

STATEMENT OF FACTS

1. In the second week of January 2007, the Central Government convened a four-day, high-powered committee meeting of senior officials from all nationalized Banks and senior bureaucrats of the Ministry of Finance and the Ministry of Home Affairs in New Delhi to discuss ways and means to increase their competitiveness vis-à-vis private banks. One of the short-term recommendations of the high-powered committee was to increase deposit holdings in savings accounts in north-east India, especially in Meghalaya, Assam and Nagaland. All nationalized banks were sent a copy of the recommendations, with orders of immediate and effective implementation.
2. In the third week of January 2007, the Union Finance Minister, while speaking at a joint RBI/SEBI function in Mumbai, stated that the Central Government was actively considering a proposal for the merging of small regional banks to maximise resources. He stated that unless certain Banks met the short-term recommendations of the high-powered committee within the financial year, the Central Government may begin the process of merging of those Banks. It was also hinted that the merger of the Banks would be accompanied by massive job cuts, to make the resultant entities lean and competitive. One of the Banks named by the Minister was the Myanmar Unity Bank (MUB), a nationalized Bank having its registered office at New Delhi with branches primarily in north-east India, as also the metros.
3. Mr. Ludu Myint, aged 46, was a Senior Officer (Marketing), an AGM ranked officer based in New Delhi with the Myanmar Unity Bank (MUB). In October, 2005, Mr. Ludu Myint had been one of the first officers to sign up for an information technology primer course introduced by the MUB along with computerization of all its operations. In an email dated 22.11.2005 to his colleague, Mr. Tarun Datta who was based in the Abu Dhabi branch of MUB, Mr. Ludu Myint stated that he was very excited by computers and the anonymity that the Internet provided and that he could finally realise his dream of becoming a writer. He disclosed to Mr. Tarun Datta that he was now the author of a blog and wrote extensively on Indian finance for developing economies under the pseudonym, 'Mr. Money Bags'. However the blog was not yet very popular and he barely ever had any comments from readers. However, Mr. Tarun Datta and his journalist wife, Ms. L. Datta, actively encouraged Mr. Myint's blog, being one of few friends who knew of Mr. Myint's secret identity.
4. In February 2007, Mr. Ludu Myint received a copy of the high-powered committee recommendations with a memo from his superior officer, Mr. M. K. Banerjee, stating therein that Mr. Ludu Myint personally ensure that the deposits held in savings accounts in the north-east region of India be doubled before the closure of the financial year as this was a sensitive area of work for the Bank. Mr. Banerjee also spoke to Mr. Myint over the telephone and informed him that his Annual Confidential Report (ACR) and indeed, future career would be adversely affected if the target was not met by him in any way possible.
5. Mr. Myint, being anxious with this state of affairs, requested permission to temporarily shift to the North East head office of the MUB at Kohima. The permission was readily granted and Mr. Myint reached the MUB guest house in Kohima on 15.02.2007 with a Rs. 5 Crores marketing and sales promotion budget. In a push for greater powers to senior management and spot-decision makers, the Bank Management had released the entire marketing and sales promotion budget to Mr. Myint's personal account in MUB.
6. While presenting the Union Budget for 2007-08, the Union Finance Minister had indicated in no uncertain terms that MUB was now at the fore amongst banks targeted for merger. He once again expressed his desire that Banks be proactive in securing deposits and employ new and innovative means to ensure that deposits grew in savings bank accounts, failing which stringent measures were envisaged.

7. Despite organizing a huge marketing drive, increasing fixed deposit rates by almost two percent (as had been suggested by Mr. Datta in a personal email to Mr. Ludu Myint), Mr. Myint could not make a dent in his target by the end of the second week of March 2007. Mr. Myint received a short memo from his superior noticing that despite spending almost 20% of the marketing budget, no significant progress had been made in north-east deposits. Mr. Myint was short of his target by approximately Rs. 25 Crores.
8. On 09.03.2007, the Central Government, vide Notification S. O. 198-8D (S.O.) dated 09.03.2007 designated the Court of Sessions, Dimapur as the Special Court under Section 43 of the Prevention of Money-laundering Act, 2002 for the State of Nagaland. On 10.03.2007, Mr. Myint posted an entry on his blog, while maintaining his anonymity, stating his predicament in clear terms and asked for suggestions from his readership and sent emails to all his friends. On 14.03.2007, Mr. Myint received a cryptic comment on his blog stating 'I can help you – Alura Sosai, asosai@aojimap.com'.
9. Mr. Myint immediately sent an email to the address provided and received the following email:

“Dear Mr. Myint

I am an avid reader of your blog. I am the eldest son of the late Henri Sosai. My father died in March 2005 as a result of the inhumane treatment meted out on him while in prison by the dictatorial government of the Republic of South Central Africa. However, it is particularly important to mention here that before the death of my father, he was a successful businessman and his business empire included real estate, exports, and consultancy services which cut across Africa and included several businesses in India. His net profit during the period under review was almost \$21,000,000.

