



ASSESSMENT OF DEMONETISATION ERA

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Overview:

Government has initiated various majors to curb black money/ Corruption:

1. Black Money (Undisclosed Foreign Income And Assets) and Imposition of Tax Act, 2015.
2. Income Declaration Scheme 2016 . (Declaration to be made from 1st June,2016 to 30th September, 2016.)
3. The Benami Transactions (Prohibition) Amendment Act,2016 . (Amendment to Benami Act)
4. Demonetization banning of Rs. 500 & Rs. 2000 notes.(People holding these notes can deposit the same in their bank and post office accounts from November 8 till December 30.)

5. Pradhan Mantri Garib Kalyan Yojana, 2016 (PMKGY-Valid from December 16, 2016 to March 31, 2017.)
6. The Taxation Laws (Second Amendment) Act, 2016. (Effective From 16-12-16 w.e.f AY 2017-18).
7. The Specified Bank Notes (Cessation of Liabilities) Act, 2017. w.e.f 28-02-17 appointed date 31st December, 2016.
8. CBDT Circular dated 15/11/2017, SoP for issue of notice u/s 142(1) of Income-tax Act in cases related to substantial cash deposit during the demonetization period
9. CBDT Circular Dated 05-03-2019-SOP for holding of cases related to substantial cash deposit during demonetization period.

1. Black Money (Undisclosed Foreign Income And Assets) and Imposition of Tax Act, 2015.

- a tax in respect of total undisclosed foreign income and asset of the previous year at the rate of thirty per cent. of such undisclosed income and asset.
- Plus very harsh penalties to the extent of three times of tax are leviable.

2. Income Declaration Scheme 2016 .

- Declaration to be made from 1st June, 2016 to 30th September, 2016.
- Effective tax rates was 45% of total income disclosed.

3.The Benami Transactions (Prohibition) Amendment Act,2016 .

- Amendment to The Benami Transactions (Prohibition) Act, 1988.
- Amendments were made to enlarge the scope of Section 3 of the said Act.
- Complete code has been explained with specific authorities and appellate forum has been established to deal with these cases.

4. Demonetization of Rs. 500 & Rs. 2000 notes

- Period covered : **08-11-2016 to 30-12-2016**
- W.E.F. 08/11/2016 Rs500/- and Rs.2000/- notes will not be a valid tender.
- Only if someone is in possession of the same has to deposit the same with bank till 30/12/2016.

Purpose of Demonetization

- As per Government Gazette:
 - it has been found that fake currency notes of the specified bank notes have been largely in circulation and it has been found to be difficult to easily identify genuine bank notes from the fake ones and that the use of fake currency notes is causing adverse effect to the economy of the country;
 - it has been found that high denomination bank notes are used for storage of unaccounted wealth as has been evident from the large cash recoveries made by law enforcement agencies;
 - it has also been found that fake currency is being used for financing subversive activities such as drug trafficking and terrorism, causing damage to the economy and security of the country
 - and the Central Government after due consideration has decided to implement the recommendations of the Board;

5.Pradhan Mantri Garib Kalyan Yojana, 2016

- PMKGY- Scheme valid from December 16,2016 to March 31,2017.
- Scheme : Tax to be @50% of amount declared
- : Out of total declared amount 25% to be kept as deposit for four years, with Central Government, this deposit will not carry any interest.

6. The Taxation Laws (Second Amendment) Act, 2016. (Effective From 16-12-16 w.e.f AY 2017-18).

- Amendment of section 115BBE.
- “(1) Where the total income of an assessee,—
- (a) includes any income referred to in section 68, section 69, section 69A,
- section 69B, section 69C or section 69D and reflected in the return of income furnished under section 139; or (b) determined by the Assessing Officer includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a), the income-tax payable shall be the aggregate of—
- (i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of sixty per cent.; and
- (ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).”.

Relevant section under Income Tax Act 1961

- I. Section 68: Cash Credits
- II. Section 69: Unexplained Investments
- III. Section 69A: Unexplained Money ,etc.
- IV. Section 69B: Amount of investments, etc., not fully disclosed in books of accounts.
- V. Section 69C: Unexplained Expenditure ,etc.
- VI. Section 69D: Amount borrowed or repaid on hundi

I. Section 68: Cash Credits

- Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year :
- **Provided** that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless—
- (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and
- (b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory

II. Section 69: Unexplained Investments

- Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

III. Section 69A: Unexplained Money ,etc.

- Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year

IV. Section 69B: Amount of investments, etc., not fully disclosed in books of accounts.

- Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.

