TRADE BASED MONEY LAUNDERING

A CASE STUDY

INDIA
SCOPE OF PRESENTATION

• INTRODUCTION
• CRIMINAL BACKGROUND OF THE SUBJECT “A”
• INTELLIGENCE
• MODUS OPERANDI
• TRADE FINANCE
• RESULTS OF INVESTIGATION
• CONCLUSIONS
INTRODUCTION
• “A” had established a network of companies/firms (corporate entities) to facilitate money transfer and use the network as cover.

• Controlled / operated bank accounts in various jurisdictions through these companies/firms.

• His family members and close associates handled these accounts and were located in various jurisdictions.
• Source of this money was Narcotic Drug Trafficking, Tax Evasion, Commercial Fraud and Smuggling.

• “A” and his associates devised trade mechanisms for laundering the proceeds of crime.

• “A” and his associates utilised the services of banks, cash couriers, Money Service Bureaus (MSBs), alternative remitters (hawala operators) and various trade finance mechanisms to move funds.
Goods Funds Goods Funds Profits Profits

A1

L/C Open A/C

I1

E1

Profits

Funds

Goods

R1

M1,M2,M3

A2

Open A/C

I2

Profits

Funds

Goods

E2

R2

H1,H2,H3

A3

Hawala

I3

E3

Profits

Funds

Goods

R3

DUBAI

INDIA

LAYERING THROUGH TRADE & TRADE FINANCE

PLACEMENT

INTEGRATION
GLOBAL NETWORK:

- A’s network in:
- Europe;
- Spain;
- U.K;
- Italy;
- India;
- Hong Kong;
- South Africa
- USA
- Middle-East
- Lebanon,
- Cook Islands
CRIMINAL BACKGROUND OF SUBJECT “A”
• “A” was charged in 1995 for smuggling of Silver & Gold by Indian Customs.

• He and his companies in India were also charged for fraudulent exports of chalk powder in the guise of Naproxen (a bulk drug).

• He was also investigated for export of pulses by forgery of documents (violation of Customs Act). The suppliers as well as buyers were controlled by “A”.
• He illegally fled to Dubai in 1995 & remained there till 2009.

• On the basis of information received from Italy about his involvement in a case of laundering of money of narcotics trafficking and further investigations, he was arrested by Dubai Police in February 2007 and was in jail for about six months.
• He was convicted in Dubai for 3 years imprisonment, while he was on bail. He then escaped clandestinely to India via Nepal in 2009.

• A sum of US $ 4.3 million lying in the account of “A” was frozen by the US Authorities in May 2007 on the charges of Laundering of Narcotic Drug Money. This money was confiscated by the US Authorities in June 2009.
CRIMINAL BACKGROUND

1995
- 
- 2000
- 2000
- 
- 2007
- 2007
- 
- 2009
- 

Smuggling

Commercial Fraud

Forgery

Hawala

Money Laundering

Busted
INTELLIGENCE
• Intelligence about the illegal activities of “A” and his Associates was received in Enforcement Directorate from various internal and external sources.

• Intelligence identified the persons, the companies, part of the network and modus operandi.

• It has been estimated that he was laundering crime money to the extent of approx USD 1.5 billion per annum globally & USD 2.5 million impacting India.
INTELLIGENCE

INTERNAL INPUTS [INFORMERS]

DOMESTIC AGENCY INPUTS [CUSTOMS & FIU-IND]

FOREIGN AGENCY INPUTS [SOCA & DEA]
MODUS OPERANDI
PLACEMENT OF NARCOTIC DRUG MONEY

• For receiving and moving large sums of money derived from sale of narcotic drugs, “A” utilised the services of Banks, Money Service Bureaus (MSBs), Cash Couriers & Alternative Remitters (hawala operators).

• “A” got such amounts transferred through a number of countries and split up bulk cash into smaller amounts (smurfing).
• For laundering proceeds of crime, a number of companies / firms were established.

• Office of “A” at Dubai maintained daily accounts of all funds being received and sent to other destinations.

• A large number of fax machines, phone connections and email networking conveyed the receipts and dispatches to his associates across the globe.
PLACEMENT OF NARCOTIC DRUG MONEY

NARCOTIC TRAFFICKERS

SALE
CASH COLLECTION

C1, C2, C3
M1, M2, M3
H1, H2, H3
SMURFING

GLOBAL NETWORKING
• LAYERING OF FUNDS THROUGH TRADE

• To remit part of the proceeds of crime to his home in India, “A” while in Dubai, tied up with Indian Exporters (E1, E2 & E3).

• The said exporters overvalued the exports and earned export incentives. Under the Indian Law, such export incentives are also Proceeds of Crime.
• Export goods were chosen depending upon whether such goods were covered under the export incentive scheme.

• “A” in Dubai formed his associate companies (A1, A2 & A3), which on paper acted as importers and then sold the imported goods at lower (fair) value to the genuine importers. “A” opened L/Cs in the name of A1, A2 & A3.
• Alternatively, “A” facilitated opening of L/Cs for importers I1, I2 & I3 for commission and collected fair value of imports from the importers but remitted the full L/C amount of higher value to E1, E2 & E3.

