards are to be verified by REs under section 12AA(1)(a) of PMLA, 2002.
- (xii) For preparing ownership identification's standards + also client's financial position (both) under section 12AA(1)(b) of PMLA, 2002
- (xiii) For preparing additional step's standards for recording about conducting specified transactions + also relationship's intended nature between different transactions parties (both) under section 12AA(1)(c) of PMLA, 2002.
- (xiv) For preparing future monitoring standards under section 12AA(3) of PMLA, 2002.
- (xv) For preparing interval period's standards for reporting by REs + also employees of REs (both) under section 13(2)(c) of PMLA, 2002.
- (xvi) For preparing procedure determination's standards for maintaining + also furnishing information's (both) under section 12(1) required under section 15 of PMLA, 2002
- (xvii) For preparing reasons maintaining + also material in possession standards (both) under section 16(2) of PMLA, 2002.
- (xviii) For preparing search and seizure's standards under section 17(1) of PMLA, 2002
- (xix) For preparing reasons maintaining + also materials in possession standards (both) under section 17(2) of PMLA, 2002

- (xx) For preparing reasons maintaining + also materials in possession standards (both) under section 18(2) of PMLA, 2002
- (xxi) For preparing orders maintaining + also materials in possession standards (both) under section 19(2) of PMLA, 2002
- (xxii) For preparing orders forwarding's for retention or continuation of freezing of property + orders keeping's period + also materials in possession standards (all) under section 20(2) of PMLA, 2002.
- (xxiii) For preparing records received standards from outside India to be authenticated under section 22(2) of PMLA, 2002.
- (xxiv) For preparing appeal form's + also for filing appeal's fee standards (both) before AT under section 26(3) of PMLA, 2002.
- (xxv) For preparing additional matters' standards before AT when civil courts' powers are to be exercised under section 35(2)(i) of PMLA, 2002.
- (xxvi) For preparing authorization's standards for investigations by police under section 45(1A) of PMLA, 2002.
- (xxvii) For preparing additional matters' standards when civil courts' powers are to be exercised by AA under section 50(1)(f) of PMLA, 2002.
- (xxviii) For preparing impounding + also records' custody standards (both) under section 50(5) of PMLA, 2002
- (xxix) For preparing other matters' standards are to be prescribed by govt.

280. For inserting / modifying rules with parliament (Sec- 74)

- Parliament's 2 Houses like upper house (Rajya Sabha) + lower house (Lok Sabha) both are simultaneously permitted to approve for inserting in old rules + modifying old rules + deleting old rules + also inserting new rules (all) to be laid for approval within 30 days

281. For removing difficulties by govt. (Sec- 75(1))

- (i) *Govt. is permitted to remove difficulties by amending provisions when some provisions are not consistent with other provisions under PMLA, 2002*
- (ii) *Govt. is required to publish amendments in provisions under PMLA, 2002 through official gazette.*

282. For removing difficulties by govt. (Sec- 75(2))

- *Govt. is required to present proposed amendment in provisions under PMLA, 2002 before 2 Houses of Parliament for approval.*

(H) Meaning for PMLA (Maintenance of Records) Rules, 2005

283. For introduction (Rule-1)

- (i) *These rules are called Prevention of Money-laundering (Maintenance of Records) 3rd Amendment Rules, 2023.*
- (ii) *These rules are applicable from date of publication in Official Gazette.*

284. For Act (R-2a)

- *Act to include Prevention of Money-laundering Act (PMLA) 2002 (15 of 2003)*

285. For Aadhar Number (R-2aa)

- *Aadhaar number to include meaning assigned under section 2(a) of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016)*

286. For Authentication (R-2ab)

- *Authentication to include meaning assigned under section 2(c) of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;*

287. For Central KYC Records Registry (R-2ac)

- *Central KYC Records Registry to include RE which is substantially owned + controlled by Govt. + also authorized by govt. (all) through notification in Official gazette for certain activities like:*
 - (i) *For receiving KYC records in digital form of client*
 - (ii) *For storing KYC records in digital form of client*
 - (iii) *For safeguarding KYC records in digital form of client*
 - (iv) *For retrieving KYC records in digital form of client*
- *Abovementioned activities referred under rule 2(ha) in prescribed manner + also to perform other functions (both) for may be required under rules*

288. For Depository Receipt (DR) (R-2ad)

- *DR to include foreign currency denominated instrument listed + non listed on international exchange + issued by foreign depository in permissible jurisdiction against eligible securities issued or transferred to foreign depository + also deposited with domestic custodian (all) like Global Depository Receipt (GDR) defined in CA, 2013 (18 of 2013)*

289. For Client due diligence (R-2b)

- *Client due diligence to include due diligence to be carried on client referred under section 2(1)(ha) of PMLA Act, 2002 for using reliable + also independent sources of identification (both).*

290. For Designated director (R-2ba)

- *Designated Director to include person designated by RE to ensure overall compliance for obligations imposed under chapter IV of PMLA, 2002 + also Rules thereon (both) like:*
 - (i) *Managing Director (MD) or Whole-Time Director (WTD) duly authorized by Board of Directors (BoDs) when RE is company*
 - (ii) *Managing Partner (MP) when RE is partnership firm*
 - (iii) *Proprietor (Individual) when RE is proprietorship concern*
 - (iv) *Managing Trustee (MT) when RE is trust*
 - (v) *Person or individual who controls + also manages affairs of RE (both) when RE is unincorporated association or Body of Individuals (BoIs)*
 - (vi) *Other person or class of persons notified by govt. when RE is not falling in abovementioned categories.*
- *MD and WTD (both) assigned under CA, 2013 (18 of 2013)*

291. For Designated officer (R-2bb)

- *Designated officer to include any officer or class of officers authorized by banking company by name or by designation for opening small accounts*

292. For Digital KYC (R-2bba)

- *Digital KYC to include capturing client's live photo + officially valid document or proof of possession of Aadhaar when offline verification can't be carried with latitude + also longitude of location where live photo is being taken by RE's authorized officer (all) under provisions of PMLA, 2002.*

293. For Digital Signature (R-2bc)

- *Digital Signature to include meaning assigned under section (2)(1)(p) of Information Technology (IT) Act, 2000 (21 of 2000)*

294. For Director (R-2c)

- *Director to include appointed under section 49(1) of PMLA, 2002 for sections 12 + 12A + also 13 (all) of PMLA, 2002*

295. For E-KYC authentication facility (R-2ca)

- *E-KYC authentication facility to include authentication facility defined in Aadhaar (Authentication) Regulations, 2016*

296. For Equivalent e-document (R-2cb)

- *Equivalent e-document to include electronic equivalent document issued by issuing authority of document with valid digital signature + also documents issued to digital locker account of client under rule 9 of Information Technology (Preservation and Retention of Information by Intermediaries Providing Digital Locker Facilities) Rules, 2016*

297. For Group (R-2cba)

- *Group to include meaning assigned under section 286(9)(e) of ITA, 1961 (43 of 1961)*

298. For International Financial Services Centre (IFSC) (R-2cbb)

- *International Financial Services Centre to include meaning assigned under section 18 of Special Economic Zones (SEZ) Act, 2005 (28 of 2005)*

299. For Know Your Client (KYC) identifier (R-2cc)

- *Know Your Client (KYC) Identifier to include unique number or code assigned to client by Central KYC Records Registry (CKRR)*

300. For Know Your Client (KYC) identifier (R-2cd)

- *KYC Identifier to include records + also electronic records (both) relied by RE for carrying client due diligence referred under rule 9 of Maintenance of Records Rules, 2005*

301. For Last KYC verification / updation (R-2ce)

- *Last KYC verification or updation to include last transaction made by RE in Central KYC Records Registry when client's KYC records were recorded or changed or updated (any) by RE.*

302. For Non Profit Organization (NPO) (R-2cf)

- (i) *NPO to include entity or organization (any) constituted for religious or charitable purposes referred under section 2(15) of ITA, 1961 (43 of 1961)*
- (ii) *Also registered trust or society under Societies Registration (SR) Act, 1860 (21 of 1860) or similar State legislation or Company registered under section 8 of CA, 2013 (18 of 2013) (any)*

303. For Officially valid document (R-2d)

- *Officially valid document to include certain documents like:*
- (i) *Passport*
- (ii) *Driving licensee*
- (iii) *Proof of possession of Aadhaar number*
- (iv) *Voter's Identity Card issued by Election Commission of India*
- (v) *Job card issued by NREGA duly signed by State govt.'s officer*

(vi) Letter issued by Unique Identification Authority of India (UIAI) or by National Population Register (NPR) containing details for name + address + also Aadhaar number or other document notified by govt. in consultation with regulator

304. For Offline verification (R-2da)

- Offline verification to include meaning assigned under section 2(pa) of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016)

305. For Politically Exposed Persons (PEPs) (R-2db)

- PEPs to include individuals who have been entrusted with prominent public functions by foreign country or head of state or govt. or senior politicians or senior govt. officer or judicial officer or military officers or senior executives of state-owned corporations + also important political party officials (both).

306. For Prescribed value (R-2e)

- Prescribed value to include value for transaction prescribed under Maintenance of Records Rules, 2005

307. For Principal officer (R-2f)

- Principal Officer to include officer designated by RE like officer at management level

308. For Regulator (R-2fa)

- (i) Regulator to include person or authority or govt. who is vested with power like:
 - (a) To license
 - (b) To authorize
 - (c) To register
 - (d) To regulate
 - (e) To supervise RE's activity
 - (f) Director notified by govt. for specific RE class of REs or for specific purpose (any)

- (ii) *RBI for Central KYC Records Registry defined under in rule 2(1)(ac) of Maintenance of Records Rules, 2005*
- (iii) *Central Board of Indirect Taxes and Customs (CBITC) constituted under Central Boards of Revenue (CBoR) Act, 1963 for dealers in precious metals + also precious stones (both).*
- (iv) *CBITC constituted under CBoR Act, 1963 for real estate agents.*

309. For Small account (R-2fc)

- *Small account to include savings account in banking company like:*

 - (i) *When aggregate for 100% credits in 1 financial year is not exceeding INR 1 lac*
 - (ii) *When aggregate for 100% withdrawals + also transfers (both) in 1 month is not exceeding INR 10 thousand*
 - (iii) *When balance at any point of time is not exceeding INR 50 thousand.*

- *Abovementioned limit for balance is not considered against deposits by govt. grants + welfare benefits + also payment against procurements (all).*

310. For Suspicious Transaction (ST)(R-2g)

- *ST to include transactions referred under clause 2(h) of Prevention of Money-laundering (Maintenance of Records) Rules, 2005 + also attempted transactions (both) which may be in cash or not in cash against person not acting in good faith like:*

 - (i) *When transaction is giving reasonable ground for suspicion that it may involve proceeds against 1 out of 29 offences specified in Schedule to PMLA, 2002 regardless of value involved*
 - (ii) *When transaction is unusual in nature or unjustified complexity (any).*
 - (iii) *When transaction have no economic rationale or bona fide purpose (any)*
 - (iv) *When transaction have reasonable ground for suspicion that it may involve financing of terrorism's activities*

- *ST for terrorism to include transaction involving funds suspected to be linked or related or to be used for terrorism or terrorist acts or by terrorist or by terrorist organization or to finance for terrorism or attempting to finance terrorism (any)*

311. For Transaction (R-2h)

- *Transaction to include purchase or sale or loan or pledge or gift or transfer or delivery or arrangement (any) + also includes followings (both):*
 - (i) *Account's opening*
 - (ii) *Depositing or withdrawing or exchanging or transferring of funds in any currency through cash or by cheque or Payment Order (PO) or other instrument or by electronic or other non-physical mean (any)*
 - (iii) *Using of safety deposit box or other form of safe deposit (any)*
 - (iv) *Entering into any fiduciary relationship*
 - (v) *Making payment or receiving payment in whole or in part against contractual or other legal obligation (any)*
 - (vi) *Making payment for playing games of chance for cash or kind + also activities associated with casino (both)*
 - (vii) *Establishing or creating legal person or legal arrangement (any).*

312. For authentication facility (R-2i)

- *Authentication facility to include authentication facility defined under Aadhar (Authentication) Regulations, 2016*

313. For other words + expressions (R-2)

- *100% other words + also expressions (both) used anywhere but not defined under rules from 2(1a) to 2(1i) shall have same meaning assigned under PMLA, 2002.*

314. For transactions' records (R-3)

- *REs are required to maintain records for 100% transactions like:*
 - (i) *For 100% cash transactions in value are exceeding INR 10 lac or its equivalent in foreign currency*
 - (ii) (a) *For 100% series of cash transactions which are integrally connected to each other*
 - (b) *Also individual value is not exceeding INR 10 lac or its equivalent to foreign currency*
 - (c) *Monthly aggregate is exceeding INR 10 lac or its equivalent to foreign currency*
 - (iii) *100% transactions for receipts by NPOs in value are exceeding INR 10 lac or its equivalent in foreign currency*
 - (iv) *100% cash transactions for forged or counterfeit currency notes or bank notes used genuine or forgery of valuable security or document (any) for facilitating transactions*

315. For suspicious transactions' records (R-3D)

- *100% suspicious transactions made in cash + also not in cash (both) like:*
 - (i) *100% deposits + credits + also withdrawals (all) into accounts in any currency like:*
 - (a) *Cheques or 3rd party cheques or Pay Orders (POs) or Demand Drafts (DDs) or Cashiers Cheques (CCs) or other instrument of payment of money + electronic receipts or credits or electronic payments or debits (any)*
 - (b) *Travellers Cheques (TCs)*
 - (c) *Transfer from account within same banking company or financial institution or intermediary or Nostro or Vostro accounts (any)*
 - (d) *Other mode if any*

