# DISCUSSION ON DEMONETISATION AND BLACK MONEY

Presentation by:

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The Press release issued by the Government of India Ministry of Finance Department of Economic Affairs reads as under "With a view to curbing financing of terrorism through the proceeds of Fake Indian Currency Notes (FICN) and use of such funds for subversive activities such as espionage, smuggling of arms, drugs and other contraband in to India, and for eliminating Black Money which casts a long shadow of parallel economy on our real economy, it has been decided to cancel the legal tender character of the High Denomination bank notes of Rs 500 and Rs 1000, issued by RBI till now. This will take effect from the end of 8th November, 2016"

The Honorable Shri Justice R.C. Lahoti, former Chief Justice of India, while addressing the National Tax Conference of the Federation at Indore on 7/9/2002 (AIFTP Journal, Sept. 2002 Pg. 7) stated as under:

"Corruption is a cancer eating into the roots of the society. It is difficult to fight corruption because the chances of success are bleak but this is no reason for despondency. Nobody is born corrupt; it is the vitiated atmosphere in the society and the system of governance which converts the clean into the corrupt. An honest person resists corruption but allurements and temptations at times prevail upon him and once corrupt, even an honest person prefers and finds it convenient to stay corrupt. The seeds of corruption are sown in the mind of the man and the cure, if any, lies in eradicating the seeds of corruption from his mind."

The government has done their best to crackdown on undisclosed income and wealth. The efforts have seen various legislations enacted and strengthened to better tackle this menace such as;

- Appointment of Special Investigation team (SIT) on black money
- Foreign black money compliance window
- Black Money Act, 2015
- Income Declaration Scheme, 2016
- Mandatory PAN requirements, through cash or prepaid cards on beyond certain limits
- Negotiated an automatic information exchange agreement with
   Switzerland and is negotiating similar treaties with other countries
- Amendment in Fema to regulate export earnings
- Amendments to Prevention of Money Laundering Act. 2002, by Finance Act, 2015
- Amending and Notifying the Prohibition of Benami Property
   Transactions Act, 1988

naveen khariwal g & company

#### Earlier demonetisation

This is not the first time that denominations has been attempted in Independent India.

The first attempt was through the High Denomination Bank Notes (Demonetisation) Ordinance, 1946, and the Second through the High Denomination Bank Notes (Demonetisation) Ordinance, 1978.

As per the records in the articles published, the value of high denomination notes not presented were about Rs 9 crores in 1946 and about Rs 20 crores in 1978 As per the paper reports, currency in circulation is 17,773 billion, where as High denomination currency withdrawn from the system is 86% i.e. Rs.15,640 billion.

### Prime Minister's address to the Nation on 500 & 1000 Rs. Notes

To break the grip of corruption and black money, we have decided that the five hundred rupee and thousand rupee currency notes presently in use will no longer be legal tender from midnight tonight, that is 8th November 2016.

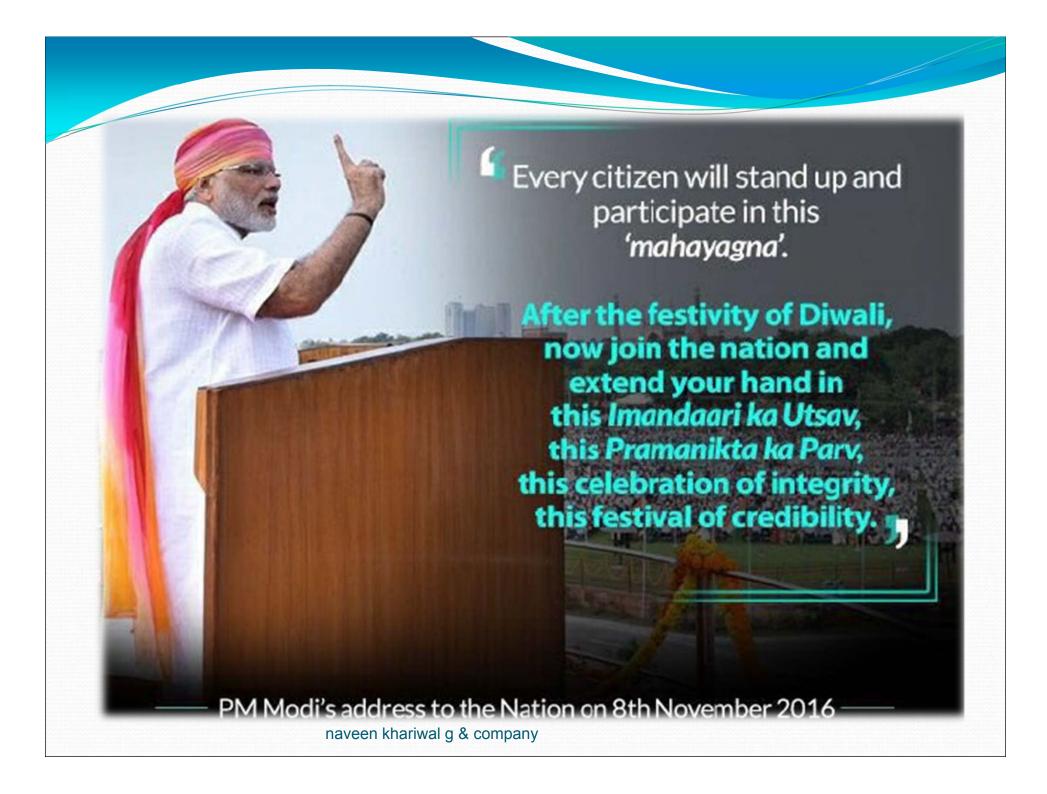
- ➤ Government of India
- > Prime Minister's Office
- > 08-November-2016 22:08 IST

#### Brothers and sisters,

To break the grip of corruption and black money, we have decided that the five hundred rupee and thousand rupee currency notes presently in use will no longer be legal tender from midnight tonight, that is 8th November 2016. This means that these notes will not be acceptable for transactions from midnight onwards. The five hundred and thousand rupee notes hoarded by anti-national and anti-social elements will become just worthless pieces of paper. The rights and the interests of honest, hardworking people will be fully protected. Let me assure you that notes of one hundred, fifty, twenty, ten, five, two and one rupee and all coins will remain legal tender and will not be affected currency.

In spite of all these efforts there may be temporary hardships to be faced by honest citizens. Experience tells us that ordinary citizens are always ready to make sacrifices and face difficulties for the benefit of the nation. I see that spirit when a poor widow gives up her LPG subsidy, when a retired school teacher contributes his pension to the Swacch Bharat mission, when a poor Adivasi mother sells her goats to build a toilet, when a soldier contributes 57 thousand rupees to make his village clean. I have seen that the ordinary citizen has the determination to do anything, if it will lead to the country's progress.

So, in this fight against corruption, black money, fake notes and terrorism, in this movement for purifying our country, will our people not put up with difficulties for some days? I have full confidence that every citizen will stand up and participate in this 'mahayagna'. My dear countrymen, after the festivity of Diwali, now join the nation and extend your hand in this Imandaari ka Utsav, this Pramanikta ka Parv, this celebration of integrity, this festival of credibility.



### My dear countrymen,

Secrecy was essential for this action. It is only now, as I speak to you, that various agencies like banks, post offices, railways, hospitals and others are being informed. The Reserve Bank, banks and post offices have to make many arrangements at very short notice. Obviously, time will be needed. Therefore all banks will be closed to the public on 9th November. This may cause some hardship to you. I have full faith that banks and post offices will successfully carry out this great task of national importance. However, I appeal to all of you to help the banks and post offices to meet this challenge with poise and determination.

#### My dear citizens,

From time to time, based on currency needs, the Reserve Bank with the approval of the Central Government brings out new notes of higher value. In 2014, the Reserve Bank sent a recommendation for issue of five thousand and ten thousand rupee notes. After careful consideration, this was not accepted. Now as part of this exercise, RBI's recommendation to issue two thousand rupee notes has been accepted. New notes of five hundred rupees and two thousand rupees, with completely new design will be introduced. Based on past experience, the Reserve Bank will hereafter make arrangements to limit the share of high denomination notes in the total currency in circulation.

In a country's history, there come moments when every person feels he too should be part of that moment, that he too should make his contribution to the country's progress. Such moments come but rarely. Now, we again have an opportunity where every citizen can join this mahayajna against the ills of corruption, black money and fake notes. The more help you give in this campaign, the more successful it will be.

It has been a matter of concern for all of us that corruption and black money tend to be accepted as part of life. This type of thinking has afflicted our politics, our administration and our society like an infestation of termites. None of our public institutions is free from these termites.

Time and again, I have seen that when the average citizen has to choose between accepting dishonesty and bearing inconvenience, they always choose to put up with inconvenience. They will not support dishonesty.

Once again, let me invite you to make your contribution to this grand sacrifice for cleansing our country, just as you cleaned up your surroundings during Diwali.

Let us ignore the temporary hardship

Let us join this festival of integrity and credibility

Let us enable coming generations to live their lives with dignity

Let us fight corruption and black money

Let us ensure that the nation's wealth benefits the poor

Let us enable law-abiding citizens to get their due share.

I am confident in the 125 crore people of India and I am sure country will get success.

Thank you very much. Thanks a lot.

Namaskar.

Bharat Mata Ki Jai.

# FAQs on withdrawal of Rs. 500 & Rs. 1000 Banknotes (22.12.2016)

### 1. Why is this scheme introduced?

The incidence of fake Indian currency notes in higher denomination has increased. For ordinary persons, the fake notes look similar to genuine notes, even though no security feature has been copied. The fake notes are used for antinational and illegal activities. High denomination notes have been misused by terrorists and for hoarding black money. India remains a cash based economy hence the circulation of Fake Indian Currency Notes continues to be a menace. In order to contain the rising incidence of fake notes and black money, the scheme to withdraw has been introduced.

#### 2. What is this scheme?

The legal tender character of the existing bank notes in denominations of Rs. 500 and Rs. 1000 issued by the Reserve bank of India till November 8, 2016 (hereinafter referred to as Specified Bank Notes) stands withdrawn. In consequence thereof these Bank Notes cannot be used for transacting business and/or store of value for future usage. The Specified Bank Notes can be exchanged for value at any of the 19 offices of the Reserve Bank of India and deposited at any of the bank branches of commercial banks/ Regional Rural Banks/ Co-operative banks (only Urban Co-operative Banks and State Co-operative Banks) or at any Head Post Office or Sub-Post Office.

District Central Cooperative Banks (DCCBs) can allow their existing customers to withdraw money from their accounts upto Rs. 24,000 per week. No exchange facility against the specified bank notes (Rs. 500 and Rs. 1000) or deposit of such notes should be entertained by DCCB's. The Reserve Bank has accordingly advised all banks to permit withdrawal of cash by DCCBs from their accounts based on need.

### 3. Does the scheme apply to pre 2005 banknotes of Rs. 500 and Rs. 1000?

Yes, specified banknotes (SBN) include pre 2005 banknotes in the denominations of Rs. 500 and Rs. 1000. Banks should accept deposits of pre-2005 bank notes in the denominations of Rs. 500 and Rs. 1000 under the scheme. However, these notes can be exchanged at RBI Offices only.

### 4. How much value will I get?

You will get value for the entire volume of notes tendered at the bank branches / RBI offices.

### 5. Can I get all in cash?

The Scheme does not provide for it, given its objectives. You can use balances in bank accounts to pay for other requirements by cheque or through electronic means of payments such as Internet banking, mobile wallets, IMPS, credit/debit cards etc.

### 6. Can I get cash in exchange for specified banknotes over the bank counter?

No. Over the counter exchange (in cash) of SBNs is not permitted from November 25, 2016. Members of public who approach the banks for over the counter exchange of SBN are encouraged to deposit SBNs into their bank accounts. Banks have been advised to facilitate opening of new accounts for unbanked people.

### 7. What if I don't have any bank account?

You can always open a bank account by approaching a bank branch with necessary documents required for fulfilling the KYC requirements.

### 8. What if, if I have only JDY account?

A JDY account holder can avail the deposit facility subject to the caps and other laid down limits in accord with norms and procedures.

With a view to protect the innocent farmers and rural account holders of PMJDY from activities of money launders and legal consequences under the Benami Property Transaction & Money Laundering laws, it has been decided to place certain limits, as a matter of precaution, on the operations in the PMJDY accounts funded through deposits of Specified Bank Notes (SBNs) after November 09, 2016. As a temporary measure, the banks have been advised that:

- (1) Fully KYC complaint account holders may be allowed to withdraw Rs. 10,000/- from their account, in a month. The branch managers may allow further withdrawals beyond Rs. 10,000 within the current applicable limits only after ascertaining the genuineness of such withdrawals and duly documenting the same on bank's record.
- (2) Limited or Non KYC compliant account holders may be allowed to withdraw Rs. 5,000 per month from the amount deposited through SBNs after November 09, 2016 within the overall ceiling of Rs. 10,000.