V. Section 69C: Unexplained Expenditure ,etc.

- Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year :
- **Provided** that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

VI. Section 6gD: Amount borrowed or repaid on hundi

- Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be :
- **Provided** that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.
- *Explanation.*—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.

Section 271AAB: Penalty where search has been initiated

- “(1A) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President,
- the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—
- (a) a sum computed at the rate of thirty per cent. of the undisclosed income of the specified previous year, if the assessee—
- (i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and
- specifies the manner in which such income has been derived;
- (ii) substantiates the manner in which the undisclosed income was derived; and
- (iii) on or before the specified date—
- (A) pays the tax, together with interest, if any, in respect of the undisclosed income; and
- (B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;
- (b) a sum computed at the rate of sixty per cent. of the undisclosed income of the specified previous year, if it is not covered under the provisions of clause (a).”;

Section 271AAC:Penalty in respect of certain income

(1) The Assessing Officer may, notwithstanding anything contained in this Act other than the provisions of section 271AAB, direct that, in a case where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (i) of sub-section (1) of section 115BBE:

Provided that no penalty shall be levied in respect of income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.

(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).

7. The Specified Bank Notes (Cessation of Liabilities) Act, 2017.

- Effective from 28-02-17
- Appointed date 31st December, 2016.
- On and from the appointed day, notwithstanding anything contained in the Reserve Bank of India Act, 1934 or any other law for the time being in force, the specified bank notes which have ceased to be legal tender, in view of the notification of the Government of India in the Ministry of Finance, number S.O. 3407(E), dated the 8th November, 2016, issued under sub-section (2) of section 26 of the Reserve Bank of India Act, 1934, shall cease to be liabilities of the Reserve Bank under section 34 and shall cease to have the guarantee of the Central government under sub-section (1) of section 26 of the said Act..

8. CBDT Circular dated 15/11/2017

- SOP for issue of notice u/s 142(1) of Income-tax Act in cases related to substantial cash deposit during the demonetization period .

(1) On the basis of data analytics and information gathered during the first phase of online verification under '[Operation Clean Money](#)', a list of assesseees who had deposited substantial Cash in bank account(s) during the demonetization period (8th November, 2016 to 30th December, 2016) but have not yet filed Income-tax return for Assessment Year 2017-2018 till date has been generated for further follow up action by the Income-tax Department.

(2) The list of such Non-Filers of income-tax returns is being made available in a phased manner to the jurisdictional income-tax authorities in AIMS module of ITBA under "Notice u/s 142(1) for AY 2017-18".

(3) These cases would be handled as per the following Standard Operating Procedure ('Sop'):

(i) While Government PANs (using 4th character) have not been flagged in the list, it is possible that a particular PAN might pertain to an entity which is not obliged to file the return (e.g. CSD Canteens, Army Hospitals etc.). Such cases should be marked as "No Return Required" by using the functionality provided in AIMS module of ITBA by the concerned Assessing Officer.

(ii) Thereafter, in remaining cases under "Notice u/s 142(1) for AY 2017-18", the jurisdictional Assessing Officer shall issue [notice u/s 142\(1\)](#) of the Income-tax Act, 1961 ('Act') to the concerned assesseees for filing return of income for Assessment Year 2017-2018.

(iii) To facilitate service of notice, information regarding addresses in PAN database and earlier ITRs is available in ITBA portal.

(iv) The notice should be generated through the ITBA System only.

(v) Notice u/s 142(1) shall be issued electronically as well as through postal authorities. The evidence of service of notice as well as postal remarks (in case of return of notice) should be preserved carefully. Where notice could not be served either electronically or through the postal authorities, then, personal service through departmental ITIs/Notice-servers should be made.

(vi) In cases where difficulties are faced in service of 142(1) notice, IIs may make local enquiries to trace the concerned assessee and serve the notice upon him. As a final alternative, as far as possible, notice by affixation with due procedure should also be done. In all cases of affixture, information should be captured in the system by selecting the appropriate option in ITBA. However, where notice could not be served even by by affixture because of fictitious/non-existent address, this information should also be captured in the system against the appropriate option available in ITBA.

(4) All information regarding date(s) of service of notice u/s 142(1) upon the addressee has to be captured using the functionality provided in ITBA for this purpose. The process of service of notice under section 142(1) should be completed by 31st December, 2017.

9.CBDT Circular Dated

- 05-03-2019-SOP for holding of cases related to substantial cash deposit during demonetization period
- It has been instructed to concerned Jurisdictional AO that if there is non compliance to notices then in all such cases assessment shall be completed under Section 144 of the IT Act, 1961.



THANK YOU !