- (ii) *100% credits or debits in non-monetary accounts like d-mat account or security account in currency maintained by banking company or financial institution or intermediary (any)*
- (iii) *100% money transfer or remittances in favor of own clients or non-clients from India or outside India or to 3rd party beneficiaries in India or outside India + transactions on own account in any currency like:—*
 - (a) *Pay Orders (POs)*
 - (b) *Cashiers Cheques (CCs)*
 - (c) *Demand Drafts (DDs)*
 - (d) *Telegraphic or wire transfers or electronic remittances or transfers (any)*
 - (e) *Internet Transfers (ITs)*
 - (f) *Automated Clearing House Remittances (ACHR)*
 - (g) *Lock box driven transfers or remittances (any)*
 - (h) *Remittances for credit or loading to electronic cards (any)*
 - (i) *Other mode for money transfer, if any*
- (iv) *Loans + advances + credits + loan substitutes + investments + also contingent liability (all) like:*
 - (a) *Subscription to debt instruments like commercial paper + certificate of deposits + preferential shares + debentures + securitized participation + interbank participation + also other investments in securities (all).*
 - (b) *Purchase + negotiation of bills + cheques + also other instruments (all)*
 - (c) *Foreign exchange contracts + currency + interest rate + commodity + also other derivative instrument (all)*
 - (d) *Letters of Credits (LoCs) + Standby Letters of Credits (SLCs) + guarantees + comfort letters + solvency certificates + other instruments for settlements + also credit supports (all)*
- (v) *Collection services for currency through collection of bills or cheques or instruments or other mode of collection (any).*

316. For RE's policies group-wise (R-3A)

- (i) *REs are required to implement group-wise programmes for money laundering + terror financing + group-wise policies for sharing information's for client due diligence + money laundering + terror finance risk management + programmes to be adequate safeguards on confidentiality + use of exchanged information's + also safeguards to prevent tipping-off (all).*
- (ii) *Groups are required to implement group-wise policies for discharging obligations under provisions of Chapter IV of PMLA, 2002 (15 of 2003).*

317. For information's records (R-4)

- *REs are required to maintain records containing 100% necessary information's specified by regulator to enable reconstruction of individual transaction + also certain information's (both) like:-*

 - (i) *Transaction's nature*
 - (ii) *Transaction's amount + also currency (both)*
 - (iii) *Transaction's date*
 - (iv) *Transaction's parties*

318. For maintaining information's (R-5)

- (i) *REs are required to maintain certain information's for transactions with its clients referred under rule 3 of Maintenance of Records Rules, 2005 with procedure + also manner (both) may be specified by regulator from time to time.*
- (ii) *REs are required to evolve internal mechanism for maintaining information's in required forms + manners + also at required intervals (all) may be specified by regulator from time to time.*
- (iii) *REs + its designated directors + officers + employees are required to observe procedure + also manner (all) for maintaining information's specified by regulator under rule 5(1) of Maintenance of Records Rules, 2005*

319. For furnishing information's (R-7)

- (i) *REs are required to communicate its director's name + designation + also address of principal officer (all)*
- (ii) (a) *Principal Officers are required to furnish information's referred under rule 3 (1) (A) + (B) + (BA) + (C) + (D) of Maintenance of Records Rules, 2005 to ED based on information's available with REs.*
(b) *Also Principal Officers are required to retain information's copy for official records.*
- (iii) (a) *REs are required to evolve internal mechanism against guidelines issued by ED for detecting transactions referred under rule 3 (1) (A) + (B) + (BA) + (C) + (D) of Maintenance of Records Rules, 2005*
(b) *Also REs are required to furnish information's for transactions in form may be required by ED.*
- (iv) *REs + its designated directors + officers + employees required to observe procedure + also manner (all) for furnishing information's specified by director.*

320. For furnishing information's (R-8)

- (i) *REs' principal officers are required to furnish information's for transactions referred under rule 3(1) (A) + (B) + (BA) + (C) + (E) of Maintenance of Records Rules, 2005 every month to ED up to 15th day of succeeding month.*
- (ii) *REs' principal officers are required to furnish information's quickly in writing through fax or electronic mail to ED for ST referred under rule 3(1)(D) of Maintenance of Records Rules, 2005*
- (iii) *REs' principal officers are required to furnish information's for transactions referred under clause 3(1)(F) of Maintenance of Records Rules, 2005 up to 15th day of month succeeding quarter.*

- (iv) *REs are liable to be penalized for violation against not reporting of transactions or delay for rectifying mis-reported transaction beyond time limit.*
- (v) *REs + designated directors + officers + employees are required to ensure facts for maintenance of records referred under rule 3 + also furnishing of information's to ED (all) are kept confidential.*

321. For due diligence (R-9(1))

- (i) *REs are required to perform clients due diligence at time of commencement of account or carrying transaction exceeding INR 50 thousands to be conducted singly or through several transactions or transferring money outside India (any) like:*
 - (a) *To identify its clients + to verify their identity using reliable + independent sources of identification + to obtain information on purpose + also intended nature of business relationship (all) whenever is applicable*
 - (b) *To take reasonable steps to understand nature of client's business + its ownership + also control (all)*
 - (c) *To determine whether client is acting on behalf of Beneficial Owner (BO) + to identify BO + also to take 100% steps to verify identity of BO using reliable independent sources of identification (all)*
- (ii) *Regulator is permitted to allow RE to complete verification soon reasonably practically possible based on relationship without interrupting normal conduct of business against expected money laundering + also TF (both) are involved*
- (iii) (a) *Regulator is permitted to allow RE to perform due diligence in accordance to jurisdiction located outside India*
- (b) *Also RE is not required to obey rule 9(3) of Maintenance of Records Rules, 2005 when client is subscribing or dealing with Depository Receipts (DRs) or equity shares of company incorporated in India*

But

- (c) *Abovementioned DR or equity is issued or listed in jurisdictions located outside India + also duly notified by govt. (both)*
- (d) *Also client is acting on behalf of BO who is resident of jurisdiction located outside India.*

- *Equity shares*

To include equity shares of company + also equity shares capital (both) have same meaning assigned to it in explanation to section 43 of CA, 2013 (18 of 2013)."

322. For 3rd party due diligence (R-9(2))

- *RE is permitted to rely client's 3rd party due diligence after satisfying certain conditions like:*
 - (i) *When RE has obtained due diligence from 3rd party or from Central KYC Records Registry (CKRR) any*
 - (ii) *When RE has taken adequate steps to satisfy with identification data's copies + also other relevant documentation (both) for client's due diligence is available from 3rd party based on request.*
 - (iii) *When RE has satisfied that 3rd party is regulated or supervised or monitored (any) for compliances with client's due diligence + record-keeping in accordance with requirements + also obligations (all) under PMLA, 2002.*
 - (iv) *When 3rd party is not located outside India in country or jurisdiction which is assessed high risk by Regulator.*
 - (v) *When RE is ultimately responsible for client due diligence + also undertaking for enhanced applicable due diligence measures (both)*
 - (vi) *When RE has relied on 3rd party who is part of same financial group where Regulator may issue guidelines to consider any relaxation for applicable conditions under abovementioned (i) to (iv).*

323. For company's Beneficial Owner (BO) (R-9(3))

- (i) *BO to include natural person who is acting alone or together or through 1 or more than 1 juridical person*
- (ii) *Also controlling ownership interest or who is exercising control through other means (any).*

324. For company's controlling interest (R-9(3))

- *Controlling ownership interest to include ownership or entitlement is exceeding 10% of equity shares or capital or profits of company (any)*

325. For company's control (R-9(3))

- *Control to include right to appoint majority of directors or to control management or policy decisions based on their shareholding or management rights or shareholders agreements or voting agreements (any)*

326. For partnership's BO (R-9(3))

- (i) *To include natural person as BO who is acting alone or together or through 1 or more than 1 juridical person*
- (ii) *Also have ownership or entitlement is exceeding 10% of partner's capital or profits of partnership or who is exercising control through other means (any).*

327. For BOIs' BO (R-9(3))

- (i) *To include natural person as BO who is acting alone or together or through 1 or more than 1 juridical person*
- (ii) *Also have ownership or entitlement which is exceeding 15% of property or capital or profits of unincorporated association or Body of Individuals (BoIs) or who is exercising control through other means (any).*
- (iii) *Senior managing official is to be treated BO when natural person is not identified under abovementioned FAQ No. 323 + 326 + 327 = 3 FAQs*

328. For trusts' BO (R-9(3))

(i) *To include natural person as BO who is acting alone or together or through 1 or more than 1 juridical person being author of trust or trustee or beneficiary who is having minimum 10% interest in trust*

Or

(ii) *To include other natural person who is exercising ultimate effective control over trust through chain of control or ownership (any)*

329. For listed company's BO (R-9(3))

- *BO's identity is not required in certain circumstances like:*

(i) *When client or owner is holding controlling interest in entity listed in stock exchange in India*

(ii) *When listed entity is resident in jurisdiction located outside India + also location is notified by govt. (both)*

(iii) *When entity is listed in stock exchange in same jurisdiction located outside India*

(iv) *When subsidiary is of abovementioned listed entity*

330. For individual's identity (R-9(4))

- *Aadhaar number is to be submitted by individual in certain circumstances like:*

(i) *When he is desirous of receiving benefit or subsidy under any scheme notified by govt.*

(ii) *When he decides to submit his Aadhaar number voluntarily to banking company or to RE notified under section 11A(1)(i) of PMLA, 2002*

(iii) *When proof for possession of Aadhaar number is not possible through offline verification*

(iv) *When proof for officially valid document or equivalent to e-document containing details of his identity + also address (both) are not available.*

- (v) When Permanent Account Number (PAN) or equivalent to e-document or Form No. 60 defined in Income-Tax Rules (ITR) 1962 is not available
- (vi) When other documents for nature of business + also financial status of client or equivalent e-document as required by RE (both) are not available

331. For Small bank account's identity (R-9(5))

- RE is permitted to open small bank account against production of self attested photograph + affixation of signature or thumb print when other documents for due diligence like Aadhar number + also etc. (all) are not available with individual after satisfaction of certain conditions like:
 - (i) (a) When Designated Officer (DO) of bank has certified that person opening account has affixed his signature or thumb print (any) in his presence
 - (b) When Officer in-charge of jail has certified that person opening account has affixed his signature or thumb print (any) in his presence where individual is in jail
 - (ii) (a) When Small bank account is opened at Core Banking Solution (CBS) linked banking company branches or in branch where it's possible to manually monitor
 - (b) When foreign remittances are not credited to small bank account
 - (c) When stipulated limits for month + also annual aggregate of transactions (both) are not crossed
 - (d) When balance in small bank account is not crossed limit before next transaction is allowed.
 - (iii) (a) When Small bank account is to be operated initially for 12 months
 - (b) When further operation in small bank account after 12 months is to be provided once account holder has provided due diligence to banking company

- (iv) *Small bank account initially was in operation from April 01, 2020 to June 30, 2020 (3 months) thereafter further extension has been notified by govt.*
- (v) *Banking company is required to monitor small bank account when there is suspicion for money laundering or financing of terrorism or other high risk scenarios (any) thereafter client's identity is to be established under rule 9(4) of Maintenance of Records Rules, 2005*
- (vi) *Banking company is not permitted for credit against foreign remittance in small bank account until client's identity is established under rule 9(4) of Maintenance of Records Rules, 2005*

332. For company's identity (R-9(6))

- *RE permitted to ask to furnish 1 certified copy for certain documents like:*
 - (i) *Company's Certificate of Incorporation (CoI)*
 - (ii) *Company's Memorandum and Articles of Association (MOA)*
 - (iii) *Company's Permanent Account Number (PAN)*
 - (iv) *Company's resolution from Board of Directors (BoDs) + Power of Attorney (PoA) granted to its managers or officers or employees (any) company's behalf*
 - (v) *Company's documents for certain individual like:*
 - (a) *Company's BO*
 - (b) *Company's manager*
 - (c) *Company's employees*
 - *Those are holding PoA on behalf of company*
 - (vi) *Company's names for persons those holding senior management positions*
 - (vii) *Company's Registered Office (RO) + also principal place of business (both) when these are different.*

333. For partnership's identity (R-9(7))

- RE permitted to ask to furnish 1 certified copy for certain documents like:
 - (i) Partnership firm's Certificate of Registration (CoR)
 - (ii) Partnership firm's partnership deed
 - (iii) Partnership firm's PAN
 - (iv) Partnership firm's documents for certain individuals like:
 - (a) Partnership firm's BO
 - (b) Partnership firm's manager
 - (c) Partnership firm's officers
 - (d) Partnership firm's employees
- Those are holding PoA on behalf of partnership firm
 - (v) Partnership firms partners' name + also addresses (both)
 - (vi) Partnership firm's RO + also principal place of business (both) when these are different.