Pradhan Mantri Jan - Dhan Yojana (Statistics as on **31 August 2016**) (All Figures in Crores)<sup>[4]</sup>

S.No		No Of Accounts			No Of RuPay Debit	Aadhaar	Balance in Accounts	% of Zero Balance
		Rural	Urban	Total	Cards	Seeded	Dalance III Accounts	Accounts
1	Public Sector Banks	10.61	8.33	18.94	15.26	9.99	33090.15	24.86
2	Regional Rural Banks	3.56	0.58	4.14	2.87	1.58	7179.43	21.13
3	Private Banks	0.52	0.33	0.85	0.79	0.35	1519.95	36.54
	Total	14.69	9.33	23.93	18.92	12.02	□41,789.53 crore (US\$6.2 billion)	24.63

### 9. Where can I go to exchange the notes?

The exchange facility has been stopped at bank branches with effect from November 25, 2016.

### 10. Should I go to bank personally for deposit or can I send the notes through my representative?

Personal visit to the branch is preferable. In case it is not possible for you to visit the branch you may send your representative with an express mandate i.e. a written authorisation. The representative should produce authority letter and his / her valid identity proof while tendering the notes.

In case you want to go to a branch of any other bank where you are not maintaining an account, you will have to furnish valid identity proof and bank account details required for electronic fund transfer to your account.

#### 11. Can I withdraw from ATM?

The ATMs are progressively getting recalibrated. As and when they are recalibrated, the cash limit of such ATMs will stand enhanced to Rs. 2500/- per day. This will enable dispensing of lower denomination currency notes for about Rs. 500/- per withdrawal. Other ATMs which are yet to be recalibrated, will continue to dispense Rs. 2000/- till they are recalibrated.

Banks have also been advised to increase the Business Correspondents' limit of dispensing cash to Rs. 2500/- for withdrawal from bank accounts.

### 12. What will be the levied ATM charges?

It has been decided that banks shall waive levy of ATM charges for all transactions (inclusive of both financial and non-financial transactions) by savings bank customers done at their own banks' ATMs as well as at other banks' ATMs, irrespective of the number of transactions during the month. This waiver is applicable on transactions done at ATMs from November 10, 2016 till December 30, 2016, subject to review.

## 13. Does the limit of Rs. 24000 withdrawal apply to withdrawals from bank account of one bank from another bank?

These limits are not applicable to cash withdrawal from a bank account by one bank from another bank, Post Office, Money changers operating at International airports and operators of White Label ATMs. The branches maintaining Currency Chests have been advised to accommodate the requests from other branches in their vicinity – linked or otherwise – for supply of cash.

### 14. Can I withdraw cash against cheque?

Yes, you can withdraw cash against withdrawal slip or cheque subject to a weekly limit of Rs. 24000/- (including withdrawals from ATMs and over the counter) from the bank accounts.

Business entities having Current Accounts which are operational for last three months or more will be allowed to draw Rs. 50,000/-per week. This can be done in a single transaction or multiple transactions. This facility has been extended to Overdraft and Cash Credit accounts and traders registered with the Agricultural Produce Market Committee (APMC) markets or mandis.

Accordingly, holders of current / overdraft / cash credit accounts, which are operational for the last three months or more, may withdraw upto Rs. 50000 in cash, in a week. Such withdrawals may be disbursed predominantly in Rs. 2000 denomination bank notes. This enhanced limit for weekly withdrawal is not applicable for personal overdraft accounts. Farmers are allowed to draw upto Rs. 25000/- per week in cash from their loan (including Kisan Credit Card limit) or deposit accounts subject to their accounts being compliant with the extant KYC norms.

### 15. Can I withdraw a higher amount for the purpose of my ward's wedding?

With a view to enable members of the public to perform and celebrate weddings of their wards it has been decided to allow a cash withdrawal of maximum Rs. 250000/- from their bank deposit accounts till December 30, 2016 out of the balances at credit in the account as at close of business on November 08, 2016 to meet wedding related expenses. This is subject to the following conditions:

i. Withdrawals are permitted only from fully KYC compliant accounts.

- ii. The amounts can be withdrawn only if the date of marriage is on or before December 30, 2016.
- iii. Withdrawals can be made by either of the parents or the person getting married. (Only one of them will be permitted to withdraw).
- iv. Since the amount proposed to be withdrawn is meant to be used for cash disbursements, it has to be established that the persons for whom the payment is proposed to be made do not have a bank account.

- v. The application for withdrawal shall be accompanied by following documents:
  - a. An application as per the format
  - b. Evidence of the wedding, including the invitation card, copies of receipts for advance payments already made, such as Marriage hall booking, advance payments to caterers, etc.
  - c. A detailed list of persons to whom the cash withdrawn is proposed to be paid, together with a declaration from such persons that they do not have a bank account, where the amount proposed to be paid is Rs. 10,000/- or more. The list should indicate the purpose for which the proposed payments are being made.

Banks may keep a proper record of the evidence and produce them for verification by the authorities in case of need. The scheme will be reviewed based on authenticity/ bona fide use thereof. Yet, banks should encourage families to incur wedding expenses through non-cash means viz. cheques /drafts, credit/debit cards, prepaid cards, mobile transfers, internet banking channels, NEFT/RTGS, etc. Therefore, members of the public should be advised, while granting cash withdrawals, to use cash to meet expenses which have to be met only through cash mode.

#### 16. What is being done for the farmers?

Farmers are allowed to draw upto Rs. 25000/- per week in cash from their loan (including Kisan Credit Card limit) or deposit accounts subject to their accounts being compliant with the extant KYC norms. Specified banknotes in the denomination can be used for making payments towards purchase of seeds from the centres, units or outlets belonging to the Central or State Governments, Public Sector Undertakings, National or State Seeds Corporations, Central or State Agricultural Universities and the Indian Council of Agricultural Research, on production of proof of identity.

Towards ensuring unhindered farming operations during the Rabi crop season, NABARD would be utilizing its own cash credit limits up to about Rs. 23,000 crore to enable the DCCBs to disburse the required crop loans to PACS and farmers. Banks with currency chests have been advised to ensure adequate cash supply to the DCCBs and RRBs. Adequate cash supply should also be ensured for rural branches of all commercial (including RRBs). Bank branches located in APMCs may also be given adequate cash to facilitate smooth procurement.

# 17. Can I deposit Specified Bank Notes through ATMs, Cash Deposit Machine, cash Recycler and bank branches multiple times?

Yes, Specified Bank Notes can be deposited in Cash Deposits machines / Cash Recyclers or at bank branches more than once till December 30, 2016. At bank branches, customers should use separate pay-in-slips for depositing specified bank notes and other legal tender bank notes.(If a depositor has a mixed bunch of SBN and legal tender notes, he has to segregate them and submit two separate Pay-in slips).

### 18. Can I make use of electronic (NEFT/RTGS /IMPS/ Internet Banking / Mobile banking etc.) mode?

You can use NEFT/RTGS/IMPS/Internet Banking/Mobile Banking or any other electronic/ non-cash mode of payment. In order to meet the transactional needs of the public through digital means, additional measures have been introduce by way of special dispensation for small merchants and enhancement in limits for semi-closed Prepaid Payment Instruments (PPIs).

PPIs issuers can issue PPIs to such merchants. While balance in such PPIs cannot exceed Rs. 20,000/- at any point of time, the merchants can transfer funds from such PPIs to their own linked bank accounts upto Rs. 50,000/- per month, without any limit per transaction. Merchants only need to provide a self-declaration in respect of their status and details of their bank account.

The limit of semi-closed PPIs issued with minimum details has been enhanced to Rs. 20,000/- from the existing Rs. 10,000/-. The total value of reloads during any given month has also been enhanced to Rs. 20,000/-.

Extant instructions for other categories of PPIs remain unchanged. Full KYC PPIs with balance upto Rs. 1,00,000/- can continue to be made available by authorised PPI issuers. The above measures will be effective from November 21, 2016 till December 30, 2016, subject to review.

Relaxation in Additional Factor of Authentication (AFA) for payments upto Rs. 2000/- for card network provided authentication solutions has been permitted for the Card Not Present (CNP) transactions. For details please refer RBI DPSS circular dated December 6, 2016.

#### 19. I am right now not in India, what should I do?

If you have Specified banknotes in India, you may authorise in writing enabling another person in India to deposit the notes into your bank account. The person so authorised has to come to the bank branch with the Specified banknotes, the authority letter given by you and a valid identity proof (Valid Identity proof is any of the following:

Aadhaar Card, Driving License, Voter ID Card, Pass Port, NREGA Card, PAN Card, Identity Card Issued by Government Department, Public Sector Unit to its Staff)

## 20. I am an NRI and hold NRO account, can the exchange value be deposited in my account?

Yes, you can deposit the Specified banknotes to your NRO account.

# 21. I am a foreign tourist, how much Indian currency can I get after the announcement of withdrawal of legal tender status for specified banknotes?

Foreign citizens will be permitted to exchange foreign currency up to Rs. 5000 per week. Necessary entry to this effect will be made in their passports.

## 22. I have emergency needs of cash (hospitalisation, travel, life saving medicines) then what I should do?

Exemptions for the use of specified banknotes have been discontinued with effect from December 16, 2016

#### 23. Can I deposit the Specified banknotes to my account?

Deposits of Specified bank Notes into all types of deposit/loan accounts of Public Sector Banks/ Private Sector Banks / Foreign Banks/Regional Rural Banks / Urban Cooperative Banks/ State Cooperative Banks is allowed subject to CTR/STR reporting. Certain restrictions have been imposed on deposits of SBNs into non KYC compliant bank accounts as indicated below:

Tenders of SBNs in excess of Rs. 5000 into a non KYC compliant bank account will be received for credit only once during the remaining period till December 30, 2016. The credit in such cases shall be afforded only after questioning tenderer, on record, in the presence of at least two officials of the bank, as to why this could not be deposited earlier and receiving a satisfactory explanation. The explanation will be kept on record to facilitate an audit trail at a later stage.

Even when tenders smaller than Rs. 5000 are made in a non KYC compliant bank account and such tenders taken together on cumulative basis exceed Rs. 5000 they may be subject to the procedure to be followed in case of tenders above Rs. 5000, with no more tenders being allowed thereafter until December 30, 2016.

The above restrictions shall not apply to tenders of SBNs for deposits in KYC compliant account and deposits under the Taxation and Investment Regime for the Pradhan Mantri Garib Kalyan Yojana, 2016 The equivalent value of specified bank notes tendered will be credited to an account maintained by the tenderer at any bank in accordance with standard banking procedure and on production of valid proof of Identity.

The equivalent value of specified bank notes tendered may be credited to a third party account, provided specific authorisation therefor accorded by the third party is presented to the bank, following standard banking procedure and on production of valid proof of identity of the person actually tendering, as indicated in Annex-5 of our circular DCM (Plg) No.1226/10.27.00/2016-17 dated November 08, 2016 Anybody depositing more than Rs. 50,000/- in cash in their bank account has to submit a copy of the PAN card in case the bank account is not seeded with PAN.

#### 24. Can I deposit SBN to Small Savings Scheme?

Government of India has decided that subscribers of Small Savings Schemes may not be allowed to deposit SBNs in Small Savings Schemes. Banks have been advised not to accept SBNs for deposits in Small Saving Schemes with immediate effect. However deposits into Post Office Savings account are permitted

#### 25. What is proof of identity?

Valid Identity proof is any of the following: Aadhaar Card, Driving License, Voter ID Card, Pass Port, NREGA Card, PAN Card, Identity Card Issued by Government Department, Public Sector Unit to its Staff.

#### 26. Where can I get more information on this scheme?

Further information is available on our website (www.rbi.org.in) and the website of the Government of India (www.finmin.nic.in)

#### 27. What steps have been taken for queue management?

Banks have been advised to make arrangements for separate queues for Senior citizens and Divyang (disabled) persons. Similarly, separate queues should also be arranged for those who come to exchange SBN for cash and those who come to deposit into bank accounts.

The last date for submission of the annual life certificate for the government pensioners which is to be submitted in November every year has been extended upto January 15, 2017 to facilitate.

The Reserve Bank assures members of the public that enough cash in small denominations is also available at the Reserve Bank and banks. The Reserve Bank urges that public need not be anxious; need not come over to banks repeatedly to draw and hoard; Cash is available when they need it.

