



January 26, 2018

Recent Law & Amendments – Opportunity for Valuers

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THE BENAMI TRANSACTION
(PROHIBITION)
AMENDMENT ACT - 2016



The Insolvency And Bankruptcy Code – 2016

- ▶ The **Insolvency and Bankruptcy Code, 2016 (IBC)** is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy. The Insolvency and Bankruptcy Code, 2015 was introduced in Lok Sabha in December 2015. It was passed by Lok Sabha on 5 May 2016. The Code received the assent of the President of India on 28 May 2016. **The Code amended in January 2018.**
- ▶ Certain provisions of the Act has come into force from 5 August and 19 August 2016.
- ▶ Rules & Regulations were declared on 30.11.2016 and subsequently. Some more Regulations are still under process of drafting & declaration.

However, we are going to discuss the following Act today :

- THE BENAMI TRANSACTION (PROHIBITION) AMENDMENT ACT - 2016



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THE BENAMI TRANSACTION
(PROHIBITION) AMENDMENT ACT -
2016

IN NEWS :

- One case in Jabalpur, the Benamidar, a driver, was found to be owner of land worth Rs 7.7 crore. The beneficial owner is a Madhya Pradesh based listed company, his employer. In Mumbai a professional was found to be holding several immovable properties in the name of shell companies which exist only on paper.
- In another case in Sanganer, Rajasthan a jeweller was found to be beneficial owner of nine immovable properties in the name of his former employee, a man of no means. Certain properties purchased through shell companies have also been attached by the Department in Kolkata.



બેનામી લેવડ-દેવડથી દૂર રહો

બેનામી સંપત્તિ સંવ્યવહારનો પ્રતિષેધ અધિનિયમ, 1988

મુખ્ય વિશેષતાઓ

- ◆ સંપત્તિ સંવ્યવહાર અધિનિયમ, 1988 નિયમને અધિવચન રા.પ. 1211 સંપાદન કરવામાં આવ્યું છે.
- ◆ સંપત્તિ સંવ્યવહાર અધિનિયમ, 1988 ની કલમ 10(1) ની અંતર્ગત જારી કરાયેલા સુધારા અધિનિયમને અધિવચન આપવામાં આવ્યું છે. જે અધિનિયમને અધિવચન આપવામાં આવ્યું છે.
- ◆ સંપત્તિ સંવ્યવહાર અધિનિયમ, 1988 ની કલમ 10(1) ની અંતર્ગત જારી કરાયેલા સુધારા અધિનિયમને અધિવચન આપવામાં આવ્યું છે.
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Modi retrains guns on benami properties, tells taxman to crackdown on them



Wed, May 24 2017, 05:40 PM

Tax department unearths 400 benami deals, attaches assets worth Rs600 crore

Income tax department provisionally attaches assets worth Rs600 crore in 240 benami deals since last November under the Prohibition of Benami Property

IN NEWS :

BENAMI PROPERTY



BJP seeks confiscation of Lalu's 'benami' properties

BJP leader Sushil Kumar Modi demanded confiscation of the alleged "benami properties" of RJD chief Lalu Prasad and his family, amassed through their shell business firms and sought legal actions against them. Former Bihar Deputy Chief Minister Sushil Modi asked the Nitish Kumar government to impound the "benami properties" of Prasad and his family members and initiate legal proceedings against them under the Bihar Special Courts Act 2010.

21 Apr, 2017, 09:15AM IST

Benami Act violators to face double whammy of legal action

BY PTI | UPDATED: MAR 03, 2017, 06:56 PM IST

[Post a Comment](#)

NEW DELHI: The tax department today warned that those who undertake Benami transactions would invite Rigorous Imprisonment (RI) of up to 7 years and such violators would also stand to be charged under the normal I-T Act.

In advertisements issued in leading national dailies today, the Income Tax department stated: "Do not enter into benami transactions" as the Benami Property Transactions Act, 1988, is "now in action" from November 1, 2016.