334. For trust's identity (R-9(8))

- RE permitted to ask to furnish 1 certified copy for certain documents like:
 - (i) Trust's Certificate of Registration (CoR)
 - (ii) Trust's trust deed
 - (iii) Trust's PAN
 - (iv) Trust's Form No.60
 - (v) Trust's documents for certain individuals like:
 - (a) Trust's BO
 - (b) Trust's managers
 - (c) Trust's officers
 - (d) Trust's employees

- *Those are holding PoA on behalf of trusts*
 - (e) *Trust's beneficiaries + trustees + settlers + authors + protectors, if any names + also addresses (all)*
 - (vi) *Trust's RO + also principal place of business (both) when these are different.*
 - (vii) *List of trustees + documents for individuals those are discharging role trustee + also authorized to transact on behalf of trust (all)*

335. For BoI's (R-9(9))

- *RE permitted to ask to furnish 1 certified copy for certain documents:*
 - (i) *Unincorporated + also BoI's (both) managing body's resolution*
 - (ii) *Unincorporated + also BoI's (both) PoA granted to him to transact on its behalf*
 - (iii) *Unincorporated + also BoI's (both) PAN or Form No.60*
 - (iv) *Unincorporated + also BoI's (both) documents for certain individuals like:*
 - (a) *Unincorporated + also BoI's (both) BO*
 - (b) *Unincorporated + also BoI's (both) managers*
 - (c) *Unincorporated + also BoI's (both) officers*
 - (d) *Unincorporated + also BoI's (both) employees*
- *Those are holding PoA on behalf of Unincorporated + also BoI's (both)*

336. For Non Profit Organization's (NPO's) (R-9(9A))

- *RE permitted to ask to furnish 1 certified copy for NPO's registration on DARPAN Portal of NITI Aayog*

337. For updating documents (R-9(9B))

- *Clients are required to update against already submitted documents to RE under rule 9(4) + (5) + (6) + (7) + (8) + (9) of Maintenance of Record Rules, 2005 within 30 days from updation date*

338. For verifying identity (R-9(10))

- (i) *RE is permitted for verifying authorized person's identity those are acting on behalf of judicial person or individual or trust (any).*
- (ii) *Also RE is permitted to ensure that trustees have already disclosed their status at time of commencement of account based on relationship or when carrying transaction specified under rule 9(1)(b) of Maintenance of Records Rules, 2005*

339. For identifying fictitious accounts (R-9(11))

- *RE is not permitted to allow for opening or keeping anonymous account or fictitious names' accounts or on behalf of other persons' accounts (any) when identity have not been disclosed + also can't be verified (both).*

340. For ongoing due diligence (R-9(12))

- (i) (a) *REs are required for exercising ongoing due diligence about business relationship with clients*
 - (b) *Also REs required for closely examining transactions to ensure consistency in accordance with RE's knowledge of his client*
 - (c) *Also REs required for exercising ongoing due diligence on client's business + risk profile + also source of funds if necessary (all)*
- (ii) (a) *RE is required to review due diligence measures*
 - (b) *Also required to re-verify client's identity*
 - (c) *Also required to obtain information's about intended nature of business relationship*
- *Abovementioned RE's role for exercising ongoing due diligence is required against suspicions money laundering or financing of activities for terrorism or doubts for adequacy or veracity of previously obtained client identification data (any)*

(iii) REs are required to carry clients' due diligence measures for new clients + old clients based on materiality + risk + existing relationships at appropriate times or may be specified by Regulator in accordance to last clients' due diligence measures undertaken + adequacy of data obtained like information or data already collected under clients' due diligence is kept till date + also relevant specifically when high risk is involved (all)

341. For MLOs assessment (R-9(13))

- (i) REs are required to carry risk assessment to identify + to assess + to take effective measures to mitigate money laundering + TF risk for clients or countries or geographic area + products + services + also transactions or delivery channels to ensure consistency with national risk assessment already conducted by body or authority duly notified by govt. (all)
- (ii) Risk assessment mentioned under clause (i) of FAQ 341 be followed certain things like:
 - (a) Risk assessment is to be documented
 - (b) Risk assessment is to be considered for 100% relevant risk factors before determining level for overall risk + appropriate level + also type of mitigation to be applied (all)
 - (c) Risk assessment is to be kept up to date
 - (d) Risk assessment is to be available to competent authorities + also self-regulating bodies (both).

342. For due diligence (R-9(14))

- (i) Regulator is required to issue guidelines for incorporating requirements of rules 9(1) to (13) + (15) + (17) of Maintenance of Records Rules, 2005
- (ii) Also Regulator is permitted to prescribe enhanced or simplified measures to verify client's identity based on type of client + business relationship + nature + value of transactions for money laundering + also TF risks involved (all).

- *Simplified measures are not acceptable for suspicion against money laundering or TF or specific higher-risk scenarios or risk identified which is not consistent with national risk assessment.*

343. For due diligence guidelines (R-9(14))

- (i) *Regulator is permitted to issue guidelines for exemptions + limitations + conditions + alternate + also viable means of identification to provide account based services to clients (all) those are unable to undergo biometric authentications*
- (ii) *Regulator is permitted to issue guidelines for relaxation against accounts continued operation services to clients those are unable to provide PAN or Form No. 60 (any)*
- (iii) *Regulator is permitted to issue guidelines for exemption + limitations + conditions + alternate + also viable means of identification to provide account based services to client (all) those are unable to undergo Aadhaar authentication for receiving benefit or subsidy under scheme notified by govt. under Aadhaar (Targeted Delivery of Financial and Other subsidies, Benefits and Services) Act, 2016 (18 of 2016) owing to injury or illness or infirmity against old age or otherwise (any).*
- (iv) *Regulator is permitted to issue guidelines for countermeasures to be undertaken when required by international or intergovernmental organization (any) where India is member + also accepted by govt. (both).*
- (v) *REs are required to formulate + also to implement Clients' Due Diligence Programme incorporating requirements of rules 9(1) to (13) + (15) + (17) + (23) (both)*
- (vi) *REs are required Clients' Due Diligence programme to incorporate money laundering + TF risks + size of business + policies + controls + procedures duly approved by RE's senior management to manage + also to mitigate risk to be identified by RE or through national risk assessment (all)*

344. For Aadhar authentications (R-9(15))

- (i) *REs are required to carry clients' Aadhaar number authentication using e-KYC authentication facility provided by UIAI*
- (ii) *REs are required to carry clients' Aadhaar number authentication using offline verification when online verification is not possible.*
- (iii) *REs are required to carry clients' e-documents authentication using facility available under Information Technology Act (ITA) 2000 (21 of 2000) + rules issues there under + also to take specified live photo (all)*
- (iv) *REs are required to carry clients' valid documents using digital KYC specified when offline verification is not possible.*
- *REs are required to obtain certified copy comparing proofs copy in possession of Aadhaar number when offline verification is not possible*

345. For Aadhar not required (R-9(16))

- *REs are required to ensure that client has not deleted Aadhar number through appropriate means when Aadhaar number's authentication is not required under rule 9(15) of Maintenance of Records Rules, 2005.*

346. For stopping account's operations (R-9(17))

- (i) *REs are permitted for temporarily ceasing operations of client's account when PAN or equivalent e-document or Form No. 60 (any) not submitted by client.*
- (ii) *REs are required to give proper notice + also reasonable opportunity of being heard (both) to client before temporarily ceasing operations of client's account*
- (iii) *REs are required to allow appropriate settlement after establishing client's identity in manner determined by Regulator when client give in writing that he don't wish to submit his PAN or equivalent e-document or Form No. 60 (any)*

347. For furnishing valid document (R-9(18))

- *Client is required to submit certain equivalent e-documents when officially valid document furnished by him to RE not containing updated address like:*
 - (i) *Utility bills not exceeding 2 months old from utility service provider like*
 - (a) *Electricity bill*
 - (b) *Telephone bill*
 - (c) *Post-paid mobile phone bill*
 - (d) *Piped bill*
 - (e) *Water bill*
 - (ii) *Property or Municipal tax receipt (any)*
 - (iii) *Pension or Family Pension Payment Orders (FPPOs) issued to retired employees by govt. departments or Public Sector Undertakings (PSUs) when PPOs are containing address*
 - (iv) (a) *Letter for allotment of accommodation received from certain employers like State govt. or Central govt. Departments or statutory or regulatory bodies or PSUs or scheduled commercial banks or financial institutions or listed companies (any)*
(b) *Also employees are to be submitted certain documents along with abovementioned letter for allotment like leave + license agreements (both) with employers for allotting official accommodation*
 - (v) *Client is required to submit updated officially valid document or equivalent e-documents with current address within 3 months from submitting of abovementioned documents.*

348. For address's self declarations (R-9(19))

- *Client is required to give self declaration to RE when Aadhar number provided for identification is different from current address*

349. For Central KYC Records Registry (CKRR) (R-9A(1))

- (i) *Govt. has setup CKRR within 180 days from date of commencement (Maintenance of Records) Amendment Rules, 2015 for receiving + storing + safeguarding + also retrieving electronic copies of KYC records (all) obtained from clients by REs.*
- (ii) *International Financial Services Centre (IFSC) is not required for receiving + storing + safeguarding + also retrieving of KYC records (all) from foreign nation clients.*

350. For CKRR's functions + obligations (R-9A(2))

- (i) *CKRR is required to follow 100% operating instructions issued by Regulator consisting guidelines referred in clause (vii) of FAQ 350 + also issued for implementing rules' requirements*
- (ii) *CKRR is responsible for storing + safeguarding + retrieving KYC records + making records to be available online to REs + also ED (all)*
- (iii)
 - (a) *CKRR is required to take 100% precautions necessary to ensure that electronic copies of KYC records are not lost or destroyed or tampered (any)*
 - (b) *Also CKRR is required to ensure that sufficient back up of electronic records are available all times at alternative safe + also secure place (both)*
- (iv) *CKRR is required to have annual audit of its controls + systems + procedures + safeguards + also to undertake corrective actions (all) for deficiencies if any*
- (v) *CKRR is required to provide information's to REs (only) those are registered with it against payment of fees prescribed by Regulator.*
- (vi)
 - (a) *CKRR is required to appoint compliance officer to be responsible for monitoring compliances of PMLA, 2002 + Maintenance and Record Rules, 2005 + notifications issued + guidelines + instructions issued by govt. + by RBI + also for redressal of client's grievances (all)*

- (b) *Also compliance officer is required immediately + also independently (both) to report govt. for non-compliance observed by him*
- (vii) *Regulator is permitted to issue guidelines to be followed by RE for filling KYC records with CKRR or in other matter (any) in consultation by govt. + also CKRR (both)*
- (viii) *Govt. is permitted to issue notification in public interest + also in RE's interest (both) in consultation with Regulator like:*
 - (a) *That CKRR is not to apply to class or classes of regulated entities (any)*
 - (b) *That CKRR is to apply to class or classes of regulated entities with certain exceptions + modifications + also adaptations (all) specified in abovementioned notification.*

351. For Reserve Bank of India (RBI) inspections (R-9B)

- (i) *RBI is permitted to review CKRR's functions referred under rule 9A through calling information's or statements or other particulars or to carry inspection (any)*
- (ii) *RBI is required to supply review report's copy to CKRR*
- (iii) *CKRR's director or officer or employee is required to produce books + accounts + also etc. (all) before officer who is carrying inspection referred under rule 9(B)(i) of Maintenance of Records Rules, 2005.*
- (iv) *CKRR is required to produce books + accounts + other documents available in custody with statement + also information's about CKRR's affairs (all).*
- (v) *RBI's expenses are to be borne by CKRR for inspection referred under rule 9(B)(1) of Maintenance of Records Rules, 2005.*

352. For identifications' records (R-10)

- (i) *REs are required to maintain records for clients' identity already obtained under rule 9 + also 10 (both) of Maintenance of Records Rules, 2005 after filing electronic copy records with CKRR.*

- (ii) *REs are required to maintain records for clients' identity specified by regulator from time to time.*
- (iii) (a) *REs are required to maintain identity's records for existing clients within time specified by regulator when these records are not available*

Or

(b) *REs are permitted to close clients' accounts after giving due notice when records are not submitted by existing clients.*

353. For identity record's maintenance (R-10)

- *REs are required to maintain record's identity like updated records for identifications' data + account files + business correspondence + result for analysis undertaken if any under rule 3 + also rule 9 (all) of Maintenance of Records Rules, 2005.*

354. For furnishing report (R-10A)

- (i) *REs are required to furnish reports for measures taken to ED every month up to 10th of succeeding month*
- (ii) *ED is permitted to relax time interval referred under rule 10(A)(1) based on specific request received from REs with reasonable reasons made like from every month to every quarter up to 10th of succeeding quarter*

355. For audit expenses' reimbursement (R-10B)

- (i) *REs are required to reimburse expenses against audit by CA like:*
 - (a) *Chartered Accountant's (CA's) remuneration*
 - (b) *Qualified assistants' remuneration*
 - (c) *Semi-Qualified assistants' remuneration*
 - (d) *Other assistants' remuneration*
- (ii) *Abovementioned remunerations are to be paid by REs in accordance with amount referred under rule 14B(2) of Income Tax Rules (ITR), 1962 on hourly basis specified by ED.*

- (iii) *Period referred under rule 14B(1) specified in number of hours required for completing audit report.*
- (iv) *Chartered Accountant referred under section 13(1A) of PMLA, 2002 is required to maintain time sheet + also to submit to ED along with bill (both).*
- (v) *ED is required to ensure that number of claimed hours for billing is commensurate with size + also report's quality submitted by CA (both).*

356. For interpretation (R-11)

- (i) *100% questions for interpretation about these rules shall be referred to govt.*
- (ii) *Also govt.'s decision shall be final.*

357. For Digital KYC Process (Annexure-1)

- (i) (a) *REs are required to develop system for digital KYC process*
- (b) *Also REs are required to available at customers' points for undertaking KYC through authenticated application.*
- (ii) (a) *REs are required to have access for application*
- (b) *Also REs are required to ensure that application not to be used by unauthorized persons*
- (c) *Also application shall be accessed (only) through login-id + password or Live OTP or Time OTP controlled mechanism (any) given by REs to authorized officials*
- (iii) (a) *Client is required to visit RE authorized official's location or vice-versa*
- (b) *Also original Officially Valid Document (OVD) shall be in client's possession*
- (iv) (a) *REs are required to ensure that client's live photograph be undertaken by authorized officer + embedded in Customer Application Form (CAF) both*
- (b) *Also REs system application is required to have water-mark in readable form with CAF number*