My father criticised the government in both local and international newspapers and wanted direct international intervention in the country. This infuriated the government and my father was kept in jail and tortured until he died. As the eldest son of my late father, I have now inherited my father's wealth. Considering the present face-off between the government and my family, I have been advised to seek the assistance of someone based in your country to receive the remaining amount being, \$15,000,000, since I have the intention of relocating my family in India with the aim of settling down in India. I have decided to give you 5% of the total amount involved. I have also set aside money for any expenses that might be incurred in the course of this transaction and I will ensure that my money remains in MUB.

To finalize this transaction you will have to contact me via my e-mail address (asosai@aojimap.com). Further discussions will be centred on how and when we shall meet after the funds are in your account. This fund should go a long way in clearing your Bank deposit requirements as I have understood from your blog. However, due to the nature of the transaction and constant government surveillance on me, I shall expect you to keep this transaction confidential due to the present circumstance of my family till the time we reach India. I urgently await your response.

Yours faithfully
Alura Sosai”
10. Mr. Myint could scarcely believe his eyes when he read the email on his laptop. He immediately responded to the email from Mr. Sosai and indicated his willingness to help Mr. Sosai. Mr. Myint clearly stated that he would be acting on behalf of MUB and may not be in a position to accept a commission personally, but wanted further details. Mr. Myint received another email dated 16.03.2007 from Mr. Sosai thanking him for responding and sought details of a bank account other than an MUB account where the funds could be transferred. Mr. Myint provided the details of his wife's ICICI bank account.
11. Mr. Sosai sent another email on the same day stating that the money would take a month to reach Mr. Myint's wife's account due to 'procedural difficulties'. Worried by this development since he was now avoiding Mr. Banerjee's calls on an almost hourly basis, Mr. Myint sent another email dated 16.03.2007 to Mr. Sosai asking if there was any way that the funds could be transferred before 26.03.2007. Mr. Sosai responded vide email dated 17.03.2007 stating therein that the funds could be transferred immediately but he would have to incur an expense of \$200,000/- towards 'processing charges' given his present situation. The email further read that Mr. Sosai would reimburse the amount as soon as his

funds were transferred to MUB and provided details of the overseas account to which the money for the 'processing charges' needed to be wired.