"Black money is a crime against humanity. We urge every conscientious citizen to help the government in eradicating it," it said.

The department also spelled out some salient features of the new Act: "Benamidar (in whose name benami property is standing), beneficiary (who actually paid consideration)



Show cause notices for attachment have been issued in 140 cases where benami assets worth Rs 200 crore are involved.

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IN NEWS :



In Telangana, KCR Government Says Every 5th Land Deal Is Benami

Telangana Chief Minister has ordered police to conduct state-wide raids on 141 land registration offices to identify benami deals.

Tax Officials Unearth 400 Benami Deals, Seize Property Worth ₹ 600-Crore

Income Tax department last week set up 24 dedicated units across the country to track benami properties to intensify the operation against benami properties

Benami land deal: Income Tax Department attaches properties of Lalu Prasad Yadav's children

300 benami assets of netas in Kolkata under Income Tax Department's lens

WWW.ECONOMICTIMES.COM

THE ECONOMIC TIMES

MONDAY, MAY 22, 2017

Amazon to Buy Whole Foods for \$13.7 Billion **Bogus Stock Tipplers Stalk the Street** **ON Saturday**

INSIDE STORY **No Bank A/Cs, Dealings Over ₹50,000 Without Aadhaar** **Two Factors That Made Reliance, BP Open KG Valve**

Prasad Meets Tech Leaders to Fine Tune Digital Economy Road Map

Unique ID no must to open bank a/c, one has to obtain it within 6 months of opening a new a/c

TRANSACTIONS The ₹50,000 limit for investments in mutual funds, PIs and insurance

Market Tracker

INDEX	CHANGE
Nifty	13,800.00
Sensex	23,200.00
Bank Nifty	16,400.00
Midcap	4,400.00
Smallcap	1,100.00
Gold	24,500.00
Oil	52.00



Benami Transaction



Wed, May 24 2017, 05:55 PM

Tax dept summons Lalu's daughter Misa Bharti, husband in benami land case

The summons came just a day after the ED arrested Misa Bharti's chartered accountant Rajesh Agarwal under the Prevention of Money Laundering Act

Income tax raids in Delhi, NCR in benami land deal case linked to Lalu Prasad Yadav

IN NEWS :

THE ECONOMIC TIMES

Income Tax department cracks whip on benami assets, seizes 541 properties



I-T department launched Operation Clean Money soon after Rs 500 and Rs 1,000 notes were demonetised.

NEW DELHI: India's tax authorities have begun cracking down on **benami assets** and those who deposited large amounts of cash in the aftermath of **demonetisation** but haven't yet filed returns as it intensifies the war against **black money**.

The **income tax** department has already seized 541 properties and frozen bank accounts holding funds of about Rs 1,800 crore, said a top department official, adding that more action is expected soon.

Income tax dept attaches **benami properties** worth Rs3,500 crore

Livemint - 11-Jan-2018

IT Dept attaches **Benami properties** worth Rs 3500 crore

Business Today - 11-Jan-2018

Income Tax Department attaches over 900 **benami properties** worth ...

Scroll.in - 11-Jan-2018

Good move: Letter to BS on **benami ads** leaving property owners jittery

Opinion - Business Standard - 11-Jan-2018

Indian Government in Action :

- ▶ The Government is keen to implement the new Benami Act in an effective manner with visible outcomes on the ground. For this purpose, **24 dedicated Benami Prohibition Units (BPUs)** have been set up all over India in **October 2016**. These units are under the overall supervision of the Principal Directors of Investigation in the Income-tax Department to enable swift action and follow up, especially in cases where criminality has been detected.
- ▶ In addition, the Income-tax Department, has undertaken searches on **10** senior government officials during the past one year, keeping in view its policy to unearth black money earned through corrupt practices and introduce accountability and probity in public life. The crackdown on all forms of illicit wealth is being spearheaded by the ITD to ensure that any economic misdeed is immediately identified and actions as per law follows.