- (c) *Also GPS co-ordinations is needed for authorized person's name + RE's unique employee code + Date (DD:MM:YYYY) + also time stamp (HH:MM:SS) on captured client's live photograph (all)*
- (v)
 - (a) *REs application shall have feature to capture clients' live photograph (only)*
 - (b) *Also clients' printed or video-graphed photograph (both) shall not capture.*
 - (c) *Also background should be white color behind client for capturing live photograph*
 - (d) *Also other person shall not come into frame for capturing clients' live photograph.*
- (vi) *REs application shall have live photograph of original OVD or proof of possession of Aadhar (any) when offline verification can't be carried*
- (vii) *Clients' live photograph + his original documents shall be captured in proper light to enable readable + also identifiable (all).*
- (viii)
 - (a) *REs are required to fill 100% entries in CAF in accordance with documents + also information's furnished by client (both) .*
 - (b) *REs are required to auto-populate by scanning Quick Response (QR) code instead of manual filling details.*
- (ix) *REs are required to send One Time Password (OTP) message to verify details filed in form after abovementioned process is completed*
- (x) *RE's authorized officer is required to provide declaration for capturing client's live photograph + also original documents (both)*
- (xi) *RE's authorized officer shall check + also verify (both) certain things like:*
 - (a) *Information's available in picture of document is matching with information's entered by authorized officer in CAF.*
 - (b) *Clients' live photograph is matches with photo available in document*

- (c) *100% necessary details in CAF + also mandatory details (both) are properly filled.*
- (xii) (a) *RE's authorized representative is required to digitally sign after CAF's successful verification*
 - (b) *Also to take CAF's print*
 - (c) *Also to get clients' signatures or thumb impression (any) at appropriate place*
 - (d) *Also to scan + also to upload (both) in system*
 - (e) *Also original hard copy shall be returned to client.*

(I) Meaning for PMLA (Manner of receiving records authenticated outside India) Rules, 2005

358. For Introduction

- *Govt. has made rules for manner of receiving records authenticated outside India Rules, 2005 in exercise of power conferred under section 73(1) read with 73(2)(q) of PMLA*

359. For record (R-2(b))

- *To include record received in any form from any place located outside India + also authenticated in manner specified in these rules (both)*

360. For foreign records' authentication (R- 3)

- *100% records received from any place located outside India under section 22(2) of PMLA, 2002 shall be deemed authenticated like:*
 - (i) *When received from authority designated under agreement or treaty entered between govt. and govt. of country located outside India for EoIs or investigations (any) against cases for offence assigned under PMLA, 2002.*
 - (ii) (a) *Abovementioned documents shall have affixed or impressed or submitted or seal + signature of authorized person (any) under section 3 of Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948)*
 - (b) *Also notarial act shall be deemed to be duly authenticated for purposes assigned under section 22(2) of PMLA, 2002.*

(J) Meaning for PMLA (Forms + search + seizure or freezing + etc.) Rules, 2005

361. For Introduction

- *Govt. has made rules for forms + search + seizure or freezing + manner for forwarding reasons' copy + material relating to search + seizure + search of person by AA + impounding + custody of records + also retention's period (all) in exercise of power conferred under section 73(1) read with 73(2) (a)+(m)+(n)+(o)+(pp)+(w) of PMLA, 2002*

362. For Authority (R-2(1)(c))

- (i) *To include authority like ED director's subordinate officer + also authorized by him (both) assigned under section 17(1A) or 17(2) of PMLA, 2002*
Or
- (ii) *Authority authorized by govt. assigned under section 18(1) of PMLA, 2002*

363. For ED's Director / Additional / Joint / deputy director (R-2(1)(g))

- *ED's Director or Additional Director or Joint Director or Deputy Director or Assistant Director (any) appointed by govt. under section 49(1) of PMLA, 2002 required under section 50(5) of PMLA, 2002.*

364. For Impounding authority (R-2(1)(i))

- *Impounding authority to include ED's Director or Additional Director or Joint Director or Deputy Director or Assistant Director (any) appointed by govt. under section 49(1) of PMLA, 2002 required under section 50(5) of PMLA, 2002*

365. For Material (R-2(1)(j))

- (i) *To include material in authority's possession referred under rule 2(1)(c) of PMLA Rules, 2005 after search completed + also seizure or freezing is exercised under section 17(1) of PMLA, 2002 (both)*

- (ii) *Also when report is forwarded to magistrate by authority under section 157 of CCP, 1973 (2 of 1974)*
- (iii) *When complaint is filed before Magistrate or Court (any) by authority to investigate against 1 out of 29 scheduled offences for taking cognizance of scheduled offence*
- (iv) *When report is not required to forward*
- (v) *When similar report is received or otherwise submitted by authority to investigate 1 out of 29 scheduled offences by officer not below rank of additional secretary of govt. or equivalent being head of office or Ministry or Department or Unit or other officer who is authorized by govt. (any)*

366. For Material (R-2(1)(k))

- (i) *To include material is in authority's possession referred under rule 2(1)(c) of PMLA Rules, 2005 after search completed + seizure or freezing is exercised under section 18(1) of PMLA, 2002*
- (ii) *Also when report is forwarded to magistrate under section 173 of CCP 1973 (2 of 1974)*
- (iii) *When complaint is filed before Magistrate or Court (any) by authority to investigate against 1 out of 29 scheduled offences for taking cognizance of scheduled offence*
- (iv) *When report is not required to forward*
Or
- (v) *When similar report is received or otherwise submitted by authority to investigate 1 out of 29 scheduled offences by officer not below rank of additional secretary of govt. or equivalent being head of office or Ministry or Department or Unit or other officer who is authorized by govt. (any)*

367. For Place (R-2(1)(l))

- (i) *To include main place where act for MLO is carried*
- (ii) *Also other place where MLO's accused person has stated that his record or part of his property (any) for MLO act is kept*

368. For Record (R-2(1)(m))

- *To include record maintained in form of books or stored in computers or tapes or discs or other electronic form or transcribed information's in ordinary language or other language or other documents is useful for these rules (any)*

369. For Summoning officer (R-2(1)(p))

- *To include summoning officer who has power to summon any person under section 50(2) of PMLA, 2002.*

370. For conducting search (R-3(1))

- *When authority is conducting search through authorization Form-1*

371. For authority's powers (R-3(2))

- *Authority referred under rule 2(1)(c) is permitted to do certain actions or activities like:*
 - (i) *To enter + to search building or place or vessel or vehicle or aircraft (any) when authority has reason to suspect that records or crimes' proceeds are kept.*
 - (ii) *To break open lock of door or box or locker or safe or almirah or other receptacle (any) for exercising powers conferred under clause 3(2)(a) of PMLA Rules, 2005 when keys are not available.*
 - (iii) *To seize record or property found (any) during search.*
 - (iv) *To place marks of identification on records or take extracts or copies (any).*
 - (v) *To make note on inventory for record or property (any)*

- (vi) *To examine on oath of any person who is found in possession or control of record or property (any) for relevant against investigation under PMLA, 2002.*
- *Authority is not permitted for conducting search under section 17(1) of PMLA, 2002 when report is not forwarded to Magistrate under section 157 of CCP, 1973 (2 of 1974) or complaint is not filed before Magistrate or court by authority to investigate 1 out of 29 scheduled offences + also for taking cognizance (both).*

372. For authority's duties (R-3(3))

- (i) *Authority is required to call minimum 2 or more than 2 respectable persons from locality where building or place (any) to be searched is situated before commencing search*
- (ii) *Also authority is required to call minimum 2 or more than 2 respectable persons to attend + to witness search + also to issue order in writing to do so (all) where vessel or aircraft (any) to be searched is located before commencing search.*

373. For searched person's duties (R-3(4))

- *Searched person is required to allow 100% supports to authority + also to provide 100% reasonable facilities for conducting search after viewing authorization letter from him (both).*

374. For search with police assistance (R-3(5))

- *Authorities are lawfully permitted to take assistance from police officer or other officer (any) specified in section 54 of PMLA, 2002 when entry in building or place is not possible after showing authorization letter.*

375. For search place occupied by women (R-3(5))

- *Authority is required to give notice to women for withdrawing from place of his stay with liberty + also to provide reasonable facility for withdrawing (both) when apartment is occupied by women*

376. For search while vessel moving (R-3(6))

- *Authority is permitted to take assistance from police officer or other officer (any) specified in section 54 of PMLA, 2002 to stop vessel or vehicle or aircraft from moving for searching after showing authorization letter.*

377. For requiring owner or occupier (R-3(7))

- (i) *Authority is permitted for requiring owner or person (occupier) who is in immediate possession or control of box or locker or safe or almirah or other storage situated in building or place or vessel or vehicle or aircraft for opening + also to allow access to inspect or to examine its contents (any)*
- (ii) *Also Authority is permitted to break lock of box or locker or safe or almirah or other storage (any) when authority considered necessary for carrying search*

378. For searched person's rights (R-3(8))

- *Searched person is permitted to attend during search of building or place or vessel or vehicle or aircraft (any) being searched*

379. For procedure to be followed (R-4(1))

- *Authority is permitted for seizure of record or property found during search of building or place or vessel or vehicle or aircraft (any)*

380. For freezing (R-4(1A))

- (i) *Authority is permitted for freezing of record or property found during search of building or place or vessel or vehicle or aircraft (any) when not possible to seize.*
- (ii) *Searched person is not permitted for transferring or dealing except with prior authority's permission who has made order for freezing.*

381. For seizure memo (R-4(2))

- (i) Authority is required to prepare seizure memo (inventory of items) in Form II
- (ii) Authority is required to deliver seizure memo to occupant of searched building or place or vessel or vehicle or aircraft + also to person in charge of vessel or vehicle or aircraft (both)
- (iii) Authority is required to forward seizure memo's copy to ED + also to AA (both)

382. For seized records (R-4(3))

- (i) Authority is required to keep records in packet for movable property like bullion + jewellery + other valuable article + also other things (all) seized during search
- (ii) Also authority is required to mark identification + to put authority's seal + name of occupant of building or place or vehicle or aircraft + also name of person in charge of seized vehicle or aircraft (all)

383. For delivering list (R-4(4))

- (i) Authority is required to deliver list prepared under rule 4(3) of PMLA Rule, 2005 to occupant of building or place or vehicle or aircraft + also to person in charge of vessel or vehicle or aircraft (both)
- (ii) Authority is required to deliver list prepared under rule 4(3) of PMLA Rule, 2005 to ED + also to AA (both)

384. For Code of Criminal Procedure, 1973 (R-5)

- (i) 100% provisions of CCP, 1973 shall be applicable for search and seizure conducted under PMLA, 2002
But
- (ii) 100% provisions of CCP, 1973 shall not be applicable when existing provisions for search and seizure under PMLA, 2002 are different.

385. For records' impounding (R-6(1))

- (i) *Impounding authority is permitted to impound any record produced before him during proceedings under PMLA, 2002*
- (ii) (a) *Deputy director or Assistant director being impounding authority is not permitted to impound any record produced before him during proceedings under PMLA, 2002*
But
(b) *Permitted with recording reasons in writing + also to forward to ED for permission (both).*

386. For impounding with police assistance (R-6(2))

- *Impounding authority is permitted to take assistance from police or officer of Central govt. or both when considered necessary under section 54 of PMLA, 2002 during records' impounding under section 50(5) of PMLA, 2002.*

387. For impounding by non-director (R-6(3))

- (i) *Impounding authority being director is required to prepare inventory for impounded goods in duplicate (2 copies).*
- (ii) *Also impounding authority being non director is required to prepare inventory for impounded goods in triplicate (3 copies).*

388. For signing inventory's records (R-6(4))

- (i) *100% pages of inventory's records shall be signed by impounding authority + also by MLO's accused person (both)*
- (ii) *Also impounding authority is required to record for refusal when MLO's accused person refused to sign*

389. For forwarding inventory's records (R-6(5))

- (i) *Impounding authority is required to forward 1 copy to ED + also to keep 1 copy with him (both)*

(ii) *Impounding authority other than director is required to forward 1 copy to accused person + 1 copy to ED + also to keep 1 copy with him (all)*

390. For taking director's approval (R-6(6))

- *Impounding authority other than director is required to take ED's prior approval in writing to return back impounded records when records are no longer useful + also relevant (both) for further proceedings under PMLA, 2002.*

391. For records' custody (R-7)

(i) *Impounding authority is permitted to retain records' custody when impounded under section 50(5) of PMLA, 2002.*

But

(ii) *Impounding authority being Deputy director or Assistant director (any) is not permitted to retain records' custody when impounded under section 50(5) of PMLA, 2002 without taking prior ED's approval in writing.*

392. For forwarding reasons (R-8)

(i) *Authority is required to prepare index for reasons recorded' copy + material in his possession + to sign 100% index's pages + to write forwarding letter to AA + also to put in sealed envelope (all) for search and seizure or freezing under following sections:*

- (a) *Search and seizure or freezing under section 17(2)*
- (b) *Search and seizure or freezing under section 17(1A)*
- (c) *Search and seizure or freezing under section 18(2)*
- (d) *Search and seizure or freezing under section 20(2)*

(ii) *Authority is required to place acknowledgement slip in Form III attached vide our FAQ no. 399 inside envelope before sealing it.*

(iii) *Authority is required to indicate reference number + also dispatch' date (both) on sealed envelope.*

- (iv) Authority is required to mark Confidential + to be opened by addressee (only) + to write complete address of AA + also name of AA (all) shall be mentioned on sealed envelope with official seal.
- (v) Authority is required to put sealed envelope inside outer envelope + also to place acknowledgement slip in Form IV attached vide our FAQ No. 400 (both).
- (vi) Authority is required to seal + to mark confidential + also AA's complete address (all) on sealed outer envelope.
- (vii) Authority is required to maintain register + also other records (both) like:
 - (a) Acknowledgement slip register
 - (b) Dak register
- (viii) Authority is required to ensure that 100% necessary entries are made in abovementioned register before forwarding to AA like copy of reason + also material in possession (both).