• “A” also declared A1, A2 & A3 as notifying parties on trade documents to facilitate payments by him to E1, E2 & E3 through open accounting for exports of goods like Artificial Jewellery made to importers located in other countries like Afghanistan.
• “A” forged documents for allowing exports of banned goods like pulses from India. “A” antedated the contracts to dates prior to the ban and imported such pulses into Dubai for re-export to other parts of the world.
• He settled the differential amounts (profit on re-sale) through alternative remittance system.
TRADE MECHANISMS FOR LAYERING

RESALE TO GENUINE IMPORTER

A1

IMPORTER

I₁, I₂, I₃

PAYMENT BY L/C

PAYMENT BY HAWALA

PAULSES

ARTIFICIAL JEWELLERY

PAYMENT THROUGH OPEN ACCOUNTING

PRAYMDE G AMENT S

PAYMENT BY L/C

IMPORTER IN AFGHANISTAN

FACILITATOR

A2

NOTIFY PARTY

A3

E1

E2

E3
TRADE FINANCE
MISUSE OF LETTERS OF CREDIT (L/C) MECHANISM

• In Dubai, ‘A’ got L/Cs opened in the name of various companies A1, A2 & A3 controlled by him, for exporters E1, E2 & E3 in India as well as in other parts of the world.

• L/Cs were got opened for amounts substantially higher than the real value of the actual consignments being traded.

• “A” got trade documents prepared accordingly so as to make such documents acceptable to the Issuing Bank B1, B2 & B3 and Beneficiary/Advising Bank B4, B5 & B6.
• Alternatively, “A” facilitated opening of L/Cs for importers (I1, I2 & I3) for commission and collected fair value of imports from the importers but remitted the full L/C amount of higher value to E1, E2 & E3.

• “A” opened L/Cs for A1, A2 & A3 and for I1, I2 & I3 with Issuing Banks (B1, B2 & B3), who tied up with the Advising Banks (B4, B5 & B6) responsible for transmission of funds into accounts of E1, E2 & E3.
• “A” in turn remitted the inflated value of exports to Exporters in India, as per the terms of L/Cs, after adding the drug money lying with him. Thus his remission to India was as per terms of L/C.

• Exporters (E1, E2 & E3) after receiving the higher remittances retained the actual costs of goods exported and transferred the additional amount to the family members (R1, R2 & R3) of “A” in India and to his associates in other parts of the world.
MISUSE OF L/C
MISUSE OF OPEN ACCOUNT TRADING

- “A” organised exports of artificial jewellery from India to various importers (I4, I5 & I6) in Afghanistan.
- Associate companies (A1, A2 & A3) in Dubai were declared as notifying parties in trade documents for exports from India to Afghanistan.
- Payment was sent by “A1, A2 & A3” through banks B1, B2 & B3 in Dubai to the accounts of Indian exporters E1, E2 & E3 in banks B4, B5 & B6.
- The Indian exporters having received payments through open accounting, paid the commission in cash for such exports to the Indian agents R1, R2 & R3 of “A”.
USE OF ALTERNATIVE REMITTANCE SYSTEM:

• “A” also utilised the services of alternative remitters (hawala operators) to move funds across the countries.

• He took advantage of the legal framework in Dubai, under which a hawala operator can operate after his registration with the Central Bank of the country.
• “A” used this channel of funding for those who were visiting Dubai and were in need of funds and to whom he provided such funds in the local currency.

• The flush of money arising from the narcotics trade was enough to cater to large demands of individuals as well as of companies.

• On return to the home country, these individuals made compensatory payments to the assigned agents of “A” located in their home country, in currency of their home country.
• “A” also used alternative remittance system to settle differential payments arising out of trade in prohibited / restricted goods.

• Fake documents were prepared to fraudulently export pulses from India, when such exports were banned.

• “A” through his controlled companies A1, A2 & A3 made payments of contractual price to E1, E2 & E3 through L/C.
• A1, A2 & A3 further resold pulses at higher prices to I1, I2 & I3.

• A1, A2 & A3 settled the contractual price with E1, E2 & E3 through L/C using the banking services of B1 – B6.

• Profits earned on resale of pulses were remitted to agents R1, R2 & R3 through hawala operators H1, H2 & H3.
RESULTS OF INVESTIGATION
• Search action resulted in recovery of Indian and Foreign Currency of Rs.63 lakhs (US Dollar 120000) in cash.

• Contravention of the Exchange Control Law of the country to the extent of US $ 200 million (INR 10.46 Billion) was detected.

• “A” was also detained by the Enforcement Directorate for contravention of the Exchange Control Law.
• Investigations were also shared with Narcotics Control Bureau (NCB). Case under “Narcotics Drugs and Psychotropic Substances Act, 1985” was registered. “A” is facing Prosecution under the NDPS Act.

• Letters of Rogatory were sent to Foreign Jurisdictions for assistance in collection of evidence and identification of assets.
CONCLUSIONS
CRIMINAL GAINS:

- The motivation for the exporters, particularly in India, besides the assured payments through L/Cs, was to wrongly earn excess export incentives on the overvalued exports.

- The exporters who couldn’t have exported during the ban period, gained by being able to export.

- The genuine importers gained by saving on the costs of opening the letters of credit.
• Importers in third countries gained by receiving valuable goods as part payment for narcotics without having to go through bank settlements.

• “A” received commission from exporters and importers.

• The differential payments under trade transactions were used for transferring proceeds of crime to his chosen destinations.
RED FLAGS:

1. Movement of abnormally large sums of money in various accounts of the individuals and companies which are not related to the nature of their business.

2. Export Remittances received from third parties.

3. Settlement of accounts for trade between two countries through a third country.

4. Overvaluation of export goods.

5. Introduction of notifying parties in trade documents without adequate explanation.
THANK YOU