Benami Property Transactions Act Now in Action

effective from 1st November, 2016



Do not enter into Benami Transactions

Salient features of the PROHIBITION of BENAMI PROPERTY TRANSACTIONS ACT, 1988:

- The Prohibition of Benami Property Transactions Act, 1988 (Benami Act) came into effect from 01.11.2016.
- Benamidar (in whose name benami property is standing), beneficiary (who actually paid consideration) and persons who abet and induce benami transactions are prosecutable and may face Rigorous Imprisonment up to 7 years besides being liable to pay fine upto 25% of fair market value of benami property.
- Persons who furnish false information to authorities under the Benami Act are prosecutable and may be imprisoned up to 5 years besides being liable to pay fine up to 10% of fair market value of benami property.
- Benami property may be attached and confiscated by the Government.
- These actions are in addition to actions under other laws such as Income-tax Act, 1961.

Black money is a crime against humanity.
We urge every conscientious citizen to help the Government in eradicating it



@IncomeTaxindia



Income Tax Department

www.incometaxindia.gov.in

The BENAMI Transaction (Prohibition) Amendment Act - 2016

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 11th August, 2016/Shravana 20, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 10th August, 2016, and is hereby published for general information:—

**THE BENAMI TRANSACTIONS (PROHIBITION)
AMENDMENT ACT, 2016**

No. 43 OF 2016

[10th August, 2016.]

रजिस्ट्री सं. डी. एन.—(एच)04/0007/2003—16 REGISTERED NO. DL—(N)/04/0007/2003—16



भारत का राजपत्र
The Gazette of India

अवधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 50] नई दिल्ली, बुधवार, अगस्त 11, 2016/श्रावण 20, 1938 (सक)
No. 50] NEW DELHI, THURSDAY, AUGUST 11, 2016/SHRAVANA 20, 1938 (SAKA)

इस भाग में बिना कुछ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
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New Delhi, the 11th August, 2016/Shravana 20, 1938 (Saka)

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**THE BENAMI TRANSACTIONS (PROHIBITION)
AMENDMENT ACT, 2016**

No. 43 OF 2016

[10th August, 2016.]

An Act further to amend the Benami Transactions (Prohibition) Act, 1988.

Enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the *Benami Transactions (Prohibition) Amendment Act, 2016*.

Short title and
consequential

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

History :

- The first act against BENAMI properties was passed in 1988 as the Prohibition of BENAMI Property Transactions Act, 1988.
- The Purpose to pass this act was to curb black money.
- Our present Prime Minister Shree Narendra Modi, decided to amend the original act in July 2016 .
- After further amendment, BENAMI TRANSACTIONS (PROHIBITION) AMENDMENT ACT, 2016 came into force by November 1, 2016.
- The PBPT Act defines BENAMI transactions, prohibits them and further provides that violation of the PBPT Act is punishable with imprisonment and fine.
- The PBPT Act prohibits recovery of the property held BENAMI from BENAMIDAR by the real owner. Properties held BENAMI are liable for confiscation by the Government without payment of compensation.
- The Original Act consist of only 9 Clauses & is of precisely of 2 Pages only. The Amendment Act – 2016 is of total 71 Clauses with various amendments & Substitutions in original act.

Affect of BENAMI transactions on people and need for tough Law

- ▶ Rather than hoarding the black money in cash, the tax evader invest their accumulated illegal money in buying BENAMI properties.
- ▶ The whole process affects the revenue generation of government hampering growth and development of the state. due to lack of resources. A tough law against BENAMI properties was the need of the hour to check corruption
- ▶ Finally, **The BENAMI Transaction (Prohibition) Amendment Act – 2016** passed in the November-2016
- ▶ The New BENAMI Transaction (Prohibition) Amendment Act came into effect from 1st November, 2016. It prohibits illegal BENAMI transactions, under which up to seven years of imprisonment and penalty for those indulging in such activities could be handed out.