#### 28. If I have a problem, whom should I approach?

You may approach the control room of RBI by email or on Telephone Nos 022 22602201/022 22602944 ntrol room of RBI by email or on Telephone Nos 022 22602201/022 22602944

# Deposits in Jan Dhan accounts rise to Rs 64,250 crore

Total deposits in Jan Dhan accounts have increased to Rs 64,252.15 crore, with Uttar Pradesh leading the chart with Rs 10,670.62 crore deposits followed by West Bengal and Rajasthan, the government said today.

"As on November 16 25.58 crore accounts with aggregate deposits of Rs 64,252.15 crore have been opened under Pradhan Mantri Jan Dhan Yojana (PMJDY) across the country," Minister of State for Finance Santosh Kumar Gangwar said in a written reply to the Lok Sabha.

- Leading the pack of states, Uttar Pradesh has the highest number of account holders to the tune of 3.79 crore and therefore highest deposits of Rs 10,670.62 crore. It is followed by West Bengal with 2.44 accounts and deposits of Rs 7,826.44 crore.
- Rajasthan comes at the third spot with 1.89 crore accounts and the deposit in these accounts totals to Rs 5,345.57 crore while Bihar with 2.62 crore accounts have deposits of Rs 4,912.79 crore as of November 16.
- Out of 25.58 crore accounts, 5.98 crore (23.02 per cent) are zero balance accounts, he said.

State	No of accounts (In Crores)	Total Deposits (In Crores)
Uttar Pradesh	3.79	10,670.62
West Bengal	2.44	7,826.44
Rajasthan	1.89	5,345.57
Bihar	2.62	4,912.79
Zero Balance Accounts	5.98	

25.67 crore PMJDY accounts opened till 25.11.2016

#### GOVERNMENT OF INDIA MINISTRY OF FINANCE LOK SABHA

UNSTARRED QUESTION NO: 2873 ANSWERED ON: 02.12.2016 Access to Banks PRATHAP SIMHA Will the Minister FINANCE of be pleased to state:-

- (a) whether according to data compiled by the Banking Division only 28%-32% of Indians have access to financial institutions, including post offices and banks and if so, the details thereof;
- (b) whether out of country's 677 districts, 253 have less than 100 bank branches, if so, the details thereof and the reasons therefor;
- (c) whether Reserve Bank of India (RBI) data shows that 3 per cent of the 138,626 bank branches are in 60 cities in Tier-1 and Tier-2 categories, leaving a highly skewed proportion with rural India and if so, the reaction of the Government thereon;
- (d) whether at least 38 districts, mostly in five North-Eastern States have less than 10 functioning banks, if so, the reasons therefor; and
- (e) the steps taken/being taken by the Government to address the issues of financial inclusiveness, unequal geographical spread of financial institutions at micro level and accessibility to banking institutions in far flung and remote rural across the country?

#### **ANSWER**

The Minister of State in the Ministry of Finance

As per Census 2011 estimates, out of 24.67 crore households in the country, 14.48 crore (58.7%) households have access to banking services. However under Pradhan Mantri Jan Dhan Yojana (PMJDY) from 15 August 2014 to 23.11.2016, 25.67 crore PMJDY accounts have been opened across the country.

(b) As per Reserve Bank of India (RBI), out of 666 districts, 241 have less than 100 bank branches/offices. Opening of bank branches is a commercial decision of the banks taken in accordance with the branch opening policy of RBI.

- (c) Out of total number of 133668 bank branches as on 30.06.2016, 49279 bank branches (36.9%) are in Tier-1 and 9641 bank branches (7.2%) are in Tier-2 category.
- (d) RBI has informed that there are 33 districts (in 8 States/UTs including 5 (out of 7) North-Eastern States) with 10 or less number of branches/offices. In North Eastern States, there are issues such as lack of telecom and power connectivity, road and network connectivity etc. which affects the banks from opening of bank branches there.

(e) To address the issue of financial inclusiveness, unequal geographical spread of financial institutions at micro level and accessibility to banking institutions in far flung and remote rural areas, PMJDY was launched on 28<sup>th</sup> August, 2014. As on 23.11.2016, 25.67 crore PMJDY accounts have been opened across the country. 126495 Business Correspondents have been deployed to provide access to withdrawal, deposit, balance enquiry and fund transfer.

Jan Dhan deposits decelerated after govt warned against misuse of account: CBDT

CBDT also said that average deposit per Jan Dhan account at Rs 13,113 during Nov 8-Dec 2016 is not alarming.

The Central Board of Direct Taxes (CBDT) on Wednesday said that Jan Dhan deposits decelerated after the Central government warned against misusing such accounts for converting black money into white. It also said that average deposit per Jan Dhan account at Rs 13,113 during Nov 8-Dec 2 is not alarming.

Total amounts deposited during November 8-15 were Rs 20,206 crore, while during November 16-22, people deposited Rs 11,347 crore in such accounts. This further decelerated to Rs 4,867 crore during November 23-30. Total daily deposit in Jan Dhan accounts was Rs 410 crore on December 1 and Rs 389 crore on December 2.

"The average per account deposit in Jan Dhan accounts is Rs 13,113 for this entire period from November 8 to December 2, which is not alarming, given the need to bring all cash to banks," said the Central Board of Direct Taxes (CBDT). The Income Tax Department has identified the local clusters and bank branches where the inflows of Jan Dhan deposits have been more than normal, in order to investigate money deposits in Jan Dhan accounts which belonged to somebody else, it said.

After setting a cash deposit limit of Rs 50,000 in Jan Dhan accounts, the government had on November 18 cautioned account holders that they will be prosecuted under the I-T Act for allowing misuse of their bank accounts through deposit of black money in Rs 500/1,000 notes during the 50-day window till December 30. The directive came against the backdrop of reports that some are misusing other persons' bank accounts to convert their black money into new denomination notes.

The CBDT today said since the time the government has alerted people not to allow their accounts, particularly Jan Dhan accounts, to be used by others for the purpose of converting their black money into white, there has been a considerable decrease in inflows of funds in Jan Dhan accounts. Since November 10, Rs 11.85 lakh crore in form of old 500 and 1,000 rupee notes have returned into the banking system. It was estimated that now defunct notes constituted 86 per cent or Rs 14.5 lakh crore in circulation.

Meanwhile, the Income tax department has found "various inconsistencies" in cash deposits in Jan Dhan accounts and detected about Rs 1.64 crore deposited by persons who have never filed returns as their income shown is below the taxable limit. The Central Board of Direct Taxes reiterated its warning to people against allowing misuse of their accounts by unscrupulous elements. "Investigation being conducted by the income tax department across India into the sudden surge in cash deposits in Jan Dhan accounts have revealed various inconsistencies," the Ministry of Finance said on Sunday.

# RBI's big challenge: How to get rid of banned notes 300 times the height of Mt Everest

When the rest of the world rings in the New Year, India's central bank will be grappling with a unique situation: how to deal with more than 23 billion worthless bank notes.

Stacked one on top of the other, the pile would be 300 times the height of Mount Everest. Laid down to form a pathway, it'd be long enough to reach the moon and back five times. Described as the world's most sweeping currency policy change in decades, the step has earned the government both admiration for its boldness and criticism for its execution.

The Reserve Bank of India spends more than \$400 million on currency production each year, about 1.5 percent of the global bank note industry.

Most of the junked notes will be destroyed and dumped in landfills following the usual process used with soiled notes, said a senior central bank official, asking not to be identified as the collection is ongoing.

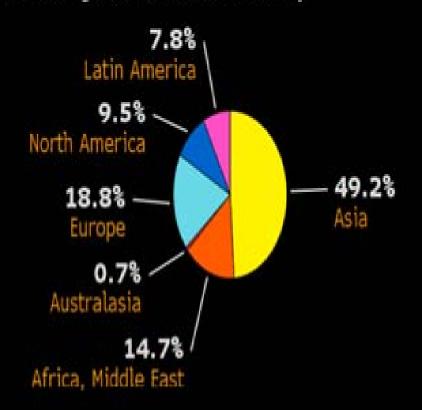
Many will also be turned into briquettes for industrial use, while some could be converted into paperweights and other such knickknacks.

With the government's step targeted at black money -- the local term for cash stashed away to avoid tax -- there are also media reports of folks tearing and burning their bills to avoid prosecution. The government estimates that as much as a third of the 15 trillion rupees withdrawn won't be deposited in banks.

The cost to replace the old notes could be as high as 200 billion rupees, former Finance Minister Palaniappan Chidambaram wrote in a newspaper column, attacking the government's decision. His successor Arun Jaitley, in charge of overseeing the move, said such estimates are "highly exaggerated."

#### **World Security Currency Printing Market**

Asia dominates the \$27 billion global bank note industry



Source: Smithers Pira 2013

Bloomberg 📮

# Top Rumours Related To Demonetisation

## PM MODI HAS APPOINTED URJIT PATEL RBI GOVERNOR WHO IS BROTHER IN LAW OF MUKESH AMBANI.

Narender Modi was sworn in as Prime Minister of India on 26 May 2014 and On 11 January 2013, Urjit Patel was appointed as Deputy Governor of RBI, it is wrong to correlate Urjit Patel's appointment with PM Modi and Mukesh Ambani. Those who highlight his connection or relation with Mukesh ambani is indirectly want to hit at Modi. He has no Relation with Mukesh Ambani's sister. Mukesh Ambani has two sisters, first Deepti Salgaonkar, her husband name is Dattaraj Salgaocar and second Nina Kothari, her husband name is Shyam Kothari.

Check the more details how much Urjit patel capable to draw attention even before Modi becomes CM in 2000. In the early 1990s Patel had caught the attention of Rao, his then finance minister Dr Manmohan Singh and commerce minister at the time P Chidambaram, when he was selected by the International Monetary Fund to head its India office. It was known that even though he was born in Kenya and later studied in the UK and the US, the focus of Patel's scholarly pursuits was India.

Between 2000 and 2004, Dr. Patel worked with several High Level Committees at both Central and State Government level, including Competition Commission, Task Force on Direct Taxes, Prime Minister's Task Force on Infrastructure, Group of Ministers on Telecom Matters, Advisory Committee on Research Projects and Market Studies, Committee on Civil Aviation Reforms, Expert Group on State Electricity Boards and High Level Expert Group on Civil & Defense Services Pension System.

When the UPA Government in India came into power for a second term in 2009, it announced a '100-day' action plan, which became a hot topic for media discussion. Surprisingly, Urjit Patel was the expert commentator on UPA's first 100 days on Hindi News Channel, although he had no prior media exposure in India. Not many know that when Patel applied for an Indian passport, before taking up the offer to become the RBI deputy governor in 2013, his recommendation letter addressed to the home ministry was written by none other than Manmohan Singh, the prime minister then. "He is very important for the country," Singh had said.

## TRANSPORTERS ARE GOING ON STRIKE, SO YOU MUST STOCK UP ESSENTIAL GOODS IN YOUR HOUSEHOLD.

You might have received the following information on WhatsApp or seen it on Facebook or Twitter. It says that the transporters have decided to go on a strike starting tomorrow, due to which things like groceries or FMCG goods won't be able to reach markets.

Truth is that no such strike has been announced. The same has been debunked by the Ministry of Road transport and highways.

#### FAKE CURRENCY OF NEW DENOMINATION ALREADY IN THE MARKET

A story with photo going around says that a vegetable seller claimed he was duped with a fake Rs 2000 note. This spread panic that the new currency was not secured enough. It turned out that he was fooled by a colored Xerox of the note. The headline of the new report was misleading that led to the rumour of a counterfeit currency being involved.

Take a look at the supposed counterfeit note yourself. While one feels bad for the poor vegetable seller, isn't it too easy to spot that the one on the top is a colored Xerox copy? Just look at the edges. You don't even need to look for further security features such as watermark. Missing stripes, incomplete national emblem and odd margins. Too bad even for fake.

#### NEW 2000 RUPEES NOTE HAS A NANO CHIP

While on one had you have rumours about the currency already being faked, there is a flip side to this rumour that claims that the note is super secure, loaded with a nano chip that can be tracked. No, there is no chip.

### SHOPPING MALL LOOTED AS PEOPLE DID NOT HAVE CASH TO BUY GOODS

There are some reports about shops being looted in some parts of the countries because people didn't have ready cash to buy things. A viral video clip shows people in Delhi looting a mall. People are sharing the clip claiming the looting happened due to demonetization troubles. But that is far from the truth. The mall in question was a self-catering mall where card holding members take along the stocks they need. Yes, there was disorder due to some miscreants, but it was not looting. Delhi police too clarified it on Twitter.

#### SALT IS SELLING AT HIGH PRICES ALL ACROSS THE COUNTRY

This one is perhaps the most rampant rumour, In short, some wise men decided to spread the word that there's a huge crisis of salt in the country which led to further rumours about its price per Kg increasing to Rs 400. It led to some panic buying, but salt was not being sold at any exorbitant rates in the country. Union Minister of State for Commerce and Industry, Nirmala Sitharaman herself had to step in to curb the rumours and told "No shortage in the supply of edible salt.Baseless rumours being spread."

