



A STUDY ON NIRAV MODI CASE - FINANCIAL FRAUD IN BANKING SECTOR

* *Ms. Khyati Jayesh Pandya,*

* *M.com, Matrushi. Kashiben Motilal Patel Sr. College of Commerce & Science Padmakar Colony, Near Railway Station, Cholegaon, Thakurli (East) - 421201*

Abstract:

Banking sector plays vital role in Indian's economy. In Banking sector now a days there has been a rapid growth. However with all functionality of bank there is one of the flow which has drastically increased in banking sector is 'Frauds'

In spite of various observations and regulations being introduced to reduce the frauds, still it is observed that frauds are being committed. This paper aims at study of Nirav Modi case. A study was conducted on the impact of frauds on Punjab National bank by Nirav Modi. This study is based on secondary data collected from various reliable sources.

Keywords: Money laundering, Public sector banks, Financial Frauds.

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Introduction:

The Reserve Bank of India (RBI), a regulator of banks in India, defines fraud as "A deliberate act of omission or commission by any person, carried out in the course of a banking transaction or in the books of accounts maintained manually or under computer system in banks, resulting into wrongful gain to any person for a temporary period or otherwise, with or without any monetary loss to the bank".

Who is Nirav Modi?

Nirav Modi is a luxury diamond jeweller and designer who was ranked 57 in the Forbes list of billionaires in 2017. He is also the founder of the Nirav Modi chain of diamond jewellery retail stores.

Modi is the Chairman of Fire star International, the parent of the Nirav Modi chain which has stores in key markets across the globe.

He has 16 stores in diverse locations such as Delhi, Mumbai, New York, Hong Kong, London and Macau.

He is currently in the United Kingdom and is seeking political asylum in Britain.

Review of Literature:

There are many articles available in the area of financial frauds and a large no. of researchers have studied the issue of frauds in the banking sector. A review of the relevant literature has been described.

Kundu & Rao (2014) in their study Reasons of Banking Fraud – A Case of Indian Public Sector Banks find that as per the survey conducted by Ernst & Young, 2012 the financial frauds in banking sector has soared up by 84%. The customer expects transparency, accountability, fairness and effective intermediation from banks. Protecting public money and people's faith is one of the greatest challenges for modern day bankers. Though

adoption of technology with the evolution of time can help in prevention of fraud to a great extent.

Asthana & Dutt (2013) in their study on The Extent of Disclosure Code of Corporate Governance in India: A Comparative Study of Public and Private Sector Banks find that the contribution of the banking sector is very critical and important in any economy. The study is to examine the extent to which private and public sector banks adopted corporate governance code in their annual reports. Banerjee, Cole, and

Mittal, Singh and Dash (2013) in their study on Computerization in Banks -Some Issues find how renovation has affected the banking sector and the factors that have brought changes. As the competition is increasing in the banking sector and increasing demand of customers is forcing banks to provide their service online. Technological fraud is one of the most up to date frauds in the banking sector today.

Pasricha & Mehrotra (2014) in their study on Electronic Crime in Indian Banking find that the increasing rate of electronic crimes and other basic crimes such as ATM frauds, credit card fraud and money laundering fraud in the Indian banking sector. The organization should make sure that the customers are satisfied with the services they are providing to them as this builds trust and confidence among them.

The study of financial frauds in the banking sector was important as financial frauds or scams have never been a rare phenomenon in the economy of any country. Bank failures have large social consequences in any economy of a country due to its financial linkages with other parts commonly termed as “network externalities”. In spite of various observations and regulations are introduced to reduce frauds still it is observed that frauds are being continued. The need was felt to study no. of frauds happening bank wise, sector wise and its impact on the performance of banks.

Objectives of the Study:

- To study about frauds in the banking sector.
- To identify current issues and problems pertaining to fraud and ethics in public sector
- To examine the impact of frauds on performance of banks.
- To identify how fraud impacts the profession.

Sources of Data:

The collected data is mainly secondary in nature.

Detail Study on Nirav Modi Case:

The Punjab National Bank scam relates to a fraudulent letter of undertaking worth Rs 10,000 crore issued by the bank.

The key accused in the case were jeweler and designer Nirav Modi, his maternal uncle Mehul Choksi, and other relatives and some PNB employees. Nirav Modi and his relatives escaped India in early 2018, days before the news of the scam became public. PNB scam has been dubbed as the biggest fraud in India's banking history.

How did the 10,000-crore scam happen?

Bankers used fake Letters of Undertakings (LoUs) at PNB's Brady House branch in Fort, Mumbai. The LoUs were opened in favour of branches of Indian banks for import of pearls for a period of one year, for which Reserve Bank of India guidelines lay out a total time period of 90 days from the date of shipment.