About ACT :

- ▶ “We will take action against ‘**Benami**’ property. This is major step to eradicate corruption and black money. We are going to take action against the properties which are purchased in the name of others (BENAMI). That is the property of the country,” **said the Prime Minister.**
- ▶ After attacking black money by demonetization of high value currency notes, Prime Minister Shree Narendra Modi is all set to take on ‘BENAMI’ properties to check corruption
- ▶ The government has already enacted the BENAMI Transactions (Prohibition) Amendment Act, 2016 which provides for rigorous imprisonment of up to seven years, and a fine which may extend to 25 per cent of the fair market value of the BENAMI property.

What is BENAMI PROPERTY....???

- ▶ As per the Act, Benami property includes movable or immovable property, tangible or intangible property, corporeal or incorporeal property. It empowers provisional attachment and subsequent confiscation of benami properties. It also allows for prosecution of the beneficial owner, the benamidar, the abettor and the inducer to benami transactions, which may result in rigorous imprisonment up to 7 years and fine up to 25% of fair market value of the property.
- ▶ In a simple Terms, The property bought by an individual not under his or her name is BENAMI property
- ▶ It can include property held
 - ▶ in the name of spouse or child for which the amount is paid out of known sources of income.
 - ▶ A joint property with brother, sister or other relatives for which the amount is paid out of known sources of income
 - ▶ Property held by someone in a fiduciary capacity; that is, transaction involving a trustee and a beneficiary also falls under BENAMI property,
 - ▶ This means, by law, if you buy a property in name of your parents, too, can be declared as BENAMI.
 - ▶ **The person who finances the deal is the real owner.**

What is BENAMI PROPERTY....???

- ▶ Benami property is any property which is subject matter of benami transaction. It can be in any form viz,
 - ▶ Immovable property
 - ▶ Movable property eg - Cash, Jewelry, Bank deposits
 - ▶ Intangible property
 - ▶ Tangible property
 - ▶ Corporeal or incorporeal property
- ▶ Foreign properties can also be benami properties, provided they are not covered by Black Money Act.
- ▶ As a usual practice, to evade taxation, people invest their black money in buying benami property. The real owner of these properties are hard to trace due to fake names and identities.
- ▶ The person on whose name the property is purchased is called BENAMIDAR.
- ▶ Assets of any kind — movable, immovable, tangible, intangible, any right or interest, or legal documents as such, even gold or financial securities could qualify to be BENAMI & **falls under BENAMI transaction.**

What is a **BENAMIDAR** ?????

- ▶ It means a person (individual/HUF/firm/company/AOP/BOI/AJP) in which name Benami property is transferred to or held.
- ▶ Benamidar may be actual person or fictitious/ non- existent person or entity.
- ▶ Benamidar can be even a mere name-lender, i.e. where possession of property is with beneficial owner and not with benamidar and only his name is used.

What is a **BENEFICIAL OWNER** ?????

- Beneficial owner is the person for whose benefit property is held by benamidar
- It is immaterial that identity of beneficial owner is known or not known.

What is a **BENAMI TRANSACTION** ?????

- ▶ Benami transaction is a transaction or arrangement whereby the identity of real owner (beneficial owner) of property is concealed by showing someone else (benamidar) as owner on record. The beneficial owner provides or pays consideration for purchase of property.
- ▶ Benami transactions can be entered into by 'any person' (viz, individual, HUF, firm, company, trust, etc). The benamidar can be any person. So also, the beneficial owner can be any person.

There are 4 categories of Benami Transactions

CATEGORY I: TRANSACTION OR ARRANGEMENT WHERE CONSIDERATION PROVIDED BY PERSON OTHER THAN THE TRANSFEREE OR THE PERSON IN WHOSE NAME PROPERTY IS HELD

Under category I, all the following conditions must be satisfied for a transaction to be called a benami transaction:

- The transaction or arrangement takes place
- Transaction or arrangement results in property being transferred to, or property being held, by a person (benamidar)
- Consideration is paid or provided by person other than the benamidar. Such person is called 'beneficial owner'
- Neither the benamidar nor the beneficial owner is fictitious or untraceable
- Benamidar is aware of and does not deny the transaction or arrangement
- The possession of property is with benamidar: and
- The property is held by the benamidar for the immediate or future benefit, direct or indirect, of the person providing the consideration