#### BJP LEADERS AND THEIR RELATIVES ALREADY HAD 2000 RUPEE NOTES

This rumour has been spread. Now it has exposed that spread picture where picture of a bank employee was circulated as picture of a BJP leader's daughter.

## VIOLENCE OUTSIDE BANKS AND ATM DUE TO LONG QUEUES OF PEOPLE WITHDRAWING CASH

A News agency put out a tweet claiming the Delhi police got a staggering 4.5 thousand calls about violence outside banks and ATMs. It should be noted that reports or information by News agency is carried as it is by news organizations and any error, rumour, or lie will be repeated thousand times. And this claim by the News agency turned out to be hugely exaggerated and misleading. Delhi police indeed received many calls but not related to violence outside banks or ATMs.

## MANY DEATHS DUE TO INCONVENIENCE AND UNAVAILABILITY OF READY CASH

While there indeed has been an unfortunate death, it has now come to light that some other deaths are being deliberately linked to demonetization by some in the media. For example, relatives of a person who unfortunately died, have themselves clarified that the death had got nothing to do with demonetization.

## PHOTOS OF HUMONGOUS QUEUES AT BANKS OR CROWDS PROTESTING AGAINST DEMONETIZATION

While there is no denying the fact that there are queues outside banks and ATMs, many miscreants are spreading photos from different times and places claiming they were pictures of queues and chaos while withdrawing money. People belonging to political parties are even using old pictures of some other protests to claim that citizens are protesting against the demonetization drive. Some of these have been exposed by people on Twitter, but you may still receive those on Whatsapp or Facebook, a photo from 2013 Kenyan election to create panic.

#### INDELIBLE INK TO BE USED TO IDENTIFY PEOPLE WHO HAVE MADE WITHDRAWALS

This comes from the latest press conference by the Economic Affairs Secretary Mr Shaktikanta Das. Even some editors and media houses claim this. The fact is, as seen in this video where the secretary is seen announcing the measure, the indelible ink will be used only for over-the-counter *exchange* (and not withdrawals) of cash for new currency notes. This is not a new rule per-se because even the original notification said that the exchange mechanism was available to each person only once, and not per day. Hence the use of ink only ensures stricter implementation of an existing rule.

#### COLOUR COMES OUT OF THE 2000 RUPEE NOTE, SO IT COULD BE FAKE OR INSECURE

Some viral messages and videos doing the rounds claim that the new 2000 rupee note is poorly designed and printed, especially because colour comes out if you rub it with wet a cloth. This too was rebutted by the Economic Affairs Secretary, who revealed that every note will have colour coming out if rubbed in that fashion. In fact, he added that due to a special ink used for pinting notes, the colour *should come out of new notes*. He clarified that even the 100 rupee notes, when freshly printed, would show similar results when rubbed with wet cloth or cotton.

#### GANDHIJI'S PHOTO DELETED FROM NEW RS 2000 NOTE

This is probably the most stupid rumour but there are people who actually believe this. Just hope they had flipped the note and seen the reverse. This is the case with most older notes as well, Gandhiji's picture is only on one side.

# Prosecution for allowing use of Bank A/c by others for Black Money Conversion

Press Information
Bureau Government of India
Ministry of Finance
18-November-2016 16:23 IST

Strict Action against Tax Evaders using other persons' Bank Accounts to convert their Black Money into New Denomination Notes;

Person(s) who allows His Or Her Bank Account to be misused for this purpose can be Prosecuted for Abetment under Income Tax Act; Government appeals to people NOT to come in the Lure of Black Money Converters and be a Partner in this Crime of Converting Black Money into White through this method and help join the Government in eradicating it.

It was announced by the Government earlier that small deposits made in the banks by artisans, workers, housewives, etc. would not be questioned by the Income Tax Department in view of the fact that present exemption limit for income tax is Rs. 2.5 lakh. There are some reports received that some people are using other persons' bank accounts to convert their black money into new denomination notes for which reward is also being given to the account holders who agree to allow their accounts to be used. This activity is reported in case of Jandhan Accounts also.

It is hereby clarified that such tax evasion activities can be made subject to income tax and penalty if it is established that the amount deposited in the account was not of the account holder but of somebody else. Also the person who allows his or her account to be misused for this purpose can be prosecuted for abetment under Income Tax Act.

However, the genuine persons having their own household savings in cash and depositing the same in the bank would not be questioned.

The people are requested NOT to come in the lure of black money converters and be a partner in this crime of converting black money into white through this method. Unless all citizens of the country help the Government in curbing black money, this mission of black money will not succeed. Also the people who are against the black money should give information of such illegal activities going on to the Income Tax department so that immediate action can be taken and such illegal transfer of cash can be stopped and seized.

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

# Updated list of Transactions to be reported in AIR

Government has recently demonetised bank notes of Rs. 500 & Rs. 1000/- to curb Black Money, which resulted in huge deposit of cash notes in Bank, with a view to monitor the same for a possible tax evasion government has mandated the reporting of the same in statement of financial transaction commonly known as AIR Return, if Cash deposits during the period 09th November, 2016 to 30th December, 2016 aggregates to—

- (i) twelve lakh fifty thousand rupees or more, in one or more current account of a person; or
- (ii) two lakh fifty thousand rupees or more, in one or more accounts (other than a current account) of a person vide Income Tax Notification No. 104/2016 dated 15.11.2016 vide insertion of related provision in Rule 114E of Income Tax Rules.

#### Point No. 12 below is been inserted vide Notification No. 104/2016 dated 15.11.2016.

- Cash deposits during the period 09<sup>th</sup> November, 2016 to 30<sup>th</sup> December, 2016 aggregating te-
  - (i) twelve lakh fifty thousand rupees or more, in one or more current account of a person; or
  - (ii) two lakh fifty thousand rupees or more, in one or more accounts (other than a current account) of a person.
- (i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);
- (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).";

### Action on Black Money by Central Government

## Press Information Bureau Government of India Ministry of Finance 18-November-2016 17:50 IST

### **Action on Black Money**

There is no official estimation of the amount of black money within the country and stashed abroad. The Government had commissioned a study on the above through National Institute of Public Finance and Policy (NIPFP), National Council of Applied Economic Research (NCAER) and National Institute of Financial Management (NIFM), reports from which have been received. These reports are under consideration of the Government.

Appropriate action against tax evasion including in respect of unaccounted income stashed in foreign countries, is an on-going process. Such action under direct tax laws includes searches, surveys, enquiries, assessment of income, levy of taxes, penalties, etc. and filing of prosecution complaints in criminal courts, wherever applicable.

Recognizing various limitations under the existing legislation [Income-tax Act, 1961, etc.], the Government enacted 'The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015' – to specifically and effectively tackle the issue of black money stashed away abroad. This has, inter alia, provided for more stringent provisions of penalties and prosecutions in respect of black money stashed away abroad.

Further, under this law, for the first time the offence of willful attempt to evade tax, etc. in relation to undisclosed foreign income/assets has been made a Scheduled Offence for the purposes of the Prevention of Money Laundering Act, 2002 (PMLA).

This enables attachment and confiscation of the proceeds of crime of willful attempt to evade such tax, etc., eventually leading to recovery of such undisclosed foreign income and assets/black money stashed away abroad. The new law came into force w.e.f. 01.07.2015.

However, before the cases involving black money stashed away abroad were subjected to more stringent provisions of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, a onetime three months' compliance window closing on 30th September 2015 was provided under the new law wherein 648 declarations involving undisclosed foreign assets worth Rs.4164 crore were made. The amount collected by way of tax and penalty in such cases is about Rs.2476 crore.

The Government has taken several steps to effectively tackle the issue of black money, particularly black money stashed away abroad. Such measures include policy-level initiatives, more effective enforcement action on the ground, putting in place robust legislative and administrative frameworks, systems and processes with due focus on capacity building and integration of information and its mining through increasing use of information technology. Recent major initiatives in this regard include –

(i) Constitution of the Special Investigation Team (SIT) on Black Money under Chairmanship and Vice- Chairmanship of two former Judges of Hon'ble Supreme Court,

- (ii) Enactment of a comprehensive law 'The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015' which has come into force w.e.f. 01.07.2015 to specifically and more effectively deal with the issue of black money stashed away abroad,
- (iii) Constitution of Multi-Agency Group (MAG) consisting of officers of Central Board of Direct Taxes (CBDT), Reserve Bank of India (RBI), Enforcement Directorate (ED) and Financial Intelligence Unit (FIU) for investigation of recent revelations in Panama paper leaks,
- (iv) Proactively engaging with foreign governments with a view to facilitate and enhance the exchange of information under Double Taxation Avoidance Agreements (DTAAs)/Tax Information Exchange Agreements (TIEAs)/Multilateral Conventions,

- (v) According high priority to the cases involving black money stashed away abroad for investigation and other follow-up actions including prosecutions in appropriate cases,
- (vi) While focusing upon non-intrusive measures, due emphasis on enforcement measures in high impact cases with a view to prosecute the offenders at the earliest for credible deterrence against tax evasion/black money,
- (vii) Proactively furthering global efforts to combat tax evasion/black money, inter alia, by joining the Multilateral Competent Authority Agreement in respect of Automatic Exchange of Information (AEOI) and having information sharing arrangement with USA under its Foreign Account Tax Compliance Act (FATCA),

- (viii) Renegotiation of DTAAs with other countries to bring the Article on Exchange of Information to International Standards and expanding India's treaty network by signing new DTAAs and TIEAs with many jurisdictions to facilitate the exchange of information and to bring transparency,
- (ix) Enabling attachment and confiscation of property equivalent in value held within the country where the property/proceeds of crime is taken or held outside the country by amending the Prevention of Money-laundering Act, 2002 through the Finance Act, 2015,

- (x) Enactment of the Benami Transactions (Prohibition) Amendment Act, 2016 to amend the Benami Transactions (Prohibition) Act, 1988 with a view to, inter alia, enable confiscation of Benami property and provide for prosecution,
- (xi) Initiation of the information technology based 'Project Insight' by the Income Tax Department for strengthening the non-intrusive information driven approach for improving tax compliance and effective utilization of available information.

These measures have equipped the Government better in curbing the menace of black money stashed away abroad. Further, sustained and prompt action taken by the Income Tax Department in various cases involving black money has resulted into assessment of substantial amounts of undisclosed income, levy of concealment penalty and filing of criminal prosecution complaints for various offences in appropriate cases.

As part of enforcement measures, during the period from 01.04.2014 to 31.10.2016, the Income Tax Department (ITD) conducted searches in 1242 groups of assesses, seizing undisclosed assets worth Rs.2,029 Crore. These assesses admitted undisclosed income of Rs.28,567 Crore. During the same period, 13,690 surveys conducted resulted in detection of undisclosed income of Rs.30,001 Crore. Similarly, during the period from 01.04.2014 to 30.09.2016, the Income Tax Department has filed 1514 prosecution complaints while offences were compounded in 2244 cases and 75 persons have been convicted by the Courts.

Further, under the Income Declaration Scheme, 2016, the Government has received 64,275/- declarations disclosing undisclosed income of Rs.65, 250 crore.

# Black money estimates overshot as 82% of cash deposited in banks

New Delhi: Indians have validated 82 percent of bank notes rendered worthless by Prime Minister Narendra Modi's surprise move last month, according to people with knowledge of the matter, undermining the government's estimate of black money in the economy.

About 12.6 trillion rupees (\$185 billion) had been deposited into bank accounts as of Dec. 3, the people said, asking not to be identified citing rules for speaking with the media. The government had estimated that about 5 trillion rupees of the 15.3 trillion rupees sucked out by Modi's move would stay undeclared, implying that this was cash stashed away to evade taxes, known locally as black money.

Lack of a meaningful cancellation could be a double blow for Modi as the measure was being used as a political and economic gauge of the success of his Nov. 8 move. One of Modi's biggest campaign pledges was to expose black money in Asia's No. 3 economy, and economists were viewing the cash as a potential windfall for the government.

"Some of the windfall that the government was hoping for from the cancellation of notes will be dented," said Anjali Verma, chief economist at Phillip Capital Ltd. "That means the fiscal stimulus that was being expected might also take some hit. That is not good news at a time when direct consumption, private investment is not expected to pick up."

Private indicators published over the past week signal that the \$2 trillion economy will be hurt by the cash clampdown. Economists have also slashed India's growth forecast for October December, imperiling the nation's status as the world's fastest growing big economy.

### 'Defeats the Theory of Black Money'

Finance Ministry spokesman D.S. Malik wasn't available for comment. The rupee ended little changed at 68.22 a dollar in Mumbai on Monday, the benchmark stock index rose 0.5 percent and the yield on the 10year sovereign bond fell to 6.22 percent from 6.24 percent.

