

## **ED, I-T dept set to get more powers**

*Proposed amendment to PMLA could expedite recovery process*

After providing more powers to the Reserve Bank of India (RBI) to tackle the bad loan problem in the banking industry, the Centre is likely to empower the Enforcement Directorate (ED) and the Income Tax (I-T) Department to auction assets of defaulters or those engaged in money laundering.

Such a move could help in expediting the recovery process in cases where investors have lost thousands of crores of rupees.

The Centre might introduce provisions in the Prevention of Money Laundering Act (PMLA) to enable the ED or the I-T department to auction attached assets soon after filing the chargesheet or before the case trials begin. The ED now has the powers to provisionally attach the property of a person believed to be in possession of “proceeds of a crime”. Such proceeds are likely to be concealed or transferred and may result in frustrating proceedings relating to confiscation. After the provisional attachment of the property, the officer has to forward the complaint to the adjudicating authority.

“The ministry concerned has deliberated the issue with senior officials of enforcement agencies and tax authorities,” said an ED official privy to the development. The amendment aimed to expedite the recovery process, he added.

An attachment order under the PMLA is aimed at depriving the accused of benefits of ill-gotten wealth and the accused can appeal against the order before the adjudicating authority within 180 days. While the adjudication proceedings take up to 180 days, if the accused goes to a high court, the matter drags on for several years.

“The challenge will be that till the matter is finally decided in appeal, there may not be finality to the liquidation proceedings. On the other hand, if the law becomes stringent, it will reduce the time of judgment, resulting in expediting the recovery,” said Sudhir Kapadia, partner, EY.

“These changes will aid in the recovery of proceeds of crime that have been converted into immovable property and also in cases where investors are awaiting a court verdict,” said ED lawyer Hiten Venegaonkar. He added this amendment would provide finality to civil adjudication, which now depends on the court’s verdict.

The Special Investigation Team on black money had recommended that the government form a statutory mechanism empowering the ED to initiate proceedings without any predicate offence. At present, it can only initiate a probe after police or the Central Bureau of Investigation registers a case against a person.

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