393. For acknowledging reasons (R-9)

- (i) (a) AA is required to acknowledge for receipt of copy of reason + material for search and seizure or freezing + searched to person after receipt of outer sealed envelope + also Form IV (all)
 - (b) Also AA is required to forward Form IV duly filed + signed + also written AA's name below his signature (all)
 - (c) Also to affix AA's seal before forwarding Form IV to authority being token of sealed envelope's receipts
- (ii) (a) AA is required to forward to authority Form III duly filed + signed + also written AA's name below his signatures (all) after opening sealed envelope
 - (b) Also to affix AA's seal before forwarding Form III to authority being token of sealed envelope's receipt + copy of reasons + also material (all)

- (iii) AA is required to maintain register + also other records (both) like:
 - (a) Acknowledgement slip register
 - (b) Dak register
 - (c) Details of receipt register for copy of reasons with material (both)

394. For retention's time limit (R-10)

- AA is permitted to retain reasons' copy + material for search and seizure + also persons' searches (all) not exceeding for 10 years or till disposal of certain proceedings whichever is later like:
 - (i) Till disposal of proceedings which have been commenced under section 8 of PMLA, 2002
 - (ii) Till disposal of appeal which have been preferred to AT under section 26 of PMLA, 2002
 - (iii) Till disposal of appeal which have been filed in high court under section 42 of PMLA, 2002

395. For summons (R-11)

- Summoning officer is required to issue summon in Form V attached vide our FAQ no. 401 under section 50 of PMLA, 2002

396. For authorization - Form I (Sec. 17(1)(1A))

FORM-I

[Under rule 3(1) of Maintenance of Records Rules, 2005]

**AUTHORISATION FOR SEARCH, SEIZURE AND FREEZING UNDER SECTION
17(1) (1A) OF PMLA, 2002**

Authorization Number..... of..... [year] Dated.....

Whereas I..... [Director/Additional Director/Joint Director/Deputy Director], have reason to believe that..... [name and complete address of the person]

- (iv) Has committed an act which constitutes money-laundering, or*
- (v) is in possession of proceeds of crime involved in money-laundering, or*
- (vi) is in possession of records relating to money-laundering, and*

certain documents including proceeds of crime and/or records relating to money laundering, which in my opinion, will be useful for, or relevant to, the investigation and other proceedings under the Prevention of Money-laundering Act, 2002 (15 of 2003) are secreted in the premises specified in the Schedule below.

I hereby authorize..... [name and designation of the Authority] to conduct the search of the premises specified in Schedule below, under sub-section (1) of section 17 of the Prevention of Money-laundering Act, 2002 (15 of 2003) and rule 3 of these Rules.

The officer so authorized to conduct search shall seize or freeze any record or property, the case may be, which is considered relevant for the purposes of proceedings under, Act per procedure specified in rule 4 of these rules.

Given under my hand and seal on this..... day of..... Two thousand.....

Schedule of Premises

[Director/Additional Director/Joint Director/Deputy Director]

[Signature with Seal]"

397. For seizure memo - Form II

FORM II

[Under rule 4(2) of Maintenance of Records Rules, 2005]

SEIZURE MEMO [OR FREEZING MEMO] (INVENTORY OF ITEMS)

Dated.....

From [time] to..... [time]

Panch Witnesses:

1. [name with complete address]
2. [name with complete address]

We, the above namedpanchas havingbeen called upon by Shri [name, designation and complete address of Officer] have presented ourselves at..... [complete address of the premises]. Here we were shown an authorisation dated..... issued by Shri [name, designation and complete address of the Director] under section 17 of the Prevention of Money-laundering Act, 2002 (15 of 2003) authorising Shri [name, designation and complete address of the officer authorized by the Director] to conduct 2[search, seizure or freeze] of the above mentioned premises. We well Shri [name of the occupier of the premises] put our dated signatures on the authorisation in token of having seen the same. Before the actual start of search and after the conclusion of search by Shri..... [name, designation and complete address of the authority] and the accompanying officers viz. Sarvashri/Shri/Shrimatioffered their personal search which was declined/taken by Sarvashri/Shri/ Shrimati..... [the occupier of the premises] on both the occasions in our presence. The search started athours on and concluded athours on.....a result of search.....[specify proceeds of crime or records] were checked and verified and inventory prepared or recovered and seized 1[or forzen] per details given in the Schedule below. The search was conducted in a peaceful and orderly manner and no damage to the person or property was caused during the course of search.

[Signature] Authority [Seal]

398. For Inventory's recovered - Form II (schedule)

SCHEDULE

[Inventory of items recovered and seized 1[or frozen]]

Panch Witnesses:

1. *[signature with date]*

2. *[signature with date]*

.....

[signature of person searched]

(Authority).....

Signature with Seal

(Received copy)

[signature of person searched]

Note.—Each page of the seizure memo 1[or freezing memo] is to be signed and dated by the Panch Witnesses, the person searched and the Authority.

399. For letter's acknowledgment - Form III

FORM III

[Under rule 8(2) of Maintenance of Records Rules, 2005]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a copy of the letter bearing Number..... dated along with the reasons and the material containing pages.....from..... [designation of the authority] on.....[date] at..... [time].

Signature of Adjudicating Authority

Date.....

.....
Name of Adjudicating Authority

Office seal

To

.....

[Name and designation of authority]

Address

.....

.....

.....

400. For envelope's acknowledgment - Form IV

FORM IV

[Under rule 8(5) of Maintenance of Records Rules, 2005]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a sealed envelope bearing number..... Dated.....

*from [designation of the authority]
on [date] at..... [time].*

*Signature of Adjudicating Authority/designated
officer of office of Adjudicating Authority.*

*Name of Adjudicating Authority/designated
officer of office of Adjudicating Authority.*

[Office seal])

To

[Name and designation of authority]

Address

401. For summons - Form V

FORM V

(Under rule 11 of Maintenance of Records Rules, 2005)

FORM FOR SUMMONS

[ADDRESS OF SUMMONING OFFICER]

No.

WHEREI.....Director or Additional Director or Joint Director or Deputy Director or Assistant Director, am making investigation under the provisions of the Prevention of Money-laundering Act, 2002 (15 of 2003).

AND WHEREAS, I consider the attendance of.....[name of the person summoned and his address] necessary in connection with the said investigations.

*NOW, THEREFORE, in exercise of the powers conferred upon me under sub-section (2) and sub-section (3) of section 50 of the said Act, I require the said
..... [name of the person summoned and his address] to appear before me at my office on at alongwith the documents per schedule below:—*

SCHEDULE

*Given under my hand and seal this day of two
thousand.....*

Summoning Officer

Name and complete address

Seal

To

.....
.....
.....

(Name of person summoned and his address]

Note.—1. Every proceedings under sub-section (2) and sub-section (3) of section 50 of the Prevention of Money-laundering Act, 2002 shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

2. Without prejudice to the provisions of any other law for the time being in force, if you fail to give evidence mentioned in the schedule, you shall be liable to penal proceedings under the Prevention of Money-laundering Act, 2002 (15 of 2003).

(K) Meaning for PMLA (Receipt + Management of Confiscated Properties) Rules, 2005

402. For Introduction

- *Govt. has made rules for manner of receiving records authenticated outside India Rules, 2005 in exercise of power conferred under section 73(1) read with 73(2)(aa) of PMLA, 2002.*

403. For Administrator (R- 2(1)(c))

- *Administrator to include officer appointed by govt. under section 10(1) of PMLA, 2002.*

404. For Order (R- 2(1)(f))

- *To include order made by AA under section 8(6) of PMLA, 2002.*

405. For immovable property's receipt (R-3)

- *Administrator is required to issue receipt against confiscated property after ensuring proper property's identification + also to match reference number with particulars mentioned in order (both) issued for confiscated property.*

406. For immovable property's custody (R-4(1))

- (i) *Administrator is required to arrange for proper maintenance + also property's custody (both) at attachment's place when confiscated property's removal is possible*
- (ii) *When removal's expenditure is substantial in proportion to property's value*

407. For movable property's custody (R-4(2))

- *Administrator is required to deposit in nearest govt.'s treasury or RBI's branch or SBI's branch or SBI's subsidiaries or authorized bank for safe custody when confiscated movable property is consisting of cash or govt.'s securities or other securities or bullion or jewellery or other valuable (any)*

408. For movable property's register (R-4(3))

- *Administrator is required to maintain register in Form I attached in our FAQ No 412 for confiscated movable property like cash or govt.'s securities or other securities or bullion or jewellery or other valuable (any)*

409. For movable property's receipt (R-4(4))

- *Administrator is required to obtain receipt from govt.'s treasury or RBI's branch or SBI's branch or SBI's subsidiaries or authorized bank (any) for deposit of confiscated movable property.*

410. For immovable property's register (R-4(5))

- *Administrator is required to maintain register in Form II attached in our FAQ No 413 for confiscated immovable property*

411. For by govt. assistance (R-(5))

- *Govt. is permitted to provide assistance to administrator from time to time like staff members + other persons considered necessary for exercising administrator's powers + also duty's performance (all)*

412. For movable property' register - Form I

FORM I

[Under rule 4(3) of PMLA Receipt + Management of Confiscated Properties Rules, 2005]

MANAGEMENT OF CONFISCATED PROPERTY (MOVEABLE) REGISTER

1. *Order number :*
2. *Date of receipt of properties :*
3. *Description of properties (quantity, amount, estimated value) :*
4. *Name(s) and address(es) of the accused :*
5. *Name and address of the Treasury or bank where the properties are deposited for safe custody:*
6. *Date and time of deposit of confiscated properties in the Treasury or bank :*
7. *Receipt number with date of the receipt obtained from the Treasury or bank :*
8. *Remarks of the Administrator:*

Signature of Administrator.

.....

Name and designation of

Administrator.

Date.....

413. For immovable property's register - Form II

FORM II

[Under rule 5(4) of PMLA Receipt + Management of Confiscated Properties Rules, 2005]

MANAGEMENT OF CONFISCATED PROPERTY (IMMOVEABLE) REGISTER

1. *Order Number:*
2. *Date of receipt of properties:*
3. *Description of properties:*

(In case of land: area, survey number, plot number, location and complete address.

In case of building: house number, location and complete address):

4. *Name(s) and address(es) of the accused:*
5. *Remarks of the Administrator:*

Signature of Administrator.

.....

Name and designation of

Administrator.

Date.....

(L) Meaning for PMLA (Appeal) Rules, 2005

414. For Introduction

- Govt. has made rules for PMLA (Appeal) Rules, 2005 in exercise of power conferred under section 73(1) + (1)(r) + (1)(x) read with 35 of PMLA, 2002.

415. For Registrar (R-2(1)(h))

- To include AT's registrar

416. For appeal's form (R-3(1))

- (i) To include Form for filling appeal before AT against ED's order or AA's order (any) under section 26 of Act.
- (ii) Form shall be filed in quadruplicate (4) copies with 4 order's copies passed by ED or AA (any).

417. For filling fee (R-3(2))

- Appellant is required to pay filling fee through Demand Draft (DD) in favor of Registrar, AT, New Delhi

Sl. No.	Amount of fine imposed	Amount of fee payable
(i)	When amount of fine imposed is up to 10000 under section 13(2) of PMLA, 2002	Rs. 1,000
(ii)	When amount of fine imposed is from 10001 to 50000 under section 13(2) of PMLA, 2002	Rs. 2,500
(iii)	When amount of fine imposed is from 50001 to 100000 under section 13(2) of PMLA, 2002	Rs. 5,000
(iv)	When appeal is to be filed against orders made by AA under section 8(3) or (6) of PMLA, 2002 for attachment of property or retention of seized property or record (any)	Rs. 10,000

418. For appeal's contains (R-3(3))

- (i) *Appellant is required to use different heads for grounds of objections against appealed order in consecutive numbers*
- (ii) *Appellant is required to fill address for service of notice or other process of AT*
- (iii) *Appellant is required to fill date for service of appealed order*

419. For appeal's time limit (R-3(4))

- (i) *Appellant is required to file appeal before AT within 45 days from date of service of appealed order under section 26(3) of PMLA, 2002.*
- (ii) *Appellant is required to file petition in quadruplicate (4) copies duly verified + supported by documents showing reasons for unable to file within 45 days with appeal when appeal is to be filed after 45 days from date of service of appealed order under section 26(3) of PMLA, 2002.*

420. For notice's service (R-3(5))

- *AT is required to serve notice on appellant in manner prescribed under rule 5 of PMLA (Appeal) Rules, 2005.*

421. For order (R-4)

- *AT's Order shall be in writing + also to state reasons for decision (both).*

422. For notice's service procedure (R-5)

- *AT is required for notices' service or requisitions or orders (any) to be issued under PMLA (Appeal) Rules, 2005 on any person in following manner*
 - (i) *By delivering notice or tendering notice or requisition or order to person or authorized person by him (any).*
 - (ii) *By sending notice or requisition or order to person through registered post with acknowledgement to address of his residence or his last known place*

for residence or place where he carried on or last carried on or business or personally works or worked for gain (any)

- (iii) (a) *By affixing notice or requisition or order on outer door or some other conspicuous part of premises where person resides or is known to have last resided or carried on business or personally works or has worked for gain (any).*
- (b) *Also AT's written report should be witnessed by minimum 2 persons*
- (iv) *By publishing notice in leading newspaper in vernacular + also in English (both) having wide circulation in area or jurisdiction where person resides or is known to have last resided or carried on business or personally works or worked for gain (any) when AT is unable to serve notice based on abovementioned paragraphs under (i) to (iii)*

423. For appeal's filling (Form)

FORM

[Under rule 3(1) of PMLA (Appeal) Rules, 2005]

(Name and address of appellant)

To

The Registrar/
Appellate Tribunal
(Address)

The above-named appellant/ begs to prefer this appeal under section 26 of the Prevention of Money-laundering Act/ 2002 against order Number.....datedpassed by the Director or the Adjudicating Authority (strike out whichever is Inapplicable) under the said Act on the following facts and grounds.