"Markets are not too worried at the moment," said Chakri Lokapriya, Mumbai based managing director at TCG Advisory Services, which manages about \$3 billion. "But if 1213 trillion rupees comes back into the system it defeats the whole theory of black money."

In such a situation where the gains of demonetisation aren't apparent, individuals will more closely analyze the pain. A slump in demand due to the cash shortages will hurt company revenues and government tax collections, widening the budget deficit and ultimately weakening the rupee, Lokapriya said.

### Demonetisation: Simple Guide To What's Won And Lost

### A simple guide to demonetisation:

	USD	Rs.
India's official (white) GDP	2.2 trillion	150 lakh crore
If black economy one-third of total economy, then black GDP	1.1 trillion	75 lakh crore
Total (black + white GDP)	3.3 trillion	225 lakh crore

It is estimated that around 8% of the black economy is held in the form of cash. So, 8% of Rs. 75 lakh crore is held in cash. So, around Rs. 6 lakh crore of black money is held in cash.

There are no official estimates of black money held in cash but experts on estimating black money such as Prof. Arun Kumar have estimated the amount at Rs. 6.5 lakh crore.

And Bloomberg quoted a government lawyer as telling the Supreme Court that he does not expect Rs. 5 lakh crore to return (Of course, even at one's most optimistic, one cannot expect 100% of black money in cash not to return).

So, Rs. 6 lakh crore appears to be a reasonable estimate of black money in cash. As of March 31, 2016, the total amount of currency issued (of denominations of Rs. 500 and Rs. 1000) was around Rs. 14.5 lakh crore or 213 billion dollars.

The government has demonetised denominations of Rs. 500 and Rs. 1000. So, it is estimated that, of the total high value demonetised currency of Rs. 14.5 lakh crore, Rs. 6 lakh crore is 'black' (as above) and balance Rs. 8.5 lakh crore is 'white'.

The government was hoping that a large part of the black money part of the Rs. 500 and Rs. 1000 notes would not come back in exchange or as bank deposits.

For instance, if the government got back only Rs. 8.5 lakh crore out of Rs. 14.5 lakh crore, then it could claim 100% success as the owners of Rs. 6 lakh crore black had not returned the currency and taken a 100% loss.

At the other extreme, if the banks got back all Rs. 14.5 lakh crore, then the government would be totally unsuccessful as all Rs. 6 lakh crore 'black' had been 'laundered' and had become 'white'.

When any organisation or the government carries out any activity, it tends to lay down the outcome that it expects from that action to determine whether it has succeeded in its objective.

The government has not specifically laid down its measure of success. But its counsel has informed the Supreme Court that the government expects that around Rs. 5 lakh crore will not be returned. So, that can be considered the government's benchmark of success.

One can also lay down another measure to indicate success. And that relates to the cost: benefit exercise for this operation.

The maximum "benefit" is Rs. 6 lakh crore i.e. all Rs. 6 lakh crore worth of black money notes is not received by the banks and the black money in cash becomes extinct or nearextinct.

But what is the cost to the country of this operation?

According to the Centre for Monitoring the Indian Economy (CMIE), the transaction cost of demonetisation until December 30, 2016, is estimated at around Rs. 1.28 lakh crore or 19 billion dollars, around 0.9% of GDP. That is around Rs. 1,000 per every man, woman and child in this country. CMIE has said that this is a conservative estimate. Also, the CMIE has said that the cost will rise if the chaos continues until the end of the financial year.

Then, there is the loss to the country's GDP in F.Y. 201617 and F.Y. 201718 as a result of disruption of economic activity. There are various estimates ranging from 0.5% (Fitch) to 3% (Ambit Capital) for the loss of GDP.

On December 7, 2016, the RBI has estimated that the GVA will drop by 0.5% in F.Y. 201617. Thus, the consensus figure for loss of GDP for F.Y. 201617 is 0.5%.

Let us work on a drop of 2% for next year (F.Y. 201718), which is the estimate made by former Prime Minister, Dr. Manmohan Singh in a speech in the Rajya Sabha. A 2% drop in GDP next financial year alone would mean a loss of around Rs. 3 lakh crore.

Thus, the loss to the country over the next 15 months from the very act of demonetisation would be around Rs. 4.3 lakh crore (Rs. 1.3 lakh crore + Rs. 3 lakh crore).

As per R. Gandhi, Deputy Governor of the Reserve Bank, speaking on December 7, 2016 after the monetary policy announcement, Rs. 11.5 lakh crore have already been deposited in banks. That leaves around Rs. 3 lakh crore still not deposited out of a total of Rs. 14.5 lakh crore. And there are 22 more days to go and when more black money may be deposited.

In fact, Mr. Hasmukh Adhia, Revenue Secretary, is quoted in The Indian Express as saying that he expects all the demonetised notes to come back!

A far cry from the estimate that around Rs. 5 lakh crore would not come back into the banking system.

So, it appears that we may lose Rs. 4.3 lakh crore in GDP over the next 15 months and our gain is zero. Of course, this move may set the country on the path to digital financial transactions and increase the tax base over the long run. But is it worth Rs. 4.3 lakh crore in the short run?

Disclaimer: The opinions expressed within this article are the personal opinions of the author. The facts and opinions appearing in the article do not reflect the views of NDTV and NDTV does not assume any responsibility or liability for the same.

### BANKERS AND THEIR SEVEN DEADLY SINS

(SOURCE BANGALORE MIRROR 14.12.2016)

Bank officials were the hardest hit – and the most loudly praised – lot after 8/11. But a few bad apples are giving the entire community a bad name – even as new notes are being pumped into the system, some corrupt managers and officials are diverting the money, forcing the common man to stand in serpentine queues.

RBI officer K. Michael's arrest has shown how a handful of corrupt people are holding the entire country to ransom. After sifting through registered cases and conversing with many bank managers, both serving and retired, Bangalore Mirror lists seven ways in which some bankers are cheating the system.

#### 1. Identity theft of genuine customers

Unsuspecting customers queued up outside banks to exchange their old notes post-8/11. Little did they know that the PAN card and other identity details that they submitted to the banks would be misused. Investigators have found out that some bankers misused these details for carrying out illegal transactions without the knowledge of their customers.

Modus Operandi (MO): They would turn away customers who returned to the same bank branch more than once to exchange their old currency citing cash crunch. These details were then be used to facilitate illegal transfer of currency in new denominations.

Case in point: This CBI report: "Suryanarayana Bairy, chief manager Karnataka Bank, Indiranagar,... dishonestly and fraudulently diverted the new currency notes to other accused through unknown middlemen /agents; falsified accounts of his bank on the basis of forged and fabricated documents of identity and address proof in the names of several individuals to misrepresent that the new currency notes have been exchanged with the public through bank counters."

### 2. Whet your appetite with dry ATMs

Over 50 per cent of ATMs have gone out of business after 8/11. While some were waiting to be recalibrated for the new notes, the others just sputtered and died. Or so we thought. Investigations by ED, CBI and I-T officials have found that the money meant for most of these ATMs was diverted for black money hoarders; with bank officials joining hands with outsourced security and service agencies who are authorized to replenish ATMs.

Modus Operandi: ATMs send out an automated message after notes are exhausted. In the case of ATMs that were misused, they were shut down after dispensing whatever money they had. The cash that was meant to replenish these ATMs was then diverted.

Case in point: This CBI probe in the case: Rs 1.30 crore of Dhanalakshmi Bank, which was to be stuffed in 32 ATMs was handed over to suspended state government official SC Jayachandra, Chandrakanth Ramalingam and their associates.

#### 3. Abusing Jan Dhan accounts

This one is all over the place. At least 10-15 per cent of Jan Dhan accounts in every bank were misused to convert black money. The CBI is hot on the heels on bankers who facilitated this.

**Modus Operandi:** An account in the Vijayanagar branch of a nationalized bank had a balance of Rs 500; after 8/11, it saw a deposit of Rs 2 lakh. When the account holder came to withdraw the amount, he was turned away.

Case in point: Sample this: Jan Dhan Yojana A/c No. 3370263079 saw Rs 2.3 lakh being deposited in it on November 13. The same day, the money was transferred to the Central Bank of India (Basavangudi branch) account of Omkar Parimal Mandir.

#### 4. DD's comedy show

Officials found this was one of the most-abused ways of getting money converted from black to white.

**Modus Operandi:** Get a demand draft made by paying old notes, cancel it after a while and take money in new notes. And no questions are asked if the amount is below Rs 49,000.

Case in point: Two businessmen, Gopal and Ashwini G Sunku, deposited Rs 71,49,000 and 149 DDs were issued by CBI (Basavanagudi branch). Later, the DDs were cancelled to get legal currency. All such DDs are now being probed.

#### 5. Currency on commission basis by cashiers

This kind of fraud has emerged mainly out of rural and remote areas where poor and illiterate people's need for change and new notes is exploited.

Modus Operandi: Cashiers issue cash (in new notes) to people coming in with old notes without taking any identity proof; they show it as existing cash in the bank (which basically means that the entire lower denomination notes are sucked out of the system and old notes are returned to the RBI). Bankers charge commission up to 25 per cent for the hassle-free operation. Some fake identities were also created.

Case in point: RBI official K Michael, who was arrested by the CBI, was doing exactly this.

#### 6. Fake accounts

Refer to point 1. In some cases where identity documents of unsuspecting customers had been submitted, bankers opened accounts in their names and laundered cash.

Modus operandi: Cash in old notes is deposited in such accounts and withdrawn in new, legal tender. Since the account is left with no money (thus below minimum balance), it becomes defunct.

Case in point: Investigators are looking into new accounts which came alive after 8/11 and went silent after a few transactions.

#### 7. SHGs, co-operative banks

Micro-finance agents, who collect money in smaller denominations (Re 1 to Rs 100) on a daily basis from minor shopkeepers, were also used to launder money by depositing them in accounts of self-help groups. Similarly, some co-operative banks which do not have computerized records, back-dated deposits to launder money (the RBI has since de-authorised them from accepting deposits).

**Modus Operandi:** The micro-finance agents collect money in new notes from the businessmen. However, they deposit old notes in accounts of SHGs after exchanging the money with black money hoarders.

Case in point: At least 5,000 SHGs and agents who have collected cash and deposited in the name of SHGs are under the scanner.

# RBI/2016-17/191 DCM (Plg) No. 1911/10.27.00/2016-17 December 21, 2016

The Chairman / Managing Director/ Chief Executive Officer, Public Sector Banks/ Private Sector Banks / Foreign Banks/ Regional Rural Banks / Urban Cooperative Banks/ State Cooperative Banks Dear Sir,

Withdrawal of Legal Tender Character of existing Rs. 500/- and Rs. 1000/- Bank Notes (Specified Bank Notes) - Deposit of Specified Bank Notes (SBNs) into bank accounts-Modification

Please refer to our circular DCM (Plg) No. 1859/10.27.00/2016-17 dated December 19, 2016. On a review of the above, we advise that the provisions of the above circular at sub para (i) and (ii) will not apply to fully KYC compliant accounts.

2. Please acknowledge receipt.

Yours faithfully,

(P Vijaya Kumar) Chief General Manager

#### **ADVANTAGES**

- 1. Black money in the form of high currency notes will now be unearthed. People will have to ensure that they either declare their black money & pay tax on the same or leave them untouched reducing their value to Zero.
- 2. The banking sector which is a cash crunch position for the movement has felt a sense of relief with deposits from customers coming in huge numbers.
- 3. Consequently after demonetization & cash crunch situation in the economy people are moving towards cash less transactions thereby leading towards paper less economy.

- 4. Since black money is mostly used in funding terrorist activities, money laundering, betting, gambling, inflating prices of real estate properties. Demonetization will reduce this to a low level or nil level for a short period of time.
- 5. As a result of unearthing black money government has got an opportunity of taxing the black money thereby increasing the taxation revenue.

#### **DISADVANTAGES**

- Just as a coin has two sides similarly every aspect of any issue has advantages as well as disadvantages. Ever since demonetization many new problems have dwelled upon far beyond as expected. Some of these are narrated as under.
- 1. The demonetization will result into a cash less economy which will drastically effect the cash based economy like India in the initial phases of demonetization.
- 2. India is basically & traditionally agriculture based economy. Agriculture contributes to GDP nearing about 20%. Demonetization will in effect have a drastic effect on rural economy & agricultural sector. This could be well from the latest review GDP estimates for the F.Y 16-17 where GDP was reduced.

