The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

LEGISLATIVE INTERFACE BETWEEN THE INCOME TAX ACT AND THE PREVENTION OF MONEY LAUNDERING ACT

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INTRODUCTION

The enactment of the Prevention of Money Laundering Act in July 2005, along with the Income Tax Act of 1961 (now amended to 2025), has resulted in a plethora of statutes that India requires to curb the malicious practices of money laundering that it is currently facing[1]. The statutes intersect in India mainly when concealed assets are involved, and tax fraud or concealed income are treated as a part of broader financial crime detection.

It is difficult for individuals such as Robert Wadra, Arvind Kejriwal, or Manish Sisodia to obtain bail under the Prevention of Money Laundering Act (PMLA)[2]. The literature agrees that the statute is ever-expanding but has ambiguity over tax evasion as a predicate offence, uneven enforcement, and recurring due process concerns. Although the PMLA is a cornerstone in preventing money laundering, the motive of money laundering is not always tax evasion[3].

The most significant gap between the two lies in whether tax evasion can be merged into the PMLA — that is, whether tax evasion can be considered an offence under Schedule III of the PMLA[4]. The second gap is inter-departmental coordination between the two entities. Furthermore, there is no codified procedure for information sharing between the two departments. This legislative silence fosters uncertainty as to whether the proceeds are derived from illicit tax evasion or through autonomous criminal conduct[5].

LEGISLATIVE FRAMEWORK OVERVIEW

The Income Tax Act, 1961, is primarily concerned with revenue generation, but the PMLA is concerned with punitive action for money laundering. India's PMLA operates through scheduled offences, so predicate status depends on explicit legislative inclusion rather than a broad theory that all fiscal wrongdoing counts as money laundering. Consequently, not all tax

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[1] Sahil Deswal, Critical Analysis of Laws Related to Money Laundering and Its Prevention, 10 Research Review International Journal of Multidisciplinary 335 (2025), https://doi.org/10.31305/rrijm.2025.v10.n5.037.
[2] Shubhlaxmi Dubey, Shifting Regime of Bail Provisions under PMLA, 2002 with Respect to Constitutionalism and Developmental Justice, 5 International Journal of Innovations & Research Analysis 187 (2025), https://doi.org/10.62823/ijira/5.3(ii).8099.
[3] Deen Kemsley, Sean A. Kemsley & Frank T. Morgan, Tax Evasion and Money Laundering: A Complete Framework, 29 Journal of Financial Crime 589 (2021), https://doi.org/10.1108/jfc-09-2020-0175.
[4] Anisa Pali & Ilir Mustafaj, Tax Crimes and Money Laundering of Criminal Proceeds, 12 Interdisciplinary Journal of Research and Development 148 (2025), https://doi.org/10.56345/ijrdv12n119.
[5] OECD, Improving Co-Operation between Tax and Anti-Money Laundering Authorities (2015), https://doi.org/10.1787/215d3015-en.

evasion can be classified as money laundering, but even without predicate status, the Income Tax Act and PMLA overlap in asset tracing, concealment, reporting, and investigation, because tax fraud, concealment of income, and illicit asset conversion often appear in the same pattern. Concealed income and tax fraud are repeatedly considered common or primary sources of laundering activities. This intersection makes it necessary for investigating agencies to manage the evidence while navigating the thresholds between legitimate tax planning and the criminal conversion of illicit proceeds[6].

INCOME TAX ACT PROVISIONS

As a broader overview, Barla Mallesh Yadav's study, "Juxtaposition of the Black Money Undisclosed Assets Act Vis-à-Vis the Prevention of Money Laundering Act," highlights the significance of this Act[7].

Specific sections, such as those governing search, seizure, and investigation, empower authorities to uncover hidden assets and undisclosed property. However, this procedural aspect must be supported by information-sharing mechanisms to bridge the gap between tax assessment and criminal proceedings. The absence of a formalized framework for cross-agency evidentiary integration often results in chaos and a burden on courts, and mental harassment for those not involved in money laundering, given the very stringent provisions for bail under the PMLA[8].

PMLA REGULATORY SCOPE

This approach ensures that enforcement authorities maintain a focused pursuit of criminal proceeds, preventing the dilution of work and leaving the recovery of revenue to the Income Tax Department.

India's anti-money laundering framework does not generally treat tax evasion as a Scheduled Offence unless sufficient and appropriate evidence or links are established to prove the same[9].

PREDICATE OFFENCE CLASSIFICATION

To prosecute someone under the PMLA, the Enforcement Directorate must establish that an underlying Scheduled Offence has been committed and that there are proceeds of crime. These proceeds of crime may or may not be from crime proceeds[10].

There are three parts to the Schedule for classifying predicate offences.

Part A encompasses severe crimes outlined in the Indian Penal Code (IPC)[11].

