

Trusts, NGOs under ambit of money-laundering law

Move part of global commitment to account for all finance flows

PALAK SHAH

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Charitable trusts, whether temples, churches or mosques, non-government organisations (NGOs), educational institutions or societies, even if registered as non-profit organisations (NPOs), will not only have to disclose the source of their funds, but also be scrutinised for large monetary transactions.

The change has been introduced by an amendment to the Prevention of Money Laundering Act (PMLA), 2002, notified in the Official Gazette on November 12, to bring NPOs under the purview of the law. Earlier, the entities that fell under the ambit of the law included only chit fund companies, banking companies, financial institutions and housing finance companies.

The amendment now says any company registered under section 25 of the Indian Companies Act, 1956, and/or as a trust or society under the Societies Act, 1860, or any similar state legislation, will be brought under the purview of PMLA.

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country under these laws and their annual monetary transactions, through banking and other channels, runs into thousands of crores of rupees.

"Money laundering in India was rampant through NGOs and charitable trusts. The majority of industrialists and even some top politicians were using NGOs to launder their black money back into the country. The amendment would prove an effective tool in the hands of authorities and would take the veil off the racket," said Mumbai-based lawyer Bhushan Bahal.

"Earlier, the NPOs were not forced to disclose the source of their funds, except in some specific cases. However, now they will have to adhere strictly to know-your-customer norms in case of any donations they receive, according to banking stan-



dards, and will have to regularly maintain detailed statements of their funds received and investments made and will have to disclose this, when called on," said another lawyer, Sanjog Parab.

Parab and senior lawyer Anand Patwardhan note the concept of donations by anonymous persons may also be curtailed. "If the donation is too large and the authorities call on the organisation to know the source of funding, then it cannot use the excuse that it had come from an unknown source."

Bahal further states that the move would also affirm India's attempts towards getting membership in the important inter-government body, Financial Action Task Force (FATF), set up to combat money laundering and terror financing.

For India to become a member, FATF had suggested 40 action points. The government had allowed overseas payment gateways such as Visa and Master, brought money changers and money transfer service providers under the ambit of PMLA and imposed mandatory disclosures on these entities. Insider trading and market manipulation, human trafficking, smuggling of migrants, piracy and environmental crimes, over-invoicing and under-invoicing, have all become an offence under PMLA, inviting stricter punishment. "India recognised the need for bringing NPOs under PMLA a bit too late. Almost all European countries and the US brought them under the anti-money laundering laws in the aftermath of 9/11 (September 2001). In the US and UK, the annual accounts of registered charities are public documents and are posted on the regulators' websites," said Bahal.

Membership of FATF would not only allow India to gain easy access to real-time exchange of information on money laundering and terror financing but also help the country raise its diplomatic pitch globally against export of terror from neighbouring nations.