- 3. Economic transactions have come to stand still position hence as a cost cutting measure employers tend to cut down the numbers of employees leading to unemployment.
- 4. It takes a period of time for new currency to replace the old currency notes & get the new currency circulated as a result general inflation in the market reduces.
- 5. India is a big market not only for domestic producers but also for international exporters. Ever since the demonetizationthe buying power of consumers has reduced because of non-availability of cash.
- 6. Cyber security is a matter of concern for customers as confidential information has the risk of been hacked or tapped during the transaction. A recent example of a similar issue has arisen where severalbanks were forced to Issue new credit & debit cards as customers information was subject to hackers.

- 7. Demonetization is not "only a measure" but is a part of "several other measures" to eradicate black money. As said above Black money may not be necessary in the form of Currency notes. Thus demonetization in result has a minute effect on Black money market.
- 8. Demonetization has the effect of increase in Non-Performing Assets (NPA) because most of mortgaged assets are in the form of real estate assets or other immovable properties whose market value has reduced to drastically low level.
- Government still has to go a long way forward for eradicating black money. Demonetization is still a first move towards 'What we dream of a Black money free India'.

# INTERMISSION PICTURE ABHI BAKI HAI MERE DOST

# Taxation Laws (Second Amendment) Act, 2016 get President's assent

#### Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (the Scheme)

The Taxation Laws (Second Amendment) Bill, 2016, passed by Lok Sabha on 29.11.2016, interalia seeks to introduce the, 'Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (the Scheme)'. A declarant under the Scheme shall be required to pay tax @ 30% of undisclosed income, surcharge @ 33% of tax and penalty @ 10% of undisclosed income. The declarant shall also be required to deposit an amount, which shall not be less than twenty-five per cent of the undisclosed income in, the 'Pradhan Mantri Garib Kalyan Deposit Scheme, 2016'. Such deposit shall carry no interest and have a locking period of four years.

The Scheme does not provide any immunity to the declarant in respect of detention made under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, the Prohibition of Benami Property Transactions Act, 1988, the Prevention of Money-Laundering Act, 2002, the Special Court Act, 1992, and the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

A declaration in respect of any income, in the form of cash or deposit in an account maintained by the person with a specified entity, chargeable to tax under the Income-tax Act for any assessment year commencing on or before the 1st day of April, 2017, can be made under the Scheme.

#### Text of Bill Assented by Honourable President is as follows:-MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, Thursday, 15th December, 2016/Agrahayana 24, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 15th December, 2016, and is hereby published for general information:—

### THE TAXATION LAWS (SECOND AMENDMENT) ACT, 2016

(NO. 48 OF 2016)

[15th December, 2016.]

An Act further to amend the Income-tax Act, 1961 and the Finance Act, 2016.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

#### **CHAPTER I**

#### **PRELIMINARY**

#### Short title and commencement.

- 1. (1) This Act may be called the Taxation Laws (Second Amendment) Act, 2016.
- (2) Save as otherwise provided in this Act, it shall come into force at once.

#### **CHAPTER II**

#### **INCOME-TAX**

Amendment of section 115BBE.

- 2. In the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in section 115BBE, for sub-section
- (1), the following sub-section shall be substituted with effect from the 1st day of April, 2017, namely:—
- "(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).".

#### Amendment of section 271AAB.

- 3. In the Income-tax Act, in section 271AAB,—
- (I) in sub-section (1), after the words, figures and letters "the 1st day of July, 2012", the words, brackets and figures "but before the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President" shall be inserted;
- (II) after sub-section (1), the following sub-section shall be inserted, namely:—
- "(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).";
- (III) in sub-section (2), after the words, brackets and figure "in sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

#### Insertion of new section 271AAC.

4. In the Income-tax Act, after section 271AAB, the following section shall be inserted with effect from the 1st day of April, 2017, namely:—

#### Penalty in respect of certain income.

"271AAC. (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 asses see shall pay by way of penalty, in addition to tax payable under section 11 5BBE, a sum computed at the rate of ten per cent. of the tax payable under clause (i) of sub-section (1) of section 11 5BBE:

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 11 5BBE 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).
- (3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.".

#### **CHAPTER III**

#### FINANCE ACT

#### Amendment of section 2.

#### 5. In the Finance Act, 2016,—

- (a) in Chapter II, in section 2, in sub-section (9),—
- (i) in the third proviso, the figures and letters "11 5BBE," shall be omitted;
- (ii) after the sixth proviso, the following proviso shall be inserted, namely:—
- 'Provided also that in respect of any income chargeable to tax under clause (i) of sub-section (1) of section 11 5BBE of the Income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of twenty-five per cent. of such advance tax.';

(b) after Chapter IX, the following Chapter shall be inserted, namely:—

Insertion of new Chapter IXA.

**'CHAPTER IXA** 

## TAXATION AND INVESTMENT REGIME FOR *PRADHAN MANTRI GARIB KALYAN YOJANA*, 2016

- 199A. (1) This Scheme may be called the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana,
- (2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint. 199B. In this Scheme, unless the context otherwise requires,—
- (a) "declarant" means a person making the declaration under subsection (1) of section 199C;
- (b) "Income-tax Act" means the Income-tax Act, 1961;

- (c) "Pradhan Mantri Garib Kalyan Deposit Scheme, 2016" (hereinafter in this Chapter referred to as "the Deposit Scheme") means a scheme notified by the Central Government in consultation with the Reserve Bank of India in the Official Gazette; and
- (d) all other words and expressions used in this Scheme but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

#### Declaration of undisclosed income.

- 199C. (1) Subject to the provisions of this Scheme, any person may make, on or Declaration of after the date of commencement of this Scheme but on or before a date to be notified undisclosed by the Central Government in the Official Gazette, a declaration in respect of any income. income, in the form of cash or deposit in an account maintained by the person with a specified entity, chargeable to tax under the Income-tax Act for any assessment year commencing on or before the 1st day of April, 2017.
- (2) No deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed against the income in respect of which a declaration under sub-section (1) is made.

- Explanation.— For the purposes of this section, "specified entity" shall mean—
- (i) the Reserve Bank of India;
- (ii) any banking company or co-operative bank, to which the Banking Regulation Act, 1949 applies (including any bank or banking institution 10 of 1949. referred to in section 51 of that Act);
- (iii) any Head Post Office or Sub-Post Office; and
- (iv) any other entity as may be notified by the Central Government in the Official Gazette in this behalf.

#### Charge of tax and surcharge.

- 199D. (1) Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the undisclosed income declared under sub-section (1) of section 1 99C within the time specified therein shall be chargeable to tax at the rate of thirty per cent. of the undisclosed income.
- (2) The amount of tax chargeable under sub-section (1) shall be increased by a surcharge, for the purposes of the Union, to be called the *Pradhan Man tri Garib Kalyan Cess calculated at the rate of thirty-three per cent. of such tax* so as to fulfil the commitment of the Government for the welfare of the economically weaker sections of the society.

#### Penalty.

199E. Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the person making a declaration under sub-section (1) of section 199C shall, in addition to tax and surcharge charged under section 199D, be liable to pay penalty at the rate of ten per cent. of the undisclosed income.

#### Deposit of undisclosed income.

- 199F. (1) Notwithstanding anything contained in the Income-tax Act or in any other law for the time being in force, the person making a declaration under sub-section (1) of section 199C, shall deposit an amount which shall not be less than twenty-five per cent. of the undisclosed income in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.
- (2) The deposit shall bear no interest and the amount deposited shall be allowed to be withdrawn after four years from the date of deposit and shall also fulfil such other conditions as may be specified in the *Pradhan Man tri Garib Kalyan Deposit Scheme*, 2016.

#### Manner of declaration.

199G. A declaration under sub-section (1) of section 199C shall be made by a person competent to verify the return of income under section 140 of the Income-tax Act, to the Principal Commissioner or the Commissioner notified in the Official Gazette for this purpose and shall be in such form and verified in such manner, as may be prescribed.

#### Time for payment of tax, penalty, surcharge and deposit.

- 199H. (1) The tax and surcharge payable under section 199D and penalty payable under section 1 99E in respect of the undisclosed income, shall be paid before filing of declaration under sub-section (1) of section 199C.
- (2) The amount referred to in sub-section (1) of section 199F shall be deposited before the filing of declaration under sub-section (1) of section 199C.
- (3) The declaration under sub-section (1) of section 199C shall be accompanied by the proof of deposit referred to in sub-section (1) of section 1 99F, payment of tax, surcharge and penalty under section 1 99D and section 1 99E, respectively.

## Undisclosed income declared not to be included in total income.

199-I. The amount of undisclosed income declared in accordance with sub-section (1) of section 199C shall not be included in the total income of the declarant for any assessment year under the Income-tax Act.

## Undisclosed income declared not to affect finality of completed assessments.

199J. A declarant under this Scheme shall not be entitled, in respect of undisclosed income referred to in section 1 99C or any amount of tax and surcharge paid thereon, to re-open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957, or to claim any set-off or relief in any appeal, reference or other 27 of 1957. proceeding in relation to any such assessment or reassessment.

## Tax, etc., not refundable.

199K. Any amount of tax and surcharge paid under section 1 99D or penalty paid under section 199E shall not be refundable.

## Declaration not admissible in evidence against declarant.

199L. Nothwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 199C shall be admissible in evidence against the declarant for the purpose of any proceeding under any Act other than the Acts mentioned in section 199-O.

## Declaration by misrepresentation of facts to be void.

199M. Notwithstanding anything contained in this Scheme, where a declaration has been made by misrepresentation or suppression of facts or without payment of tax and surcharge under section 199D or penalty under section 199E or without depositing the amount in the Deposit Scheme as per the provisions of section 199F, such declaration shall be void and shall be deemed never to have been made under this Scheme.

## Applicability of certain provisions of Income-tax Act.

199N. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 119, section 138 and section 189 of that Act shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceedings under the Income-tax Act.

## Scheme not to apply to certain persons.

- 199-O. The provisions of this Scheme shall not apply—
- (a) in relation to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974: Provided that—
- (i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

- (ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or
- (iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

- (iv) such order of detention has not been set aside by a court of competent jurisdiction;
- (b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, the Prohibition of Benami Property Transactions Act, 1988 and the Prevention of Money-Laundering Act, 2002;

- (c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;
- (d) in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

## Removal of doubts.

199P. For the removal of doubts, it is hereby declared that save as otherwise expressely provided in sub-section (1) of section 199C, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.

## Power to remove difficulties.

- 199Q. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:
- Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.
- (2) Every order made under this section shall be laid before each House of Parliament.

## Power to make rules.

- 199R. (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
  - (a) the form and manner of declaration and verification to be made under section 1 99G; and
  - (b) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

3) Every rule made under this Scheme shall be laid, as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'.

DR. G. NARAYANA RAJU, Secretary to the Govt. of India

## Salient features of new PMGKY Income Disclosure Scheme 2016

## Government of India Ministry of Finance Department of Economic Affairs New Delhi, dated the December 16, 2016 Notification

**S.O.4061** (E).-In exercise of the powers conferred by clause (c) of section 199B of the Finance Act, 2016 (28 of 2016) (hereinafter referred to as the Act), the Central Government in consultation with the Reserve Bank of India hereby notifies the following Scheme, namely:-

## 1. Short title, commencement and application.-

(1) This Scheme may be called the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.

- (2) It shall come into force from the 17th day of December, 2016 and shall be valid till 31st day of March, 2017.
- (3) This Scheme shall be applicable to every declarant under the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.
- 2. Eligibility for Deposits.- The deposit under this Scheme shall be made by any person who intends to declare undisclosed income under sub-section (1) of section 199C of the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.

## 3. Form of the deposits.-

- (1) The deposits shall be held at the credit of the declarant in Bonds Ledger Account maintained with Reserve Bank of India.
- (2) A certificate of holding the deposit shall be issued to declarant in Form I.
- (3) The Reserve Bank of India shall transfer the deposit received under this Scheme into the designated Reserve Fund in the Public account of the Government of India.

## 4. Subscription and Mode of investment in the Bonds Ledger Account.-

- (1) The deposits shall be accepted at all the authorised banks notified by Government of India.
- (2) The deposits shall be made in multiples of rupees one hundred.
- (3) The deposit under sub-section (1) of section 199F by a declarant shall not be less than twenty-five per cent. of the undisclosed income to be declared under sub-section (1) of section 199C of the Act.
- (4) The entire deposit to be made under sub-section (1) of section 199F under this Scheme shall be made, in a single payment, before filing declaration under sub-section (1) of section 199C.
- (5) The deposit shall be made in the form of cash or draft or cheque or by electronic transfer and shall be drawn in favour of the authorised bank accepting such deposit.

5. Effective date of deposit. The effective date of opening of the Bonds Ledger Account shall be the date of tender of cash or the date of realisation of draft or cheque or transfer through electronic transfer.