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[6] Michael Levi & Melvin Soudijn, Understanding the Laundering of Organized Crime Money, 49 Crime and Justice 579, 591 (2020), https://doi.org/10.1086/708047.

[7] Barla Mallesh Yadav, Juxtaposition of Black Money Undisclosed Assets Act Vis a Vis Prevention of Money Laundering Act, International Journal of Trend in Scientific Research and Development 876, 878 (2017), https://doi.org/10.31142/ijtsrd7109.

[8] Shubhlaxmi Dubey, Shifting Regime of Bail Provisions under PMLA, 2002 with Respect to Constitutionalism and Developmental Justice, 5 International Journal of Innovations & Research Analysis 187 (2025), https://doi.org/10.62823/ijira/5.3(ii).8099.

[9] Anisa Pali & Ilir Mustafaj, Tax Crimes and Money Laundering of Criminal Proceeds, 12 Interdisciplinary Journal of Research and Development 148 (2025), https://doi.org/10.56345/ijrdv12n119.

[10] VirtuosityLegal, Settled Position or Persisting Confusion? Examining the Evolving Jurisprudence on PMLA Offence Vis-à-Vis Predicate Offence, available at https://virtuositylegal.com/settled-position-or-persisting-confusion-examining-the-evolving-jurisprudence-on-pmla-offence-vis-a-vis-predicate-offence/.

Part B includes offences under the Customs Act. These only qualify as predicate offences if the total value involved is ₹1 crore or more[12].

Part C covers offences with cross-border implications, ensuring that international money laundering, transnational crimes, and severe tax evasion (such as those under the Black Money Act) are covered.

THRESHOLDS FOR PROSECUTION

Part A includes major crimes such as terrorism, corruption, counterfeiting, and serious cheating or forgery. Even if the proceeds of crime are low, the Enforcement Directorate (ED) can proceed with prosecution.

Part B sets a monetary threshold of ₹1 crore for specific economic offences, such as those under the Customs Act, to trigger predicate status[13].

Part C targets cross-border money laundering and has no internal floor to trigger prosecution.

PROCEDURAL CHALLENGES

The Enforcement Directorate cannot initiate an investigation into an alleged predicate offence unless there is a prior FIR, chargesheet, or private complaint filed by a competent local or federal authority, such as the State Police or the CBI.

If there are no proceeds of crime, the PMLA investigation must stop.

Furthermore, if the accused is a public servant, the ED must take permission from the government before prosecuting them for acts done during their official line of duty[14].

MONEY LAUNDERING IN SIMPLE WORDS

It may help to step back and explain all of this in plain language, without the legal jargon used above.

Money laundering simply means taking money earned through illegal means and making it look clean and legal. Suppose someone earns money through bribery, drug dealing, or tax fraud. That money cannot just be put into a bank account and spent, because it would raise questions. So the person tries to hide where the money really came from. They pass it through many transactions — buying property, running a shop, investing in a business — until the money looks like it came from a normal, legal source. This is why it is called laundering, the same word used for washing clothes: dirty money goes in, and clean-looking money comes out[15].

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[11] Financial Intelligence Unit – India, Scheduled Offences under the PMLA, available at https://fiuindia.gov.in/files/AML_Legislation/scheduled_offences.html.

[12] Cyril Amarchand Mangaldas Blog, The Concept of Predicate Offence: The Supreme Court Clarifies (2022), available at https://corporate.cyrilamarchandblogs.com/2022/08/the-concept-of-predicate-offence-the-supreme-court-clarifies/.

[13] Jaideep Singh Lalli & Nikita Garg, PMLA 2002's Gremlins: Anatomizing the Labyrinth of Recent Amendments and Precedent, 44 Statute Law Review (2021), https://doi.org/10.1093/slr/hmab002.

[14] Subhashchandra G. Sonkar, Enforcement Directorate Investigations and Their Influence on Financial Crime Reduction in India: A Policy and Legal Analysis, Zenodo (CERN European Organization for Nuclear Research) (2025), https://doi.org/10.5281/zenodo.18103694.

[15] Department of Revenue, Ministry of Finance, Overview of the Prevention of Money Laundering Act, available at https://www.dor.gov.in/overview-prevention-of-money-laundering.

The PMLA was brought in to stop exactly this. In simple terms, it says that if you knowingly help hide, hold, or use money that came from a crime, and you try to show it as clean money, you have committed the offence of money laundering[16].

But here is the tricky part. Not every crime counts as a starting point for the PMLA. The law only applies when the money comes from one of the offences listed in its Schedule. This is why the Income Tax Act and the PMLA keep crossing paths. Tax evasion, by itself, is usually just a tax offence, handled by the Income Tax Department, with a penalty and, in serious cases, prosecution under the Income Tax Act. But if that same tax evasion is connected to a bigger listed offence, or if the person hides the black money through complicated transactions, the PMLA can also step in[17].

