

Bills and Acts Pertaining to Black Money



Introduction

Central government has introduced bills and made amendments to existing acts pertaining to black money initiative. Some of the important bills include

Undisclosed Foreign Income and Assets (Imposition of Tax) Bill

- Finance Minister Mr. Arun Jaitley introduced the bill in Lok Sabha on March 20, 2015
- Passed by both Lok Sabha and Rajya Sabha Income Tax (IT) Act, 1961 replaced to tax foreign income Applies to all Indian residents

- Tax evasion and hiding foreign income to be treated as Criminal cases
- Punishment will be 3 to 10 years imprisonment with a fine amount for willful tax evasion
- Fine imposed will be three times the tax on undisclosed amount with a 30 percent addition
- Failure to pay tax returns on foreign assets leads to imprisonment from 6 months to 7 years with a fine
- Fine will be 10 lac for not paying tax on foreign income
- No fine for assets or income worth 5 lacs or less

Prevention of Money Laundering Act, 2002

This act was enacted to curb the global menace of money laundering across the globe.

Some of the salient features of the act include

- Act introduced in Lok Sabha by then Finance Minister Mr. Pranab Mukherjee
- Bill amendment made on 2011 to include India as one of the key members of Financial Action Task Force (FATF)
- Act provides provisions of Indian laws to comply with international laws regarding money laundering
- Concealment, possession and acquisition of foreign assets without paying tax are defined as offence in this law
- Fine up to 5 lacs
- Individual property confiscation for a period not extending up to 180 days if proven offensive
- Financial Action Task Force (FATF)
- Inter governmental body with its origin in Paris G-7 Summit, 1989
- Main purpose is to set standards globally on anti money laundering
- Combating the financing of terrorist activities or terror financing
- India joined FATF in 2010 as 34 th member nation
- Anti money laundering conventions
- Countering measures on terror financing with cooperation of nations

Negotiable Instruments Bill

- Negotiable instruments Act was introduced in 1882
- The Act was amended on 13 th May 2015
- Passed in the Lok Sabha
- Explanation of promissory notes, cheque and bills of exchange amended with digital signature

- Main aim is to create penalties for bouncing of cheques
- Bounced Cheque issuer will be penalized by withdrawing a penalty amount from their bank accounts and also will have to pay penalty on the receiver end
- In case of more than one instance of bouncing cheques, cases will be transferred to the appropriate courts coming under the jurisdiction
- Bill withdrawn on 24 th July to make further instruments
- Foreign Exchange Management Act (FEMA), 1999
- All foreign exchange related transactions regulated by FEMA in India
- FEMA replaced strict and restrictive control provisions of FERA, 1973
- Ensure proper utilization of foreign transactions
- Conserve the Forex transactions
- Violation implies civil imprisonment if fine not paid within 90 days
- RBI administers FEMA implementation
- Act allows only authorized persons to deal in foreign exchange
- Objectives of the act include external trade facilitation, promotion of foreign exchange and payments
- RBI monitors business conduct of Indian companies outside India
- Recently, Indian companies established abroad especially in Tax havens were taxed by RBI
- All imports and export related transactions come under the purview of this act
- Functions as a watch dog mechanism in foreign exchange for India

The Benami Transactions Bill

Amendment of Benami Transactions Act, 1988

Passed in Lok Sabha by Finance Minister Mr. Arun Jaitley

Description of Benamidar revised

Penalty for giving false information through Benamis leads to imprisonment of 6 months to 5 years

Fine up to 10 percent of the benami property market value

Four main authorities established to investigate or conduct inquiries

- Initiating officer
- Approving officer
- Administrator and
- Adjudicating officer

Emerging Issues

- Strong and quick implementation of the acts
- Political Interference
- Corrupt officers
- Willful defaulters on the rise – Mr. Subroto Roy, Mr. Vijay Mallya etc.
- Participatory notes are the main source of terror financing
- No mention on Participatory notes in the amendments and bills introduced so far
- Havala scandal cases
- Illegal trading activities
- Stock market scandals
- Smuggling and money transfer
- Counterfeit currency
- Bank Scandals

The above issues indicate the urgent need for the empowerment of strong, powerful, autonomous and independent regulatory bodies like RBI, SEBI etc.