6. Applications.- (1) An application for the deposit under this Scheme shall be made in Form II clearly indicating the amount, full name, Permanent Account Number (hereinafter referred to as "PAN"), Bank Account details (for receiving redemption proceeds), and address of the declarant:

Provided that if the declarant does not hold a PAN, he shall apply for a PAN and provide the details of such PAN application along with acknowledgement number.

(2) The application under sub-paragraph (1) shall be accompanied by an amount which shall not be less than twenty-five per cent. of the undisclosed income to be declared in the form of cash or draft or cheque or through electronic transfer as provided under sub-paragraphs (3) and (4) of paragraph 4.

## 7. Authorised banks.-

- (1) Application for the deposit in the form of Bonds Ledger Account shall be received by any banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies.
- (2) The authorised bank shall electronically furnish the details of deposit made in Form V to the Department of Revenue, Ministry of Finance, Government of India not later than next working day to enable the Department to verify the information of the deposit before accepting the declaration.
- (3) The authorised bank shall upload the details of deposit into Reserve Bank of India's core banking solution 'e-kuber'.
- (4) The Reserve Bank of India and authorised bank shall maintain the confidentiality of the data received in this regard.

## 8. Nomination.-

- (1) A sole holder or a sole surviving holder of a Bonds Ledger Account, being an individual, may nominate in Form III, one or more persons who shall be entitled to the Bonds Ledger Account and the payment thereon in the event of his death.
- (2) Where any amount is payable to two or more nominees and either or any of them dies before such payment becomes due, the title to the Bonds Ledger Account shall vest in the surviving nominee or nominees and the amount being due thereon shall be paid accordingly. In the event of the nominee or nominees predeceasing the holder, the holder may make a fresh nomination.

- (3) A nomination made by a holder of Bonds Ledger Account may be varied by a fresh nomination, or may be cancelled by giving notice in writing to the Authorised Bank in Form IV.
- (4) Every nomination and every cancellation or variation shall be registered at the Reserve Bank of India through the authorised bank and shall be effective from the date of such registration.
- (5) If the nominee is a minor, the holder of Bonds Ledger Account may appoint any person to receive the Bonds Ledger Account or the amount due in the event of his death.

9. Transferability.- The transferability of the Bonds Ledger Account shall be limited to nominee or to the legal heir of an individual holder, in the event of his death.

10. Interest.- The deposit under sub-section (1) of section 199F shall not bear any interest.

11. Tradability against Bonds.- The Bonds Ledger Account shall not be tradable.

12. Repayment.- The Bonds Ledger Account shall be repayable on the expiration of four years from the date of deposit and redemption of such Bonds Ledger Account before its maturity date shall not be allowed.

13. Interpretation.- The words and expressions used but not defined in this notification but defined in the Income-tax Act, 1961 (43 of 1961), the Government Securities Act, 2006 (38 of 2006) or the Finance Act, 2016 (28 of 2016) shall have the meanings respectively assigned to them in those Acts.

By Order of the President of India (Prashant Goyal)

Joint Secretary to the Government of India

[F.No.3(1)-W&M/2016]

**New Delhi** 

Dated 16th December, 2016

# Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana Rules, 2016 116/2016 Dated 16.12.2016 Income Tax

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
NOTIFICATION No. 116/2016
New Delhi, the 16th December, 2016

## THE TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA RULES, 2016

- S.O.4059(E). In exercise of the powers conferred by subsection
- (1) and subsection
- (2) of section 199R of the

Finance Act, 2016 (28 of 2016), the Central Board of Direct Taxes, subject to the control of the Central Government hereby makes the following rules, namely:

### 1. Short title and commencement.

- (1) These rules may be called the Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana Rules, 2016.
- (2) They shall come into force on the date of their publication in the Official Gazette.

## 2. Definitions.

- (1) In these rules, unless the context otherwise requires,
  - (a) "Act" means the Finance Act, 2016 (28 of 2016);
  - (b) "Form" means a form appended to these rules;
- (2) The words and expressions used and not defined in these rules but defined in the Act, or the Income tax Act, 1961 (43 of 1961) or the rules made there under, shall have the meanings respectively assigned to them in those Acts and rules.

- 3. Declaration of income in the form of cash or deposit in an account.(1) A declaration of income in the form of cash or deposit in an account maintained with a specified entity, under subsection
  - (1) of section 199C shall be made in Form1.
  - (2) The declaration shall be furnished to the Principal Commissioner or the Commissioner, as the case may be, notified under subsection (1) of section 199G,
    - (a) electronically under digital signature; or
    - (b) through transmission of data electronically under electronic verification code; or
    - (c) in print form.

- (3) If any person, having furnished a declaration under sub-rule (2), discovers any omission or any wrong statement therein, he may furnish a revised declaration on or before the date notified for filing declaration under subsection (1) of section 199C.
- (4) The Principal Commissioner or the Commissioner, as the case may be, shall issue a certificate in Form2 to the declarant within thirty days from the end of the month in which a valid declaration under subsection (1) of section 199C has been furnished.

(5) The Principal Director General of Income tax (Systems) or Director General of Income tax (Systems) shall specify the procedures, formats and standards for ensuring secure capture and transmission of data and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing the form in the manner specified in sub-rule (2) or sub-rule (3).

Explanation.—For the purposes of this rule "electronic verification code" means a code generated for the purpose of electronic verification of the person furnishing the return of income as per the data structure and standards specified by Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

#### Form 1

[See rule 3 (1)]

# FORM OF DECLARATION UNDER SECTION 199C OF THE FINANCE ACT, 2016, IN RESPECT OF THE TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA RULES, 2016

To,		
	The Principal C	ommissioner/Commissioner
Madam	Sir,	
	I hereby make particulars:-	a declaration under section 199C of the Finance Act, 2016. I give below the necessary
1.	Name of the o	declarant
2.	Address:	Office
		Residence
		Mobile No

3.	Permanent Account Number (PAN) (In case PAN is not held, please apply for PAN and quote the application and acknowledgment number)	ne date of
4.	Aadhaar Number issued by UIDAI (if available)	
5.	Status of the declarant	
	(a) Whether individual, HUF, firm, company etc.	
	(b) Whether Resident/Non-Resident/Not ordinarily resident	nt
6.	Filing status  (a) Whether the declaration is original  (b) If revised-	or revised
	(i) Enter receipt No. and Date of filing original Form-1 (DD/MM/YYYY)	/ /
	<ul><li>(ii) Reasons for revised declaration</li><li>(not exceeding 100 words)".</li></ul>	
7.	(a) Total amount of undisclosed income declared	
	(b) Out of (a) above:-	

	<ul><li>(i) Amount held in cash</li><li>(ii) Details of amount deposited in a bank account</li></ul>							unt/r	ost o	ffice a		Rs nt etc.							
									nch n		IFS	C cod ter id cod	le/ an entit	•		our Rs.			
		1								-					Tot	al			
	8. Ta	ax payable	thereo	n [@ 3	0% of	item !	7(a)]						F	ks					
	9. St	ırcharge p	ayable	therec	on (@	33% o	f iten	ı 8)					F	Rs					
	10. Pe	enalty pay	able the	ereon	[@10%	% of ite	em 7(	a)]					F	Rs					
	11. To	otal of tax,	surcha	rge an	ıd per	nalty p	ayab	le (8-	+9+1	.0)			F	Rs					
	de	12. Details of amount paid on or before the date of declaration  (Attach proof of payment and provide details below)																	
Sl.	BSR	BSR Code of Bank  Date of Deposit (DD/MM/YYYY)  Serial Number of Challan  Amount (R						(Rs)											
(1)		(2)					(3)				(4)			(5)					
																		+	+

<ol> <li>Details of amount deposited in Pradhan Mantri Garib Kalyan Deposit Scheme, 2016 (Attach proof of deposit and provide details below)</li> </ol>					
(i)	Amount deposited [Minimum deposit amount is 25% of item 7(a)]	Rs			
(ii)	Date of deposit				
(iii	Acknowledgement/deposit reference number				
(iv	Name and details of branch of the entity in which deposit is made				

### VERIFICATION

Ι	son/daughter/wife of Shri	
	(Full name in block letters) (Name of father/husband)	
	eby solemnly declare that-	
(a) (b)	the information given in this declaration is correct and complete to the best of my knowledge and belief; the provisions of clause (a) of section 199-O of the Finance Act, 2016 in respect of Conservation of Foreig Exchange and Prevention of Smuggling Activities Act, 1974 are not applicable to me;	
(c)	the provision clause (b) of section 199-O of the Finance Act, 2016 in respect of Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1965, the Prevention of Corruption Act, 1988, Prohibition of Benami Property Transactions Act, 1988 and the Prevention of Money Laundering Act, 2002 are not applicable to me;	7,
(d)	I am not notified under section 3 of the Special Court (Trial of Offences Relating to Transactions is Securities) Act, 1992;	in
(e)	the income declared is not chargeable to tax under the Black Money (Undisclosed Foreign Income an Assets) and Imposition of Tax Act, 2015;	d
I fu	rther declare that I am making this declaration in my capacity as	
	(Designation)	
and	that I am competent to make this declaration and verify it.	
	(Signature)	
Pla	ce	
	e	

#### Form 2

[See rule 3 (4)]

# CERTIFICATE OF DECLARATION UNDER SECTION 199C OF THE FINANCE ACT, 2016, IN RESPECT OF THE TAXATION AND INVESTMENT REGIME FOR PRADHAN MANTRI GARIB KALYAN YOJANA RULES, 2016

		Office of the Principal Commissioner/Commissioner of Income-tax,
respect	This is to acknowledge that a declarati of the following:	ion under section 199C of the Finance Act, 2016 has been accepted in
1)	Name and address of the declarant:	
2)	Son/Daughter/Wife of	
3)	PAN	
4)	Receipt No. and date of filing the Dec	laration:

5)	Details of declaration as per Form-1									
	(a) Total amount of undisclosed income declared Rs									
	(b)	Out of (a) above								
		(i) Amount held in c	ash	Rs						
		(ii) Details of amoun	t deposited in a bank accou	ınt/post office ac	e account etc.					
	Sl. No.	Account number	Name of Bank/ Post office etc.	Branch name	IFSC code/ any other identity code	Amount (in Rs.)				
					Total					
		Fax, surcharge and pe undisclosed income d	, <u>,</u>	F	Rs					
		Details of amount dep <i>Garib Kalyan</i> Deposit S	osited in <i>Pradhan Mantri</i> Scheme, 2016	T.	Rs					
	(:	i) Amount deposited		r	<b>S</b>					
	(ii) Date of deposit									
	(	iv) Name and details deposit is made	of branch of the entity in v	which .						

Date:
(Pr. Commissioner/Commissioner of Income-tax)
[Notification No. 116/2016, F.No.142/33/2016-TPL]
(Dr. T.S. Mapwal) Under Secretary to the Government of India

# A Compendium of tax rulings on erstwhile demonetization

## Mehta Parikh & Co vs. CIT [TS-5011-SC-1956-O]

In the present case, assessee firm encashed 61 high denomination notes of Rs 1000 each relating to AY 1947-48, on promulgation of high denomination bank notes in 1946. However, when asked to prove assessee firm submitted books of account showing relevant entries showing payment being made to them which resulted in said cash in their hand. It also submitted affidavit of payers. However still the Revenue authorities held that it was not possible that all payments after a particular date were being made in multiples of Rs. 1000, and thus held part of assessee's income as undisclosed income. On further appeals HC confirmed additions made by assessee. Supreme Court, however reversed HC judgement and held that it was not enough without further scrutiny to dislodge position taken up by assessee which was supported by entries in cash books and affidavits put in by assessee. Thus ruling in assessee's favour SC held that assessee's income from undisclosed sources was based on pure surmises and since it has no evidence it had to be quashed.

#### **Madhuri Das Narain Das vs. CIT**

## [TS-5208-HC-1966(ALLAHABAD)-O]

Allahabad HC had reversed ITAT order upholding undisclosed income addition to the tune of Rs. 6000 during AY 1947-48. In the present case, assessee encashed 28 high denomination notes of Rs. 1,000 each after issuance of High Denomination Bank Notes (Demonetisation) Ordinance, 1946. On being asked to explain the source of the notes, the assessee stated that it had a closing balance, in respect of the account maintained for its business, on 11-1-1946 and that these 28 notes had come out of the aforesaid closing cash balance. However ITO disbelieved explanation and treated entire amount as assessee's income from an undisclosed source.

On appeal, Tribunal partly upheld addition by holding that 22 notes of the denomination of Rs. 1,000 each could have come out of the cash balance of Rs. 38,000 and odd, but was not satisfied that the balance of six notes of Rs. 1,000 each were also from the same source. accepted that 22 notes out of 28 could have come out of cash balance, however remaining 6 notes could not have formed part of such balance. On further appeal by assessee, HC held that finding of Tribunal was based upon surmises and conjectures and cannot be upheld. HC relied on coordinate bench ruling in Kanpur Steel Co. v. CIT [[1957] 32 ITR 56].