FACTS

(Mention briefly the facts of the case here. Enclose copy of the order passed by the Director or Adjudicating Authority (strike out whichever is inapplicable) and copies of other relevant documents/ if any)

GROUNDS

(Mention here the grounds on which appeal is preferred)

PRAYER

In the light of what is stated above/ the appellant prays for the following relief-

RELIEF SCUGI-IT

(Specify the relief sought)

DECLARATION

The fee payable for this appeal shown in Table given in sub-rule (2) of rule 3 of these rules has been deposited in the form of demand draft with the Registrar/ Appellate Tribunal New Delhi vide receipt number.....dated

Signature of Appellant
Name of Appellant

List of documents

Place:

Date:

Signature of Appellant

(M) Meaning for PMLA (Order of person's arrest with material to AA) Rules, 2005

424. For Introduction

- *Govt. has made rules for PMLA (forms and manner of forwarding a copy of order of arrest of a person along with material to AA and its period of retention) Rules, 2005 in exercise of power conferred under section 73(1) read with 73(2)(a) +(p) of PMLA Rules, 2005*

425. For Arresting officer (R-2(1)(c))

- *Arresting Officer (AO) to include Director or Deputy Director or Assistant Director or other officer authorized by govt. through general or special order (any) for exercising powers to arrest any person under section 19(1) of PMLA, 2002.*

426. For Designated officer (R-2(1)(d))

- *Designated officer to include officer designated by AA for purpose referred under rule 4(1) of PMLA (Order of person's arrest with material to AA) Rules, 2005.*

427. For Material (R-2(1)(g))

- *Material to include any information or material in possession of Director or Deputy Director or Assistant Director or other officer authorized by govt. (any) based on recorded reasons under section 19(1) of PMLA, 2002.*

428. For Order (R-2(1)(h))

- *To include order of arrest of person + also includes arrest's grounds referred under section 19(1) of PMLA, 2002 (both).*

429. For forwarding arrest's order (R-3(1))

- (i) *AO is required to prepare index for order + also material in possession (both)*

- (ii) *Also AO is required to sign 100% pages of index for order + also material in possession (both)*
- (iii) *Also AO is required to write letter for forwarding index + order + also material in possession (all) to AA in sealed envelope.*

430. For placing acknowledgement slip (R-3(2))

- *AO is required to place acknowledgement slip in Form I attached vide our FAQ No. 479*

431. For indicating reference number (R-3(3))

- *AO is required to indicate reference number + also dispatch's date (both) on sealed envelope.*

432. For marking confidential (R-3(4))

- *AO is required to mark confidential + to mark to be opened by addressee "only" + to write AA's complete address + also AA's name (all) on sealed envelope with official seal*

433. For placing sealed envelope (R-3(5))

- *AO is required to place sealed envelope inside outer envelope + also to place acknowledgement slip in Form II attached vide our FAQ No. 480.*

434. For sealing outer envelope (R-3(6))

- *AO is required to seal + also to write AA's complete address (both) on sealed outer envelope.*

435. For maintaining registers (R-3(7))

- *AO is required to maintain registers + other records like acknowledgement slip register + dak register + also to ensure that necessary entries are made in register immediately after order + also material in possession (all) are forwarded to AA.*

436. For acknowledging order (R-4)

- (i) *AO is required to forward duly filled + signed + written his name + also make his signature (all) to AA in Form II attached vide our FAQ No. 480*
- (ii) *Also AA is required to affix official seal before forwarding back Form II to AO as token of receipt of sealed envelope by him*

437. For arrest order's time limit (R-5)

- *AA is required to retain arrest order + also material in possession (both) for maximum 10 years or till disposal of legal proceedings whichever is higher like:*
 - (i) *Till disposal of proceedings commenced under section 8 of PMLA, 2002*
 - (ii) *Till disposal of proceedings preferred to AT under section 26 of PMLA, 2002*
 - (iii) *Till disposal of proceedings filed in high court under section 42 of PMLA, 2002.*

438. For signing arrest's order (R-6)

- *AO is permitted to sign arrest's order for exercising powers conferred with him under section 19(1) of PMLA, 2002 in Form III attached vide our FAQ No. 481.*

439. For Acknowledgement Slip - Form I

FORM I

[Under rule 3(2) PMLA (Order of person's arrest with material to AA) Rules, 2005]

ACKNOWLEDGEMENT SLIP

Serial Number.....

*Received a copy of the order of arrest of..... [Name of the person arrested]
bearing No. dated from the Director/Deputy
Director/Assistant Director/authorized officer on [date] at..... [time].*

Signature of Adjudicating Authority

Date.....

Name of Adjudicating Authority

Office seal

To

[Arresting Officer]

Address:

.....

.....

440. For Acknowledgement Slip - Form II

FORM II

[Under rule 5(3) PMLA (Order of person's arrest with material to AA) Rules, 2005]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a sealed envelope bearing No. dated from the Director/Deputy Director/Assistant Director/authorized officer on [date] at..... [time].

*Signature of the Adjudicating Authority/
designated officer of office of
Adjudicating Authority.*

*.....
Name of Adjudicating Authority/
designated officer of office of
Adjudicating Authority.*

Office seal

To

.....

[Arresting Officer]

Address:

.....

.....

.....

441. For arrest order - Form III

FORM III

(Under rule 6 PMLA (Order of person's arrest with material to AA) Rules, 2005)

ARREST ORDER

WHEREAS, I..... Director/Deputy Director/ Assistant Director/Officer authorised in this behalf by the Central Government, have reason to believe that.....[name of the person arrested] resident of..... has been guilty of an offence punishable under the provisions of the Prevention of Money-laundering Act, 2002 (15 of 2003);

NOW, THEREFORE, in exercise of the powers conferred on me under sub-section (1) of section 19 of the Prevention of Money-laundering Act, 2002 (15 of 2003), I hereby arrest the said [name of the person arrested] at..... hours on and he has been informed of the grounds for such arrest.

Dated at on this day of Two thousand

Arresting Officer

Signature with Seal

To

.....

.....

[Name and complete address of person arrested]

442. For introduction

- Govt. has made rules for PMLA (forms, search and seizure or freezing and manner of forwarding reasons and material to AA, impounding custody of records and period of retention) Rules, 2005 in exercise of power conferred under section 73(1) read with 73(2)(a)+(m)+(n)+(o)+(pp) +(w) of PMLA, 2005.

443. For authority (R-3(1))

- (i) Authority to include designated for conducting search under section 17(1) of PMLA, 2002
- (ii) Authority is required to issue authorization letter for conducting search in Form-I attached vide our FAQ No. 516

444. For authority's powers (R-3(2))

- (i) Search authority is permitted to enter + also to search building or place or vessel or vehicle or aircraft when he has reason to believe that MLO crimes' proceeds or records are kept (any)
- (ii) Search authority is permitted to break lock of door or box or locker or safe or almirah or other receptacle (any) for exercising powers conferred under clause 3(2)(a) of PMLA (Forms + search + seizure impounding record's custody + retention period) Rules, 2005 when keys are not available.
- (iii) Search authority is permitted to seize record or property (any) found during search.
- (iv) Search authority is permitted to place identification's marks on searched records or to take extracts or copies (any).
- (v) Search authority is permitted to make note or inventory of seized records or property (any)

- (vi) *Search authority is permitted to examine on oath any person who is found in possession or control of record or property (any) for further investigations under PMLA, 2002.*
- (vii) (a) *Search authority is not permitted for conducting search under section 17(1) when report is not forwarded to Magistrate referred under section 157 of CCP, 1973 (2 of 1974)*
- (b) *When search authority has not filed complaint before Magistrate or Court for taking MLO's cognizance*

445. For authority's duties (R-3(3))

- (i) *Search authority is required to call minimum 2 respectable persons from locality to attend + also to witness search (both) before commencing search where building or place to be searched is located*
- (ii) (a) *Also search authority is required to call to respectable person to attend + also to witness search (both) before commencing search where vessel or vehicle or aircraft is located*
- (b) *Also search authority is permitted to issue order in writing to attend + also to witness search (both) before commencing search where vessel or vehicle or aircraft is located*

446. For person's duties (R-3(4))

- (i) *Searched person being in-charge of building or place or vessel or vehicle or aircraft (any) is required to allow unhindered search after receiving authorization letter in Form 1 from search's authority*
- (ii) *Also searched person is required to provide 100% reasonable facilities for search after receiving authorization letter in Form 1 from search's authority (both)*

447. For search with police assistance (R-3(5))

- (i) (a) *Search authority is permitted to take assistance from police officers or other officer specified under section 54 of PMLA, 2002 when search authority is not able to enter in building or in place (any)*
- (b) *Also search authority is permitted to break open lock of door or window (any) for conducting search through authorization letter in Form 1*
- (ii) (a) *Search authority is not permitted to enter in apartment without giving notice to woman for liberty to withdraw from apartment*
- (b) *Also search authority is required to provide reasonable facility for withdrawing + to break open + also to enter (all) when apartment is occupied by woman who is not custom to appear in public*

448. For search with police assistance (R-3(6))

- (i) (a) *Search authority is permitted to take assistance from police officers or other officer specified under section 54 of PMLA, 2002 when vessel or vehicle or aircraft is moving or for other reason (any)*
- (b) *Also search authority is permitted to stop vessel or vehicle or to land aircraft (any) for conducting search through authorization letter in Form 1*
- (ii) (a) *Search authority is not permitted to enter in vessel or vehicle or aircraft without giving notice to woman for liberty to withdraw from vessel or vehicle or aircraft (any)*
- (b) *Also search authority is required to provide reasonable facility to withdraw + to break open + also to enter (all) when vessel or vehicle or aircraft (any) is occupied by woman who is not custom to appear in public*

449. For authority's powers (R-3(7))

- (i) *Search authority is permitted to ask any person who is owner or has immediate possession or control to open box or locker or safe or almirah or other receptacle situated in building or place or vessel or vehicle or aircraft for inspecting or examining its contents (any) when keys are not available or person is failed to comply requirements*
- (ii) *Also search authority is permitted to break open lock of box or locker or safe or almirah or other receptacle (any) when he is considered necessary to carry 100% purposes specified under PMLA, 2002 .*

450. For authority's duties (R-3(8))

- *Search authority is required to allow occupant or person in-charge or authorized person of building or place or vessel or vehicle or aircraft (any) to attend search.*

451. For seizure (R-4(1))

- (i) *Search authority is permitted for seizure records' or properties' found during search of building or place or vessel or vehicle or aircraft (any).*
- (ii) *Also search authority is required to ensure that abovementioned records + also properties (both) are involved in MLO*

452. For freezing (R-4(1A))

- (i) *Search authority is permitted for freezing records or properties found during search of building or place or vessel or vehicle or aircraft (any) when seizure is not possible*
- (ii) *Also search authority is required to ensure that abovementioned records + also properties (both) are involved in MLO*
- (iii) *Also search authority is required to ensure that abovementioned records + also properties (both) not to transfer or otherwise dealt except when he has specifically permitted*

453. For seizure memo (R-4(2))

- (i) *Search authority is required to prepare seizure memo (inventory of items) in Form II duly attached vide our FAQ 517*
- (ii)
 - (a) *Search authority is required to deliver seizure memo to occupant of building or place or vessel or vehicle or aircraft (any) is searched*
 - (b) *Also search authority is required to deliver seizure memo to person in-charge of building or place or vessel or vehicle or aircraft (any) is searched*
- (iii) *Search authority is required to forward seizure memo to ED + also AA (both)*

454. For identification mark (R-4(3))

- (i) *Search authority is required to prepare details for movable properties' records like bullion + jewellery + also other valuable articles and things (all) seized during search*
- (ii) *Also search authority is required to put abovementioned movable properties into packages containing details for articles and things*
- (iii) *Also search authority is required to write identification mark + also to affix official seal (both) on packages*
- (iv) *Also occupant or person in-charge is permitted to place his seal on packages*

455. For delivering list (R-4(4))

- (i) *Search authority is required to deliver list to occupant or person in-charge of searched building or place or vessel or vehicle or aircraft (any) prepared under rule 4(3) of PMLA (Forms + search + seizure impounding record's custody + retention period) Rules, 2005*
- (ii) *Also search authority is required to forward abovementioned list to ED + also AA (both)*

