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**Newsflash: Record of Cash Transactions in Gems & Jewellery over and above Rs. 10 lakhs mandatory under PMLA**

## Newsflash

### Record of Cash Transactions in Gems & Jewellery over and above Rs. 10 lakhs mandatory under PMLA

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#### 1.0 Background

The Government has vide Notification No. 8/2017 dated 15<sup>th</sup> November 2017 had provided a relaxation to the dealers in the gems and jewellery industry from the scope of the reporting requirement under the Prevention of Money Laundering Act, 2002 (PMLA). However, the said relaxation has been recently withdrawn vide **Notification No. F. No. P-12011/14/2020 dated 28<sup>th</sup> December 2020**.

#### 2.0 Amendment in the PMLA Act

- 2.1. As mentioned above, the Government has now amended the PMLA to include the dealers in precious metals, precious stones as persons carrying on designated businesses or professions i.e. if they engage in any cash transactions with a customer equal to or above Rs. 10 lakhs, carried out in a single operation or in several operations that appear to be linked, they would be subjected to the reporting requirements under PMLA.
- 2.2. Thus, Dealers of precious metals and stones would now be required to maintain records of all cash transactions for a single transaction or cumulatively in excess of Rs 10 lakhs with a customer.
- 2.3. Additionally, it is also pertinent to note that from an income tax perspective, transactions upto Rs 2 lakh in the Gems and Jewellery are allowed without any KYC requirements of PAN and/or Aadhaar whereas the KYC requirements are necessary for transactions over and above Rs. 2 lakhs.
- 2.4. Further, apart from the above, the said notification has also brought Real Estate Agents engaged in providing services in relation to sale or purchase of real estate and having annual turnover of Rs. 20 lakhs or above, within the ambit of PMLA.

### **3.0 Consequences of Violation of PMLA**

**3.1.** Section 12 of PMLA makes it mandatory for every reporting entity under PMLA to maintain a record of all transactions. Particularly with respect to the Gems & Jewellery Sector, the reporting entities under PMLA may specifically look into the following transactions for the purpose of reporting to the Financial Intelligence Unit (FIU) amongst other transactions required to be reported:

- Any cash transactions exceeding Rs. 10 lakhs or more, which is either a single transaction or any series of transactions during a month exceeding such threshold, or
- Any unaccounted stock of Gems & Jewellery held constituting as a suspicious transaction.

In response to the same, the FIU may call for additional information and in case of having any reason to believe of existence of any money laundering, the Enforcement Directorate may be approached for further investigation.

**3.2.** In case, the business enterprise is unable to establish the source of such stock or cash, the property of the business and/or the owners may be seized and an investigation can be initiated against them. Further, if any money is actually found to be laundered, it may lead to attachment of the property as per Section 5 or seizure/ freezing of property and records under Section 17 or Section 18 of PMLA. be attached and the person responsible for committing such offence of money laundering would be subjected to a rigorous imprisonment which would range from a minimum of 3 years to a maximum of 7 to 10 years and/ or fine in accordance with Section 4 of the PMLA.

**3.3.** Moreover, in case of the offence of money laundering being committed by companies, Section 70 provides for prosecution against the company and also every person who, at the time the contravention was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

**3.4.** Considering the severe consequences, it is vital for every person engaged in the business of Gems and Jewellery to not only maintain proper KYC details of the cash deals but also the details substantiating their ownership over the stock held.

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This Newsflash has summarized on the recent amendment in PMLA pertaining to the maintenance of record of Cash Transactions in Gems & Jewellery over and above Rs. 10 lakhs being mandatory. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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