This guideline was ignored by overseas branches of Indian banks. They failed to share any document/

/information with PNB, which were made available to them by the firms at the time of availing credit from them. Nirav Modi got his first fraudulent guarantee from PNB on March 10, 2011 and managed to get 1,212 more such guarantees over the next 74 months.

The Enforcement Directorate (ED) recovered bank token devices of the foreign dummy companies used by the fugitive diamond trader to transfer the fraudulent funds.

The probe agency found that Nehal Modi, brother of Nirav Modi had destroyed the devices and had even secured a server located in the United Arab Emirates (UAE) soon after the scam broke out. These dummy firms had been receiving the fraudulent PNB LoUs and were based out in British Virgin Island and other tax havens.

The enforcement agency has so far seized movable and immovable properties to the tune of Rs 2362 crore in the PNB fraud case.

How was the Punjab National Bank management oblivious to this?

PNB employees misused the SWIFT network to transmit messages to Allahabad Bank and Axis Bank on fund requirements. While all this was done using SWIFT passwords, the transactions were never recorded in the bank's core system — thereby keeping the PNB management in the dark for years.

How did the scam unfold?

On 29 January 2018, PNB lodged a FIR with CBI stating that fraudulent LoUs worth Rs 2.8 billion (Rs 280.7 crore) were first issued on 16 January. In the complaint, PNB had named three diamond firms, Diamonds R Us, Solar Exports and Stellar Diamonds.

As of 18 May 2018, the scam has ballooned to over Rs 14,000 crore.

Persons involved in the Scam:

- Nirav Modi : Nirav Modi is the owner of The Nirav Modi firm, Diamond R.U.S.; Stellar Diamond and Solar Exports and the prime accused in this scam.
- Ami Modi : Nirav Modi's wife.
- Nishal Modi : Nirav Modi's brother in law.
- Mehul Choksi : Mehul Choksi is the owner of Gitanjali Group and the uncle of Nirav Modi.
- PNB Employees : Gokul Nath Shetty (retired deputy manager), Manoj Kharat (Clerk)

Nirav Modi's extradition

Modi was arrested in March 2019, and his extradition was approved by the court in February 2021, and by the UK government in April 2021. However, he still has not come to India. Since his arrest, he remained at Wandsworth Prison in southwest London.

And What is current status ?

In 2021, Modi filed an appeal in the High Court in London on the grounds of his mental health. His defense team argued that his mental condition had deteriorated, and they submitted that the courts take this into consideration before arriving at their judgment, especially in COVID- 19 prison restrictions.

The leave to appeal in the High Court was granted on two grounds — under Article 3 of the European Convention of Human Rights (ECHR) to hear arguments if it would be “unjust or oppressive” to extradite Modi due to his mental state, and Section 91 of the Extradition Act 2003, also related to mental health.

Hearing Nirav Modi's plea against extradition to India, the court had noted that India is a "friendly foreign power" and the UK must honour its extradition treaty obligations by not picking holes in the Indian government's assurances that Nirav Modi will be provided with adequate medical care at Arthur Road Jail in Mumbai.

What is next for Nirav Modi

According to PTI, Modi can approach the Supreme Court on a point of law of public importance, to be applied to the Supreme Court against the High Court's decision within 14 days of a High Court verdict. "However, this involves a high threshold as appeals to the Supreme Court can only be made if the High Court has certified that the case involves a point of law of general public importance," it said.

If all avenues in UK courts are exhausted, Modi can seek a so-called Rule 39 injunction from the European Court of Human Rights (ECHR). Modi's legal team is yet to comment on any plans to appeal the High Court verdict.

Recommendations:

- These accounting firms should be asked to conduct forensic audit on a real-time basis.
- Multi factor authentication
- Implementation of Anti-Money laundering
- Rotation of employee in every three years
- Fraud monitoring
- Financial intelligence
- Better management control

Conclusion:

When the Nirav Modi scam hit the headlines in the spring of 2018, the miseries of the common man were inevitably visible in the form of long lines and sorrowful crowds standing in front of the gates of their bank branches. The Nirav Modi scam struck as the biggest earthquake in India's banking history and in its aftershock followed the further loss of thousands of crores of rupees of investors' wealth when the stock market took a nosedive and crashed. It is true that after this scam, many reforms were introduced in the form of the Fugitive Economic Offenders Act (2018), integration of SWIFT with CBS (Core Banking System), stricter regulations etc. but an effective deterrent that will scare the future Nirav Modis from playing with India's economy is yet to see the daylight. Until more stringent laws and regulations are introduced along with mechanisms to ensure the full compliance of such security regulations, the menace of greedy fraudsters in the banking sector will remain miles away from becoming a thing of the past.

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