456. For Code of Criminal Procedure 1973 (R-5)

- (i) CCP, 1973' provisions (2 of 1974) are to be applicable for search and seizure
- (ii) CCP, 1973' provisions (2 of 1974) are not to be applicable when provisions under PMLA, 2002 are not consistent for search and seizure

457. For impounding authority (R-6(1))

- (i) Impounding authority is permitted to impound records produced before him during proceedings under PMLA, 2002
- (ii) Impounding authority is not permitted to impound records produced before him during proceedings under PMLA, 2002 without recording his reasons + also to forward reasons to ED (both) when he is deputy director or assistant director (any)

458. For impounding with police assistance (R-6(2))

- Impounding authority is permitted to take assistance from police officers or other officers of govt. or both (any) when he considered necessary under section 54 for records' impounding under section 50(5) of PMLA, 2002

459. For impounding inventory's records (R-6(3))

- (i) Impounding authority other than director is required to prepare inventory for impounded records in 3 copies (triplicate)
- (ii) Impounding authority being director is required to prepare inventory for impounded records in 2 copies (duplicate)

460. For impounding authority's duties (R-6(4))

- (i) Impounding authority is required to sign 100% pages of records' inventory
- (ii) Also impounding authority is required to record refusal when accused person who is possessing records has refused to sign

461. For impounding inventory's delivery (R-6(5))

- (i) *Impounding authority other than director is required to deliver 1 copy of inventory to person who was possessing records*
- (ii) *Also Impounding authority other than director is required to forward 1 copy of inventory to ED*
- (iii) *Also Impounding authority other than director is required to keep 1 copy of inventory to himself*

462. For impounding record's return (R-6(6))

- *Impounding authority other than director is permitted to return impounded records with prior approval from ED in writing when records are no longer useful + also not relevant (both) for further proceedings under PMLA, 2002.*

463. For impounding record's custody (R-7)

- (i) *Impounding authority is permitted to retain record's custody when impounded under section 50(5) of PMLA, 2002.*
- (ii) *Impounding authority is not permitted to retain record's custody when impounded under section 50(5) of PMLA, 2002 where he is deputy director or assistant director without prior approval in writing from ED beyond 3 months.*

464. For forwarding reasons (R-8(1))

- *Authority is required to prepare index for recorded reasons + material in his possession + to sign on 100% index's pages + to write forwarding letter to AA in sealed envelope when search + seizure / freezing made under section 17(1A) + 17(2) + 18(2) + also 20(2) (all).*

465. For acknowledgement slip (R-8(2))

- *Authority is required to place acknowledgement slip inside envelop before sealing in Form III duly attached vide our FAQ no. 518*

466. For reference number (R-8(3))

- *Authority is required to indicate reference number + also dispatch's date (both) on sealed envelope*

467. For marking confidential (R-8(4))

- *Authority is required to mark confidential + to be opened by addressee "only" + to write complete AA's address + also AA's name (all) on sealed envelope with official seal.*

468. For placing sealed envelope (R-8(5)))

- *Authority is required to place sealed envelope inside outer envelope + also to place acknowledgement slip in Form IV duly attached vide our FAQ no. 519*

469. For outer envelope (R-8(6))

- *Authority is required to seal + to mark confidential + also AA's complete address (all) on sealed outer envelope.*

470. For maintaining registers (R-8(7))

- *Authority is required to maintain registers + other records like acknowledgement slip register + dak register + to ensure that necessary entries are made in register immediately after forwarding reasons + also material in possession (all) to AA*

471. For acknowledgement - Form IV (R-9(1))

- AA is required to forward Form IV to authority duly filled + signed + also written legibly name below his signature (all)*
- Also AA is required to affix official seal before forwarding Form IV to authority being token of sealed envelope's receipt*

472. For acknowledgement - Form III (R-9(2))

- AA is required to forward Form III to authority duly filled + signed + also written legibly name below his signature (all)*

(ii) *Also AA is required to affix official seal before forwarding Form III to authority being token of reasons + also material's receipt (both)*

473. For maintaining registers (R-9(3))

- *AA is required to maintain register + other records like acknowledgement slip register + dak register + register showing receipt's details for reasons recorded + material in possessions + also to ensure that necessary entries are made in register immediately after receipts (all)*

474. For retention's time limit (R-10)

- *AA is permitted to retain recorded reasons + material in possession against search and seizure + also searched person (all) for 10 years or till proceedings are disposed (any) whichever is later like:*
 - (i) *Till proceedings are disposed when these are commenced under section 8 of PMLA, 2002*
 - (ii) *Till proceedings are disposed when these are preferred before AT under section 26 of PMLA, 2002*
 - (iii) *Till proceedings are disposed when these are filed before High court under section 42 of PMLA, 2002*

475. For summons - Form V (R-11)

- *Summoning authority is required to issue summons under section 50(2) + also 50(3) both in Form V duly attached vide our FAQ no. 520*

476. For search / seizure / freezing's authorization -Form I

FORM-I

[See sub-rule (1) of rule 3]

AUTHORISATION FOR SEARCH, SEIZURE AND FREEZING UNDER SUB- SECTION (1) AND SUB- SECTION (1A) OF SECTION 17 OF THE ACT

Authorization Number..... of..... [year] Dated.....

WhereI..... [Director/Additional Director/Joint Director/Deputy Director], have reason to believe that..... [name and complete address of the person]

- (iv) Has committed an act which constitutes money-laundering, or*
- (v) is in possession of proceeds of crime involved in money-laundering, or*
- (vi) is in possession of records relating to money-laundering, and certain documents including proceeds of crime and/or records relating to money laundering, which in my opinion, will be useful for, or relevant to, the investigation and other proceedings under the Prevention of Money-laundering Act, 2002 (15 of 2003) are secreted in the premises specified in the Schedule below*

I hereby authorize..... [name and designation of the Authority] to conduct the search of the premises specified in Schedule below, under sub-section (1) of section 17 of the Prevention of Money-laundering Act, 2002 (15 of 2003) and rule 3 of these Rules.

The officer so authorized to conduct search shall seize or freeze any record or property, the case may be, which is considered relevant for the purposes of proceedings under, Act per procedure specified in rule 4 of these rules.

Given under my hand and seal on this..... day of..... Two thousand..... Schedule of Premises

[Director/Additional Director/Joint Director/Deputy Director]

[Signature with Seal]"

477. For seizure / freezing's memo - Form II

FORM II

[See sub-rule (2) of rule 4]

SEIZURE MEMO [OR FREEZING MEMO] (INVENTORY OF ITEMS)

Dated.....

From [time] to.....[time]

Panch Witnesses:

1. [name with complete address]

2. [name with complete address]

We, the above named panchas having been called upon by Shri [name, designation and complete address of Officer] have presented ourselves at..... [complete address of the premises]. Here we were shown an authorisation dated..... issued by Shri [name, designation and complete address of the Director] under section 17 of the Prevention of Money-laundering Act, 2002 (15 of 2003) authorizing Shri [name, designation and complete address of the officer authorized by the Director] to conduct [search, seizure or freeze] of the above mentioned premises. We well Shri [name of the occupier of the premises] put our dated signatures on the authorisation in token of having seen the same. Before the actual start of search and after the conclusion of search by Shri..... [name, designation and complete address of the authority] and the accompanying officers viz. Sarvashri/Shri/Shrimati offered their personal search which was declined/taken by Sarvashri/Shri/Shrimati..... [the occupier of the premises] on both the occasions in our presence. The search started athours on and concluded athours on.....a result of search.....[specify proceeds of crime or records] were checked and verified and inventory prepared or recovered and seized 1[or forzen] per details given in the Schedule below. The search was conducted in a peaceful and orderly manner and no damage to the person or property was caused during the course of search.

[Signature]

Authority

[Seal]

SCHEDULE
[Inventory of items recovered and seized ¹[or frozen]]

Panch Witnesses:

1. *[signature with date]*

2. *[signature with date]*

.....
[signature of the person searched]

(Authority)
Signature with Seal

(Received copy)

[signature of the person searched]

Note.—*Each page of the seizure memo ¹[or freezing memo] is to be signed and dated by the Panch Witnesses, the person searched and the Authority.*

478. For acknowledgement slip- Form III

FORM III

[See sub-rule (2) of rule 8]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a copy of the letter bearing Number..... dated..... along with the reasons and the material containing pages.....from..... [Designation of the authority] on.....[date] at..... [time].

Signature of Adjudicating Authority

Date.....

.....
Name of Adjudicating Authority

Office seal

To

*.....
[Name and designation of authority]*

Address

*.....
.....
.....*

479. For acknowledgement slip - Form IV

FORM IV

[See sub-rule (5) of rule 8]

ACKNOWLEDGEMENT SLIP

Serial Number.....

*Received a sealed envelope bearing number..... Dated..... from
..... [designation of the authority] on [date] at.....
[time].*

*Signature of Adjudicating Authority/designated
Officer of office of Adjudicating Authority.*

*Name of Adjudicating Authority/designated
officer of office of Adjudicating Authority.*

[Office seal])

To

*.....
[Name and designation of authority]*

Address

*.....
.....
.....*

480. For summons - Form V

FORM V

(See rule 11)

FORM FOR SUMMONS

.....
.....
[ADDRESS OF SUMMONING OFFICER]

No.

WHEREI.....Director or Additional Director or Joint Director or Deputy Director or Assistant Director, am making investigation under the provisions of the Prevention of Money-laundering Act, 2002 (15 of 2003).

AND WHEREAS, I consider the attendance of.....[name of the person summoned and his address] necessary in connection with the said investigations.

NOW, THEREFORE, in exercise of the powers conferred upon me under sub-section (2) and sub-section (3) of section 50 of the said Act, I require the said.....[name of the person summoned and his address] to appear before me at my office on at along with the documents per schedule below:—

SCHEDULE

Given under my hand and seal this day of Two thousand.....

.....
.....
Summoning Officer

.....
.....
Name and complete address
Seal

To

.....
.....

(Name of person summoned and his address)

Note: 1. Every proceedings under sub-section (2) and sub-section (3) of section 50 of the Prevention of Money-laundering Act, 2002 shall be deemed to be a judicial proceedings within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

2. Without prejudice to the provisions of any other law for the time being in force, if you fail to give evidence mentioned in the schedule, you shall be liable to penal proceedings under the Prevention of Money-laundering Act, 2002 (15 of 2003).

(O) Meaning for PMLA (Issuance of provisional attachment order) Rules, 2013

481. For Introduction

- *Govt. has made rules for PMLA (Issuance of provisional attachment order) Rules, 2013 in exercise of power conferred under section 73(1) read with 73(2)(aa) of PMLA, 2002.*

482. For Authorized officer (R-2(c))

- *To include officer not below rank of Deputy Director (DD) authorized by ED's Director assigned under section 5 of PMLA, 2002.*

483. For Crimes' Proceed (R-2(f))

- *Crime' proceeds to include same meaning assigned under section 2(1)(u) of PMLA, 2002.*

484. For Provisional attachment's order (R-2(g))

- *Provisional Attachment Order to include same meaning assigned under section 5(1) of PMLA, 2002.*

485. For Provisional attachment's procedure (R-3(1))

- *Authority is required to have reason to believe based on material in his possession that crimes' proceeds or property involved in money-laundering (any) considered necessary for provisional attachment thereafter permitted to issue provisional attachment order.*

486. For Provisional attachment's endorsement (R-3(2))

- *Authority is required to endorse provisional attachment's order to 100% concerned persons + persons in possession of properties + also to AA (all).*

487. For Provisional attachment's service (R-3(3))

- By delivering or tendering provisional attachment order to owner*
- By delivering or tendering provisional attachment order to person authorized by owner when can't be delivered to owner.*

- (iii) (a) *By delivering or tendering provisional attachment order to adult member in family of owner or person who is residing with him when owner is absent from his residence at time of service of provisional attachment order is being effected on him*
 - (b) *When he is not likely to be found at residence within reasonable time*
 - (c) *When he has not authorized person to accept service on his behalf*
- (iv) (a) *Authority is required to affix 1 duplicate copy of provisional attachment order at some conspicuous part of premises where owner is residing or is known to have last resided or carried on business or personally works or has worked for gain (any)*
 - (b) *Authority is required to have written report duly witnessed by 2 persons when service can't be affected in accordance with abovementioned para (i) to (iii)*

488. For Provisional attachment in newspaper (R- 3(4))

- *Authority is permitted to publish in newspaper for provisional attachment order when attachment order can't serve under rule 3(i) to 3(iv) of PMLA (Issuance of provisional attachment order) Rules, 2013.*

489. For Provisional attachment through speed post (R- 3(5))

- *Authority is required to send simultaneously provisional attachment order by speed post in addition by delivering or tendering provisional attachment order to owner*

490. For Provisional attachment to non-individual (R-4(1))

- (i) *Authority is permitted to serve provisional attachment order to secretary or local manager or principal officer (any) on behalf of corporate bodies + societies + trusts + also etc. (all).*
- (ii) *Authority is permitted to serve provisional attachment order by speed post addressed to chief officer of corporate bodies + societies + trusts + also etc. (all).*

Or

(iii) *Authority is permitted to affix 1 duplicate copy of provisional attachment order at some conspicuous part of premises in office where body corporate + societies + trusts + also etc. (all) carries on business or have last carried on business (any).*

491. For Provisional attachment in newspaper (R-4(2))

- *Authority is permitted to publish in newspaper for provisional attachment order when attachment order can't serve under rule 4(1)(a) of PMLA (Issuance of provisional attachment order) Rules, 2013.*

(P) Meaning for PMLA (Taking possession of attached properties by AA) Rules, 2013

492. For Introduction

- Govt. has made rules for PMLA (Taking possession of attached properties by AA) Rules, 2013 in exercise of power conferred under section 73(1) read with 73(2)(ee) of PMLA, 2002.