Exceptions to category I Benami transactions:

In following circumstances transactions shall not be regarded as 'Benami transactions', even though consideration is paid by someone other than the benamidar (person in whose name property is held in benamidar's name)

- ▶ **HUF PROPERTY HELD IN THE NAME OF KARTA/ MEMBERS OF HUF-** To avail the exception, following conditions need be satisfied:
 - ▶ Property is held by karta or member of HUF:
 - ▶ Property is held for benefit of karta or other members of HUF: and
 - ▶ Consideration is paid out of known sources of HUF.

- ▶ **PROPERTY HELD IN FIDUCIARY CAPACITY-**To avail the exception, following conditions need be satisfied:
 - ▶ Property is held by a person standing in fiduciary capacity (viz, as trustee, executor, partner, agent, director of a company etc)
 - ▶ Property is held for the benefits of another person towards whom he stands in fiduciary capacity (viz , trust/beneficiary of trust, firm, principal, company, etc)

Exceptions to category I Benami transactions:

- **PROPERTY HELD IN THE NAME OF SPOUSE OR CHILD-** To avail the exception , following conditions need be satisfied:
 - Property is held by individual in name of spouse or child.
 - Consideration is paid out of known sources of individual.
- **PROPERTY HELD BY INDIVIDUAL IN JOINT NAMES OF SELF AND BROTHER/SISTER/ LINEAL ASCENDENT (GRANDSON OR GRAND SAUGHTER/ GREAT GRANDSON OR DAUGHTER)/LINEAL DESCENDENT (PARENTS/GRAND PARENTS/ GREAT GRAND PARENTS):** To avail the exception, following conditions need be satisfied:
 - Property is held by individual in joint names of himself or his brother/ sister/ lineal ascendant or lineal descendent.
 - Consideration is paid out of known sources of individual.

CATEGORY II: WHERE TRANSACTION IS CARRIED OR MADE IN A FICTITIOUS NAME

- ▶ Transaction or arrangement in respect of property is benami transaction is carried out or made in a fictitious name
- ▶ In other words, the benamidar is fictitious person entity or non-existent person or entity
- ▶ For example, entries in books show money payable to 'Mirchi Seth'. However creditor 'Mirchi Seth' is not traceable and is fictitious person.

CATEGORY III: BENAMIDAR NOT AWARE OF OR DENIES KNOWLEDGE OF TRANSACTION

- ▶ Transaction or arrangement in respect of property is benami transaction if owner is not aware of, or denies knowledge of, such ownership.
- ▶ For example, a black money hoarder B deposits Rs. 30 lakhs in Jan Dhan bank account of X laborers. X has no clue how that money land in his account and expresses shock when told of it. He denies knowing B or ever having met B or ever talking to him personally or over phone. Bank balance of X, to the extent of Rs.30 lakhs, is benami property.
- ▶ For example, jewellery seized from the lockers of a corrupt bureaucrat/ politician raided by CBI is explained by him as streedhan of wife. Wife denies any knowledge of these jewellery. These jewellery are benami property.

CATEGORY IV: BENEFICIAL OWNER WHO PAID CONSIDERATION IS FICTITIOUS OR IS UNTRACEABLE:

- ▶ Transactions or arrangements in respect of property is benami truncations if beneficial owner is fictitious or is untraceable.

A Property is BENAMI if any of the following condition satisfy

- ▶ A property that is held by a person or is transferred to a person but the price of the property has been paid by someone else.
- ▶ A property purchase has been made using a fictitious name.
- ▶ The property owner clearly denies of any knowledge of transaction mode or of ownership of the property in question.
- ▶ A person who made payment for the property can no longer traced.