12. After some thought, Mr. Myint transferred the equivalent of \$200,000/- (Rs. 90 Lakhs approximately) from his MUB account to his wife's ICICI account and wired the money from her bank account to a numbered overseas account supplied by Mr. Sosai. Mr. Myint recorded the transfer from his account to his wife's account as being towards '*Miscellaneous expenses*'. On 18.03.2007, his wife received an email from ICICI customer service stating that her bank account had been credited with the INR equivalent of \$50,000/-. Puzzled by this entry, Mr. Myint checked his email to find a new mail from Mr. Sosai stating that the processing charges were only \$150,000/- and therefore the remainder was being returned to Mr. Myint's wife's account.
13. On 19.03.2007, Mr. Myint returned to Kohima and sent an email to Mr. Datta stating that he was now set for life and that soon he would be a very successful banker. On 21.03.2007, 22.03.2007 and on 24.03.2007, Mr. Myint sent reminders to Mr. Sosai that the money ought to come in by 26.03.2007 so that his targets can be met on time. On 25.03.2007, Mr. Sosai sent an email to Mr. Myint stating that he had been on the run from suspected government agents and had somehow managed to escape, and now needed a further \$250,000/- to complete the transaction and the money would reach by 27.03.2007 without fail and that he would arrive a week later.
14. Mr. Myint wired the required money once again to Mr. Sosai's account through his wife's account on 26.03.2007 from Kohima, where he was attending a meeting between local MUB officials and a Grameen Bank representative. On 27.03.2007, Mr. Myint sent an email to Mr. Sosai stating that the money had not still reached. The email bounced with a message 'account closed'. He immediately transferred the INR equivalent of \$50,000/- from his wife's account back to his MUB account.
15. On 28.07.2003, Mr. Myint learnt that his wife had been hospitalized following a cardiac arrest, and he reached New Delhi late on 28.03.2007, where he was arrested at the domestic Airport by CBI officers from the Anti-Corruption Branch, in RC No. 78A/2007 dated 28.03.2007 under Section 120B IPC read with Section 7, 8, 9, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 read with 409, 420 IPC and Section 4 of the Prevention of Money Laundering Act, 2002, registered in New Delhi and was remanded to police custody. Mr. Myint's wife was also arrested from G. B. Pant hospital, New Delhi and was transferred to the jail hospital, where she later expired.
16. Mr. Myint learnt that RC No. 78A/2007 had been registered by Deputy Superintendent of Police K. I. Sharma, CBI upon a complaint of one Ms. L. Datta, a leading journalist with InYerFaceNews (IYFN), a 24 hour news channel specialising in sting operations. In her complaint, Ms. Datta revealed that IYFN conducted a sting operation based on 'inside information' on the violation of existing banking regulations by MUB and named Mr. Banerjee as being responsible for implementation of lack standards and failing to promote accountability in MUB operations. She stated that the Alura Sosai identity had been created on Aojimail and she had used the identity to communicate with Mr. Myint and that the money was lying in an overseas account she had created in the Cayman Islands, which would be remitted back to any account that the CBI directed. DSP Sharma handed over the investigation to Sub Inspector L. L. Yadav.
17. Mr. Myint was produced before the Ld. Special Judge, CBI in Kohima on 29.03.2007 where his application for bail was rejected and he was remanded to police custody till 16.04.2007. Investigation by the CBI, including the forensic examination of Ms. Datta's and Mr. Myint's laptops, revealed that the email address asosai@aojimail.com was registered to Mr. Tarun Datta. The funds, amount to \$400,000 were transferred back to the MUB account. None of the emails from the inbox Mr. Myint could be recovered. However, email dated 19.03.2007 sent by Mr. Myint to Mr. Sosai had been recovered from

the asosai@aojimap.com account. All these details were placed before the Ld. Special Judge, CBI, Kohima in the form of a status report. The investigation is continuing.

18. On 04.04.2007, the Central Government announced the merger of MUB with the State Bank of India. An internal disciplinary inquiry into Mr. Myint's conduct found that there was insufficient evidence to prove any wrongdoing on the part of Mr. Myint. The inquiry report heavily relied upon a testimony by Mr. Banerjee absolving Mr. Myint and Mr. Myint's strong ACR report. Mr. Banerjee stated that the marketing campaign by Mr. Myint had been a huge success and in his opinion, Mr. Myint's efforts resulted in an excellent takeover offer from SBI. Mr. Myint sought and received a VRS package.
19. Mr. Myint was granted bail by the Special Judge, CBI, Kohima in June 2007 on medical grounds. On 15.07.2007, Mr. Myint applied to the Delhi High Court, by way of Writ Petition (Crl.) No. 3-922-M/2007 for the quashing of RC No. 78A/2007 *inter alia* contending that,
 - All Mr. Myint's acts were *bonafide* and no *mens rea* that could be attached to his acts/omissions
 - No *prima facie* offences were made out against Mr. Myint, in fact he had already been absolved by the disciplinary committee on merits and no loss had been caused to the exchequer;
 - The Ld. Special Judge, CBI, Kohima had no jurisdiction in the present case and therefore the investigation by the CBI and Mr. Myint's subsequent remand was illegal;
 - Mr. Myint had in fact been cheated by Ms. L. Datta and was a victim of her illegal acts;
20. Writ Petition (Crl.) No. 3-922-M/2007 was dismissed by the Delhi High Court vide Order dated 17.07.2007 on the ground that the Delhi High Court did not have jurisdiction to hear the matter. The Court however granted liberty to Mr. Myint to take all available legal pleas before a court of competent jurisdiction. Mr. Myint filed SLP (Crl.) No. 484-9L/2007 before the Hon'ble Supreme Court challenging Order dated 17.07.2007 passed by the Delhi High Court.
21. The Supreme Court has issued notice to the CBI, who have filed their reply and the matter is now fixed for final arguments. The Court has left open preliminary submissions relating to jurisdiction. The investigation in the matter is still pending.
