Crypto assets under Prevention of Money Laundering Act

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Why is in news? The Union Finance Ministry's move to bring in virtual digital assets under the money laundering law is aimed at widening the taxation and regulatory net and giving teeth to agencies.

Overview of crypto regulation in India

In the Union Budget last year, even though the government brought in a tax for cryptocurrencies, it did not proceed with framing regulations.

Earlier, the Reserve Bank of India had proposed a ban that was set aside by a court order.

In July last year, flagging the RBI's concerns, Finance Minister told Parliament that "international collaboration" would be needed for any effective regulation or ban on cryptocurrency.

From April 2022, India introduced a 30 per cent income tax on gains made from cryptocurrencies. In July 2022, rules regarding 1 per cent tax deducted at source on cryptocurrency came into effect.

India's money laundering law, PMLA

The Prevention of Money Laundering Act, 2022 (PMLA) allows the Centre to confiscate property earned through illegal proceeds. It was framed to prevent people from legalising the money earned from illegal sources.

The ED is responsible for investigating the offences. Additionally, the Financial Intelligence Unit – India (FIU-IND) under the Department of Revenue, Ministry of Finance is the central national agency responsible for receiving, processing, analysing, and disseminating the information relating to suspect financial transactions.

It is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister.

If found guilty, the person who committed money laundering can be awarded rigorous imprisonment for a minimum of three years up to seven years. A fine, without any limit, can also be imposed. Also, their property can be seized and attached.

About recent Government guidelines

It laid out the nature of transactions to be covered under PMLA.

These are as follows:

Exchange between virtual digital assets and fiat currencies;

exchange between one or more forms of virtual digital assets;

transfer of virtual digital assets; safekeeping or administration of virtual digital assets or instruments enabling control over virtual digital assets;

Participation in and provision of financial services related to an issuer's offer and sale of a virtual digital asset.

Rationale behind the notification

The measure is expected to aid investigative agencies in carrying out action against crypto firms.

The investors will be subjected to greater scrutiny by agencies. Those found using VDAs to earn money illegally would be subjected to the same punishments as other money laundering activities.

Under anti-money laundering law, "reporting entities" are required to maintain the KYC details of their clients and beneficial owners. According to the notification, entities dealing in VDAs will now be considered "reporting entities" under PMLA. They will have to maintain all the records of the customers.

The Enforcement Directorate and Income Tax Department have either probed or are probing several cases against companies running cryptocurrency exchanges and transactions.

ED, for instance, froze the bank balances of the popular WazirX exchange last year.

Concerns with notification

Publicly, the cryptocurrency industry has largely welcomed the move. Internally, however, there are concerns that the notification does not offer entities time to adhere to the fresh norms.

The industry is also concerned that in the absence of a central regulator, crypto entities could end up dealing directly with enforcement agencies like the ED.