A Set of Exclusion is provided by the Act , This exclusion includes :

- ▶ If the property is purchased in a name of daughter who is not married, or in name of wife, it is not BENAMI Property.
- ▶ If a property that has been transferred and a contract (Pertaining to the transfer) has been executed partly, the property will not be a BENAMI property under the 1882, Transfer of the property act.
- ▶ If a property transaction is a GPA (General Power of Attorney) transaction and there is a registered contract and even stamp duty has been paid, the property is not BENAMI Property.
- ▶ If the property is purchased with joint ownership using fund resources that are known and can be accounted for, The property is not BENAMI Property, A joint Ownership can be wife, Siblings, Children etc.
- ▶ In case of HUFs, the head of the family, Karta decides to buy a property with the benefit of trustees in mind, the property will not be BENAMI Property. However two conditions are there, First, The money used for purchase of the property should come from a known source that is traceable also, & Second, The Karta should be acting within fiduciary capacity. (Here fiduciary capacity is a person to whom property or power is entrusted for the benefit of another
- ▶ If an eligible BENAMI property has been declared under 2016 (IDS) will no longer be considered as a BENAMI Property.

The BENAMI Transaction (Prohibition) Amendment Act - 2016

Chapter	Chapter Title	Section
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CHAPTER II - PROHIBITION OF *BENAMI* TRANSACTIONS

Prohibition on re-transfer of property by BENAMIDAR.

- ▶ Any property, which is subject matter of *BENAMI* transaction, shall be liable to be confiscated by the Central Government.
- ▶ No person, being a *BENAMIDAR* shall re-transfer the *BENAMI* property held by him to the beneficial owner or any other person acting on his behalf.
- ▶ Where any property is re-transferred in contravention of the provisions of sub-section (1), the transaction of such property shall be deemed to be null and void.

CHAPTER III – AUTHORITIES

How does the Government take actions against BENAMIDAR...???

- ▶ An inquiry / Investigation is ordered only when something fishy showup and government follows a set of specially designed rules to conduct such an investigation. Basically there are 4 (Four) different authorities are involved in such investigation.
- ▶ **The Authorities are:**
 1. Initiating Officer
 2. Approving Authority
 3. Administrator
 4. Adjudicating Authority

These four authorities collectively work at different level to take action against a BENAMIDAR.

CHAPTER IV - ATTACHMENT, ADJUDICATION AND CONFISCATION

Sr. No	Line of Action to be taken by Authorities
1	The authorities will first send the notice who can be BENAMIDAR
2	Depending situation on hand, The Initiating officer may decide to keep the property in hold for a period of 90 Days. However, in order to keep a property on hold the Initiating Officer need to take permission from Approving Authority
3	Once the notice period ends, the Initiating Officer may actually decide to increase the property holding time. At the point, the Initiating Officer have to provide various evidence and document to ensure that the claim the Officer is making is authentic. On the basis of the document the Initiating Officer sends to Adjudicating Authority, The same may pass the permission to tag the Property BENAMI or Otherwise.
4	If the Adjudicating officer passes the order for confiscating the property, The Case will be pass to the Administrator.
5	An individual however can always GO Ahead & Challenge the order of Adjudicating Authority, The Appeal has to be filled with Appellate Tribunal, If Individual finds that the decision of Appellate Tribunal is also not justified and incorrect, an appeal can be made with the High Court to get resolution.

CHAPTER V - APPELLATE TRIBUNAL & CHAPTER VI - SPECIAL COURTS

- ▶ Regarding establishment of Appellate Tribunal , Chair Person, Members, Jurisdiction etc.
- ▶ No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which any of the authorities, an Adjudicating Authority or the Appellate Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any court or other forum in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

CHAPTER VII - OFFENCES AND PROSECUTION

The Penalties can be Imposed to BENAMIDAR :