493. For Frozen by AA (R-2(1)(f))

- Frozen to include record or property frozen ^(any) under section 17(1A) of PMLA, 2002.

494. For immovable property's possession by AA (R-3)

- Authority is permitted to take record's or property's possession prescribed under PMLA (Taking possession of attached properties by AA) Rules, 2013 in certain circumstances like:
 - (a) When provisional attachment's order is made by authority under sec. 5(1) of PMLA, 2002
 - (b) Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)
 - (a) When provisional retention's order for property's or record's seizure or frozen is made by authority under section 17 or 18 of PMLA, 2002 (any)
 - (b) Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)

495. For movable property's possession by AA (R-4(1))

- (i) Authority is permitted to take movable property's physical possession
- (ii) Also to deposit in warehouse or storage place (any)
- (iii) Also confirmed by AA under section 8(3) of PMLA, 2002 (all together)

496. For movable property's sale by AA (R-4(2))

- (i) Authority is permitted to sale property with prior permission from special court or AA as case may be

- (ii) *Also confirmed by AA under section 8(3) of PMLA, 2002*
- (iii) *Also attached movable property is liable for speedy + also natural destroyable or maintenance expenses are likely to exceed its value (all together)*
- (iv) *Authority is required to deposit sales proceeds in nearest govt. treasury or SBI's branch or SBI subsidiaries' branch or authorized bank (any) in fixed deposit + also to retain Fixed Deposit Receipt (FDR).*
- (v)
 - (a) *Authority is permitted to accept FDR from nationalized bank equivalent to property's value in favor of DoE security*
 - (b) *Also Authority is required to send report to special court or AA as case may be for information + also appropriate action (both)*
- (vi)
 - (a) *Authority is permitted to accept FDR from nationalized bank equivalent to property's value in favor of DoE security when seized movable property is vehicle after obtaining its valuation report from Motor Licensing authority or other authorized officer as case may be (any).*
 - (b) *Also authority is required to send report to special court or AA as case may be for information + appropriate action (both)*

497. For movable property's retention by AA (R-4(3))

- (i) *Authority is permitted to deposit in locker in name of DoE or FDR as case may be in SBI's branch or SBI subsidiaries' branch or authorized bank + also to retain FDR (both)*
- (ii) *Also confirmed by AA under section 8(3) of PMLA, 2002 (all together)*
- (iii) *When attached immovable property is consisting of cash or govt. securities or other securities or bullion or jewellery or other valuables (any)*

498. For movable property's transfer by AA (R-4(4))

- (i) Authority is permitted to get transfer in favor of DoE when attached movable property is shares or debentures or units of Mutual funds or instruments (any)
- (ii) Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)

499. For movable property's credit by AA (R-4(5))

- (i) Authority is permitted to get credit in favor of DoE when attached movable property is deposit in bank or financial institution (any)
- (ii) Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)

500. For immovable property's possession by AA (R-5(1))

- (i) Authority is permitted to give notice to Registrar of Registry (RoR) who has area's jurisdiction along with provisional immovable property's attachment order for not to transfer or create interest in property (any) till further order from him.
- (ii) Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)
- (iii) Also authority is required to affix order confirming attachment at property's conspicuous part

501. For immovable property's eviction by AA (R-5(2))

- (i) Authority is permitted to give notice to owner to prevent from enjoying immovable property for evicting possession of attached immovable property within 10 days
- (ii) Also permitted to take assistance from local authority under section 54 of PMLA, 2002 when owner has not vacated within 10 days (both together).

502. For immovable property's rent by AA (R-5(3))

- (i) Authority is permitted to give direction to 3rd party to pay rent on attached let out immovable property through DD in favor of DoE
- (ii) Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)

503. For immovable property's possession by AA (R-5(4))

- (i) *Authority is permitted to get possession of rented property from 3rd party when registration is optional under section 18 of Registration Act, 1908*
- (ii) *Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)*

504. For Joint property's possession by AA (R-5(5))

- (i) *Authority is permitted to accept FDR equivalent value of accused person's share when property is held in joint ownership*
- (ii) *Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)*

505. For factory property's possession by AA (R-5(6))

- (i) *Authority is permitted to take possession through direction to factory's person-in-charge that gross incomes + also other monetary benefits (both) be deposited in account of DoE when attached immovable property is in nature of productive asset or producing goods (any)*
- (ii) *Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)*

506. For notices' service by AA (R-6(1))

- (i) *Authority is permitted to serve notice on 100% concerned parties for taking possession of immovable property in Form I attached vide our FAQ No. 454*
- (ii) *Also authority to affix notice at conspicuous part of property*
- (iii) *Also authority to serve notice through publication in local newspaper*

507. For notices' service by AA (R-6(2))

- (i) *Authority is permitted to serve notice on 100% concerned parties for taking possession of productive asset in Form II attached vide our FAQ No. 455*
- (ii) *Also authority to affix notice at conspicuous part of property*
- (iii) *Also authority to serve notice through publication in local newspaper*

508. For property's possession by AA (R-7)

- (i) *Authority is permitted to make application to special court with provisional attachment order issued under section 5(1) of PMLA, 2002*
- (ii) *Also confirmed by AA under section 8(3) of PMLA, 2002 (both together)*
- (iii) *Interest or dividend (any) on abovementioned confirmed attached property in special court's custody is payable in favor of DoE.*

509. For property's possession by AA (R-8)

- *Authority is permitted to direct bank or financial institution or etc. that property + also interest or dividend (both) to be retained till further order when confirmed attached property is hypothecated or mortgaged or pledged (any)*

510. For register's maintenance by AA (R-9)

- (i) *Authority is required to maintain register containing details for recording entries about movable property in Form III attached vide our FAQ No. 456*
- (ii) *Authority is required to maintain register containing details for recording entries about immovable property in Form IV attached vide our FAQ No. 457*

511. For possession property's notice by AA - Sec 8(4) - Form I

FORM I

[Under rule 6(1) of PMLA (Taking possession of attached properties by AA) Rules, 2013]

NOTICE FOR TAKING POSSESSION UNDER SUB-SECTION (4) OF SECTION 8 OF THE PREVENTION OF MONEY-LAUNDERING ACT, 2002 (15 OF 2003)

Where the immovable property bearing..... situated at..... has been provisionally attached under sub-section (1) of section 5 of the Act (15 of 2003) vide provisional attachment order No. dated..... issued by the Deputy Director/Joint Director/Additional Director of the Directorate of Enforcement, Sub-Zonal/Zonal office/Regional office of the..... .

Where the said provisional attachment order was subsequently confirmed by the Adjudicating Authority constituted under section 6 of the Act, vide order dated..... in Original Complaint No.

Whereas, in compliance of the provisions contained under sub-section (4) of section 8 of the Act (15 of 2003), the undersigned has taken possession of property/portion..... of the aforesaid property, which shall be at the disposal of the Directorate of Enforcement until further order and such property shall be kept intact by all concerned for further proceedings under the Act; and

I, therefore, order that all concerned are hereby prohibited and restrained until further order of the undersigned from transferring or charging the aforesaid property by sale, gift, mortgage, pledge or otherwise in any manner whatsoever and that all persons be and that they are hereby prohibited and restrained from receiving the same by purchase, gift, mortgage, pledge or otherwise in any manner whatsoever.

Issued on this..... day of..... 20.....

By Order

(.....)

Deputy Director/Joint Director/Additional Director

(Name, designation and office seal)

Sub-Zonal/Zonal/Regional Office

512. For possession productive assets' notice by AA - Section 8(4) - Form II
FORM II

[Under rule 6(2) of PMLA (Taking possession of attached properties by AA) Rules, 2013]

**NOTICE FOR TAKING POSSESSION UNDER SUB-SECTION (4) OF SECTION 8 OF THE
PREVENTION OF MONEYLAUNDERING ACT, 2002 (15 OF 2003)**

Wherethe immovable property bearing..... situated at..... and the said property which is of the nature of productive asset or running factory, etc., has been provisionally attached under sub-section (1) of section 5 of the Act (15 of 2003) vide provisional attachment order No dated..... issued by Deputy Director/Joint Director/Additional Director, Directorate of Enforcement, Sub-Zonal/Zonal/Regional Office..... .

Wherethe said provisional attachment order was subsequently confirmed by the Adjudicating Authority constituted under section 6 of the Act, vide order No. dated..... in Original Complaint No.

Whereas, in compliance of the provisions contained in sub-section (4) of section 8 of the Act (15 of 2003), the undersigned has taken constructive possession of said property, which shall be at disposal of the Directorate of Enforcement until further Order and that such property shall be kept intact by all concerned for further proceedings under this Act, and officer in-charge of the said property or concerned with the property shall deposit the gross income and all other monetary benefits accrued therefrom in the Account of the Directorate of Enforcement.

I, therefore, order that all concerned are hereby prohibited and restrained until further order of the undersigned from transferring or charging the aforesaid property by sale, gift, mortgage, pledge or otherwise in any manner whatsoever and that all concerned are hereby prohibited and restrained from receiving the same by purchase, gift, mortgage, pledge or otherwise in any manner whatsoever.

Issued on this..... day of..... 20.....

By Order

(.....)

Deputy Director/Joint Director/Additional Director

(Name, designation and office seal)

Sub-Zonal/Zonal/Regional Office

513. For movable property's register by AA - Form III

FORM III

[Under rule 9(1) of PMLA (Taking possession of attached properties by AA) Rules, 2013]

POSSESSION OF CONFIRMED ATTACHED PROPERTY

(MOVABLE) REGISTER

1. Confirmation of provisional attachment order/freezing Order No. dated..... issued by Adjudicating Authority under sub-section (3) of section 8 of the Act.
2. Date of possession of property.
3. Description of property (quantity, amount, estimated value).
4. Name(s) and address(es) of the person(s).
5. Name and address of the Warehouse/Storage place/Treasury or Bank where the property is deposited for safe custody.
6. Date and time of deposit of confirmed attached property in the Warehouse/Storage place or Treasury or Bank.
7. Remarks.

.....

(Signature with date of the Authorized Officer)

.....

(Name, designation and official rubber stamp to be affixed)

514. For immovable property's register by AA - Form IV

FORM IV

[Under rule 9(2) of PMLA (Taking possession of attached properties by AA) Rules, 2013]

POSSESSION OF CONFIRMED ATTACHED PROPERTY

(IMMOVABLE) REGISTER

1. *Confirmation of Provisional Attachment Order Number/Freezing Order No. dated..... issued by the Adjudicating Authority under sub-section (3) of section 8 of the Act.*
2. *Date of possession of confirmed attached property.*
3. *Description of property (quantity, amount, estimated value).*
4. *Name(s) and Address(es) of the person(s).*
5. *Details of letter issued to Registrar/Banks/State Government Departments, etc.*
6. *Remarks.*

.....
(Signature with date of the Authorized Officer)

.....
(Name, designation and official rubber stamp to be affixed)

(Q) Meaning for PMLA (Restoration of Confiscated Property) Amendment Rules, 2019

515. For Introduction

- *Govt. has made rules for PMLA (Restoration of Confiscated Property) Amendment Rules, 2019 in exercise of power conferred under section 73(1) + 73(2)(x) read with 8(8) of PMLA, 2002*

516. For Claimant (R-2(1)(b))

- (i) *Claimant to include person who has acted in good faith*
- (ii) *Also claimant has suffered quantifiable loss due to MLO despite taken 100% reasonable precautions*
- (iii) *Also claimant not involved in MLO*
- *Abovementioned 3 conditions under paragraph (i) to (iii) are to be satisfied.*

517. For property's restoration (R-3A(1))

- (i) *Special court is permitted for restoration of property attached under section 5(1) or seized / frozen under section 17 or 18 of PMLA, 2002 after framing charge under section 4 of PMLA, 2002 based on application received from claimant when considered necessary under section 8(8)(ii) of PMLA, 2002*
- (ii) *Also special court is required to publish in 2 daily newspapers like 1st in English + also 2nd in local (vernacular) language (both) having sufficient circulation in locality where property is located based on application received from claimant.*
- (iii) *Also claimant is required to submit + to establish his claim (both) for obtaining restoration of 100% (wholly) property or not 100% (partly) property*

518. For property's pro-rata restoration (R-3A(2))

- (i) *Special court is permitted to pass order for property's restoration based on pro-rata to each claimant when confiscated property is insufficient to meet loss suffered by all claimants due to MLO*

- (ii) *Also special court is permitted for directing govt. when considered necessary for property's auctioning*
- (iii) *Also special court is permitted to disburse on pro-rata basis after executing bond undertaking to produce restored property as and when required under section 8(5) or 8(6) or 8(7) of PMLA, 2002 (any).*

519. For restoration's time limit (R-3A(3))

- (i) *Special court is not permitted to allow claimant to claim confiscated property's restoration after 30 days from publication's date of notice in newspaper under Rule 3A(1) of PMLA (Restoration of Confiscated Property) Amendment Rules, 2019*
- (ii) *Also Special court is permitted to allow claimant to claim confiscated property's restoration after 60 (30+30) days from publication's date of notice in newspaper under Rule 3A(1) of PMLA (Restoration of Confiscated Property) Amendment Rules, 2019 being extension for 30 days after satisfaction that claimant was prevented with sufficient cause.*

520. For hearing's opportunity by Special court (R-3A(4))

- *Special court is required to give opportunity of being heard to property's owner referred under rule 3A(1) or his legal representative or official assignee or official receiver case may be (any) after his death.*

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