So why should an ordinary taxpayer care about any of this? Because the two laws hit very differently. If the Income Tax Department catches someone hiding income, the usual result is a tax demand, a penalty, and sometimes a court case, but the person can still use their bank accounts and property while the matter is being decided. Under the PMLA, on the other hand, the Enforcement Directorate can freeze bank accounts and attach property even before the case is decided, and getting bail is much harder, because the law makes it tough for the accused to get bail unless the court is satisfied there are reasonable grounds to believe they are not guilty. This is why many people find the PMLA process far more painful than a normal Income Tax case, even when the underlying facts are the same.

A SMALL EXAMPLE

Suppose a shopkeeper hides part of their sales and does not report that income to the Income Tax Department. This, by itself, is tax evasion, and normally the department would raise a tax demand with a penalty. Now suppose the same shopkeeper uses that hidden cash to buy properties in someone else's name, routes it through fake bills, and slowly mixes it with legitimate business income. If investigators later show that this specific hiding and mixing was done to disguise the money as clean, and it connects to an offence listed in the PMLA Schedule, the case can move from being a plain tax matter to a money laundering case, with all the harsher consequences that come with it.

HOW OTHER COUNTRIES HANDLE THIS

India is not alone in facing this problem. Most countries that follow the standards set by the Financial Action Task Force (FATF), the global body for anti-money laundering rules, face the same basic question: when does ordinary tax evasion turn into money laundering? Several countries treat tax evasion itself as a listed offence for money laundering purposes, so the overlap is built into the law from the start, and there is no need to separately connect it to another crime[18]. India took a different route. It kept tax evasion outside the main Schedule and instead relies on connecting the money to some other listed offence, or, in extreme cases, to the separate Black Money Act that deals with undisclosed foreign income and assets. This design choice is one reason Indian courts and lawyers keep debating exactly where the line between the Income Tax Act and the PMLA should be drawn.

[16] Financial Intelligence Unit – India, Prevention of Money Laundering Act, 2002, available at https://fiuindia.gov.in/files/AML_Legislation/pmla_2002.html.

[17] ClearTax, Prevention of Money Laundering Act, 2002 (PMLA), available at https://cleartax.in/s/prevention-of-money-laundering-act-2002.

[18] OECD, Improving Co-Operation between Tax and Anti-Money Laundering Authorities (2015), https://doi.org/10.1787/215d3015-en.

A NOTE ON CRITICISM

The PMLA has also faced a fair amount of criticism in recent years, even from within India. Commentators point out that the law was originally meant to catch serious crimes, such as drug money and terror financing, but over time its Schedule kept growing, and the law started being used far more often than expected against people accused of much smaller offences. Some legal commentators have argued that the law has drifted away from its original purpose, and that stretching it to cover almost every kind of financial wrongdoing weakens the seriousness of the term “money laundering” itself[19].

WHAT WOULD ACTUALLY HELP

Given all this, in plain terms, three things would help fix the friction between the Income Tax Act and the PMLA. First, the two departments need one shared database, so that if the Income Tax Department is already investigating someone for hiding income, the Enforcement Directorate does not have to start from zero, and vice versa. Second, there should be a clear, written test for when tax evasion becomes serious enough to be treated as money laundering, instead of leaving it to case-by-case interpretation. Third, courts should be given the power to release attached property faster in cases where the amount involved is small and the risk of the accused destroying evidence or fleeing is low. None of this requires scrapping either law. It just means making the two departments talk to each other properly, instead of working as two separate machines that occasionally collide.

CONCLUSION

The legislative interface between the Income Tax Act and the PMLA is very complex, yet characterized by feeble coordination, leading to persistent conflicts and an unnecessary burden on Appellate Courts[20].

Though the Act has been a pioneer in curbing economic offences, tax evasion has not been explicitly mentioned in any of its Parts of the Schedule. Income tax evasion can be tried by invoking the provisions of the IPC — now the BNS — under cheating and forgery. Turning everyday domestic tax violations into automatic laundering offences would dilute the PMLA's purpose and dangerously bypass standard criminal protections.

Thus, a balance needs to be struck between the two departments, such that the offence can be classified as a predicate offence or not; and if so, its severity should be tested by the income tax authorities before it is handed over to the ED.

[19] See Drishti IAS, Introspecting PMLA, 2002, available at https://www.drishtiias.com/daily-updates/daily-news-editorials/introspecting-pmla-2002, summarising The Hindu, “The PMLA — a law that has lost its way,” April 2, 2024.

[20] G.S. Bajpai & Garima Pal, Absence of Period of Limitation in India's Prevention of Money Laundering Act, 2002: Analysing Its Impact on Legal Certainty and Fundamental Rights, 1 Journal of Illicit Trade Financial Crime and Compliance 27 (2025), https://doi.org/10.65879/3070-6122.2025.1.04.