- ▶ The BENAMI property can be confiscated by the Central Government, It means Property can be Seized by Govt. or may be impounded.
- ▶ The BENAMIDAR may be Imprisoned for the period may be Low as 1 Year to High as 7 Years. Apart from that BENAMIDAR may have to pay fine upto 25% of the Fair Market Value of the Property. Fair Market value is a value where buyer is willing to pay without any kind of pressure to a seller who would willing to accept that price without any kind of pressure. (Here Fair Market Value means :
 - ▶ (i) the price that the property would ordinarily fetch on sale in the open market on the date of the transaction; and
 - ▶ (ii) where the price referred to in sub-clause (i) is not ascertainable, such price as may be determined in accordance with such manner as may be prescribed;
- ▶ If the BENAMIDAR, Once identified by the Govt., decides to Provide false information instead of co-operating and then gets caught. He or she may be imprisoned for 6 month or up to 5 years. Such Imprisonment will be rigorous, and on the top of that there will be double whammy in form of 10% fine of the Fair Market Value of the property.

NEW BENAMI LAW AND DEPOSITS IN JAN DHAN ACCOUNT

- ▶ Press release of CBDT dated 4-12-2016 warns that “Undisclosed income so detected will be brought to tax as per the provisions of the Income tax Act, 1961, apart from other actions depending upon the outcome of investigations.”
- ▶ **The words “apart from other actions depending upon the outcome of investigations” in Press Release drop a hint that if investigations reveal that money deposited belong to someone else then the provisions of Benami Act would be invoked to confiscate the money deposited would be liable to be prosecuted under the Benami Act.**

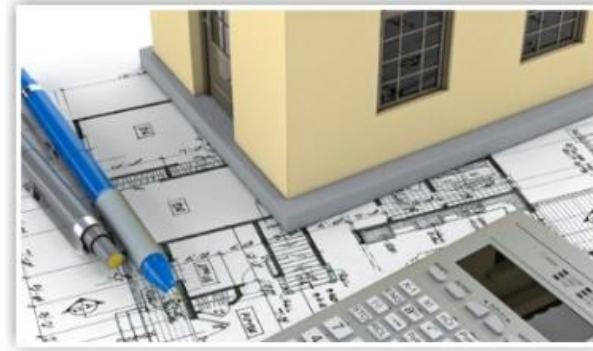
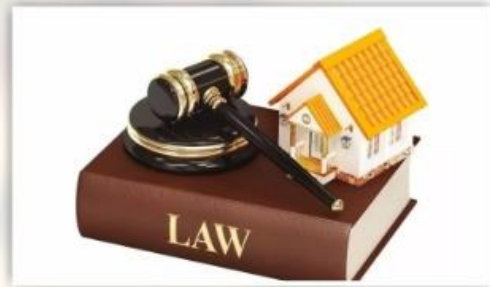
Prevention of Money Laundering Act (PMLA) & BENAMI

- ▶ PMLA deals with money laundering which involves disguising financial assets so that they can be used without detection of the illegal activity that produced them.
- ▶ Thus, PMLA is restricted only to proceeds of crime, i.e. property obtained as a result of criminal activity relating to scheduled offences.
- ▶ **Benami Transactions Act operates on a different plane. It is not restricted to proceeds of crime only because its objective is to prohibit a benami transaction so that the beneficial owner would be compelled to keep the property in his own name only and the legal complexities owing to the apparent ownership not being the real ownership, could be avoided.**
- ▶ The prohibition would apply irrespective of the nature or source of the funds invested in the property.
- ▶ Thus, the benami law applies equally to both a property acquired through proceeds a crime and a property acquired trough legitimate means and hence its scope is wider than PMLA.

Achievements After Law Implemented :

- ▶ The Benami prohibition law which remained in-operative for last 28 years was made operational through a comprehensive amendment with effect from November, 2016.
- ▶ The Income-tax Directorates of Investigation have identified more than **400** benami transactions up to 23 May, 2017. These include deposits in bank accounts, plots of land, flat and jewellery. Provisional attachment of properties under the Act has been done in more than **240 cases**. The market value of properties under attachment is more than **Rs. 600 crore**. Immovable properties have been attached in **40 cases** with total value of more than **Rs. 530 crore** in Kolkata, Mumbai, Delhi, Gujarat, Rajasthan and Madhya Pradesh.

THANK YOU



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