### **Gur Prasad Hari Das vs. CIT**

# [TS-5018-HC-1962(ALLAHABAD)-O]

In the present case, Allahabad HC held that the prima facie value represented by high denomination notes in possession of assessee must be presumed to be part of his cash balance and if department wanted to treat such value as his concealed income from some undisclosed sources, it was for department to establish that fact on basis of material in their possession.

# **Naresh Kumar Tulshan vs. Fifth Income- Tax Officer** [TS-5768-ITAT-1984(BOMBAY)-O]

In the present case, assessee deposited high denomination notes in bank declaring their source as past profits. In subsequent statement however during survey, the source was given as withdrawal from a partnership firm, but examination in firms book made possession of such high denomination cash by firm on date of withdrawal improbable and thus Bombay HC held that the ITO was justified in treating the impugned high denomination cash as assessee's income as unexplained money u/s 69A and was made taxable.It was held that "there was a clear contradiction in the two statements of the assessee about the source of the impugned amount. Had the source of the notes been his past profits as stated on 19-1-1978, there was no necessity for him to state subsequently that the amount had been withdrawn from the firm. Clearly if it represented his past profits, there was no need for any withdrawal from the firm.

Also, the certificate of the firm was in general terms and there was no other contemporaneous evidence to corroborate the assessee's case. Even the firm itself had not explained the source of high denomination notes worth more than Rs. 6 lakhs and had asked for a settlement. Considering all the evidence produced by the assessee, the conclusion would be that the notes were never part of the firm's cash and the assessee had not been able to establish this fact. The lower authorities were, accordingly, justified in making the addition..."

# CIT ys Allied International Product Ltd [TS-5761-HC-2001(DELHI)-O]

In the present case, assessee declared five high denomination notes of Rs. 10,000 each acquired from certain bank. On enquiry bank denied having issued such notes. Assessment was completed on a total of Rs. 60,000 rejecting assessee's explanation and penalty under section 271(1)(c) was levied.

Tribunal cancelled penalty on ground that explanation of assessee was rejected merely on plea that certificate from bank was dated January 9, 1979 as against declaration on January 19th , 1978. In fact no certificate was filed but letter issued by bank was dated January 9, 1979. Delhi HC held that tribunal was not justified in cancelling penalty on one statement and real factual position was not kept in mind.

It was held that "Tribunal has not kept in view the real factual position and was not justified in cancelling the penalty. We may note that there was submission made by the assessee before the Tribunal that Commissioner, Delhi-II had considered that there was no concealment or misrepresentation and the prosecution case was to be withdrawn. No material seems to have been placed before the Tribunal to test the correctness of the said stand..."

# CIT vs. Andhra Pradesh Yarn Combines (P) Ltd. [TS-5427-ITAT-1995(BANGALORE)- O]

In the present case, assessee was found in possession of unexplained money in form of high denomination notes, which had ceased to be legal tender and had no value in market at all in terms of Ordinance issue by Government in 1978. Upon additions u/s 69A made by AO for unexplainedmoney and penalty levied u/s 271(1)(c), Bangalore ITAT held that "Since assessee was found in possession of unexplained money in the form of high denomination notes after these notes had ceased to be legal tender, addition under s. 69A is unsupportable and question of levying penalty under s. 271(1)(c) cannot arise."

The said decision of Bangalore ITAT has been affirmed by Honble Karnataka High Court 200 CTR 641.

# Credits, Unexplained Expenditure & Unexplained Investments

In the wake of demonetization and ongoing assessments, we have made an effort to compile and bring to our readers, latest case laws by various Courts including the Supreme Court on issues covering unexplained credit, unexplained expenditure, unexplained investments and topics alike.

Transaction of sale of shares of a company - unexplained Investment - Transaction of sale of shares of a company listed in BSE not genuine as the company was a 'shell company'; incorporated for purpose of providing accommodation entries –SC dismisses assessee's SLP; Upholds HC order reported in <a href="ITS-5375-HC-2016(GUJARAT)-O]">ITS-5375-HC-2016(GUJARAT)-O]</a> wherein HC had upheld re-assessment proceedings; The AO had reopened the case on the ground that the company of which assessee sold shares was a bogus company and hence, the LTCG claimed on sale of the said shares as exempt, had escaped tax.

[TS-5195-SC-2016-O]: Share capital - unexplained Credit - Share capital bogus absent evidence to prove genuineness of shareholders - SC dismisses assessee's SLP against HC order; HC upheld addition u/s.68 on account of alleged share capital treating it as undisclosed Income of the company; HC had upheld AO's order who held that the assessee company had introduced its own money in the guise of share capital; HC observed that assessee company had failed to prove genuineness of the shareholders and source of fund; It had distinguished coordinate bench ruling relied on by assessee in the case of Hindusthan Tea Trading Co Ltd [TS-5219-HC-2003(Calcutta)-O]

# **TS-6716-ITAT-2016(HYDERABAD)-O|:** Peak credit &

unexplained Credit - Only peak credit to be taxed u/s. 68, huge cash deposits in the savings bank account of assessee cannot be taxed - ITAT rules in favour of assessee; Holds that assessee having furnished the bank statement, AO could have verified and noticed that there were credits and corresponding debits which would give an indication that some amount has been recycled and that in such cases ordinarily, peak credit is to be taken into consideration for making an addition; Observes that AO made assessment as per Sec. 144 because assessee did not appear despite repeated reminders, however AO should keep in mind the normal turnover of the assessee, the expected profit in each year, based on the earlier year's income declared and accepted and the material available to make the addition;

# [TS-6684-ITAT-2016(Mumbai)-O]: Profit vs Cash deposits -

Unexplained Credit - Only profit earned on sales constitutes income of assessee and not the amount of cash and cheques deposited in the bank account – ITAT holds partly in assessee's favour; Notes that assessee (a retail trader covered under presumptive taxation scheme u/s. 44AF) is required to declare its profit at 5% on gross sales; Thereby, restricts addition made u/s. 68 to 5% on total cash and cheque deposits including opening and closing balances (assuming them all to be on account of sales);

# [TS-6726-ITAT-2016(MUMBAI)-O]: Share capital

Unexplained Credit - Taxpayer admits before ITAT of manipulating the accounts and making fictitious entries to inflate share capital; ITAT clarifies that only real income can be brought to tax and remits the matter for de-novo assessment and reconsider additions made u/s. 68 on account of unexplained credit in the form of increased share capital - ITAT rules in favour of assessee; AO had made additions u/s. 68 of increased share capital and share application money as unexplained credits in view of lack of credible explanation of source of introduction of such fresh share capital/share application; Assessee produced additional evidences before the ITAT conceding fictitious entries made to inflate share capital in order to avail bank loans; ITAT considers the additional evidences in the form of Affidavit of Promoter-Director, copies of revised audited accounts etc and remands the issue for de-novo assessment in order to identify and assess the real income of the assessee;

# [TS-6730-ITAT-2016(KOLKATA)-O]: Cash Deposits - Unexplained

Credits - Deposits in bank account received from clients towards making investment in shares, not unexplained, cannot be added to income; Cash deposits in bank account cannot be added to income when cash withdrawals are higher than the deposits; Addition of credit card payments towards reimbursement of official expenses sustained as assessee could not justify the same; Credit in bank account by way of housing loan cannot be added to assessee's income as unexplained credit; Addition on account of investment from undisclosed sources deleted as investment was made by assessee out of its disclosed bank account; Revised return filed after issuance of intimation u/s 143(1) but before completion of assessment cannot be treated as invalid; - ITAT rules partly in favour of assessee (Associate VP of Religare Securities Ltd.); Deletes addition of cash received against sale of shares as the same was received from M/s Navratan Capital & Securities Ltd. and a certificate was provided by them to the effect that such payments were effected out of available cash balance with them; Further, deletes addition of cash deposits in bank account as withdrawals of cash were more than the amount of cash deposits, hence it is not unexplained cash deposits;

# [TS-6729-ITAT-2016(JAIPUR)-O]: Cost of building, DVO

report vs. Actual - Unexplained Investment - Addition u/s. 69 on adhoc basis of undisclosed investment in construction of building, based on DVO report, not valid when the assessee has produced supporting bills and vouchers; Statement made during the course of search cannot be made the sole basis for making addition; Repayment by company to assessee shareholder of amounts advanced earlier cannot be termed as deemed dividend u/s. 2(22)(e); Profit from sale of land held as investment by assessee, a real estate developer, can be taxed as capital gains; -ITAT rules in favour of assessee; Holds addition of undisclosed expenditure in construction is purely adhoc, to cover up for any possible leakages on surmises and conjectures and difference in value shown by assessee and that shown by the DVO;

# [TS-6731-ITAT-2016(AHMEDABAD)-O]: Payers' Identities -

Unexplained Credit - No addition can be made as unexplained cash credit u/s 68 when assessee has proved the identities of people beyond doubt merely because the AO did not receive any confirmations from those people u/s 133 (6); Interest expenses allowable when interest free advances were made out of interest free funds available with the assessee - ITAT rules in favour of assessee; Holds that if the transaction is done by account payee cheque then the identity of the payer goes into oblivion because the money has flown from one identified bank account to another identified bank account; Deletes addition of unexplained cash credit u/s 68 made by AO

# BLACK MONEY SEIZURES REACH RS3,300 CRORE AFTER NOTE BAN TAX DEPARTMENT

The income tax dept has carried out a total of 734 search, survey and enquiry operations under the provisions of the Income Tax Act since demonetisation.

New Delhi: Over Rs3,300 crore of un-disclosed income has been detected while Rs92 crore worth new notes have been seized till now by the Income Tax department as part of its country-wide operations against black money hoarders post the demonetisation of two high value currencies by the government.

Officials said the tax department has carried out a total of 734 search, survey and enquiry operations under the provisions of the Income Tax Act since the note ban was declared on 8 November, even as the department has issued over 3,200 notices to various entities on charges of tax evasion and hawala-like dealings, till Tuesday.

The department, they said, has seized cash and jewellery worth Rs500 crore during the same period even as the new currency seized (majorly Rs2,000 notes) is valued at about Rs92 crore. About Rs421 crore cash has been seized by the department out of the total Rs500 crore assets seized till now, they added.

The total undisclosed income admitted or detected as part of this action, till 20 December, is more than Rs3,300 crore," they said. The agency has also referred over 220 cases to its sister agencies like the CBI and the Enforcement Directorate (ED) to probe other financial crimes like money laundering, disproportionate assets and corruption as part of their legal mandate.

# IT dept Seizes Rs 10652 crore Cash and 127 kg Gold in Chennai

**Government of India** 

**Ministry of Finance** 

**Department of Revenue** 

**Central Board of Direct Taxes** 

New Delhi, 09 December, 2016.

PRESS RELEASE

Seizure of Rs. 106.52 crore Cash and 127 kg Gold in the case of Sand mining Contractors at Chennai by the Income Tax Department

The Investigation Directorate of Income Tax Department at Chennai conducted searches on 08.12.2016 in the case of a group engaged in sand mining. The group has sand mining licence for the entire state of Tamil Nadu. Eight premises (six residential & two offices) were covered in the search. During the search, Rs. 96.89 crore cash in Old High Denomination Notes and Rs. 9.63 crore in new Rs. 2000 currency notes along with gold weighing 127 kgs worth approximately Rs.36.29 crore were found and seized, as unaccounted assets.

The search is still in progress at 4 out of total 8 premises. More specific details including modus-operandi would emerge after examination of the documents and other evidence detected during the search.

(Meenakshi J.Goswami)
Commissioner of Income Tax
(Media and Technical Policy)
Official Spokesperson, CBDT.

# No Reopening for mere increase in Turnover due to demonetisation

CBDT has vide Circular No. 40/2016 dated: 9th of December, 2016 clarified that Mere increase in turnover, because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years.

Reacting on Circular Vikas Vasal, Partner, Grant Thornton India LLP said that "Post demonization, the government has taken many proactive measures to encourage businesses and people to adapt non-cash modes for transacting business. This notification is quite timely and clarifies that increase in turnover due to use of digital modes of transactions, will not be used as the sole criterion by the tax authorities to assess whether any income has escaped tax in the past years. This would ally fear of small and medium businesses that if their turnover for the current year is higher in comparison to earlier years, then their tax returns for the past years can be automatically re-examined."

#### Circular No. 40/2016

Government of India

Ministry of Finance

Department of Revenue (CBDT)

North Block, New Delhi, the 9th of December, 2016

# Subject: — Directions under section 119 of the Income-tax Act, 1961-regd.-

Recent initiatives of the Government to curb the black economy in the country has encouraged people to shift towards digital mode of payment while making financial transactions. By adopting digital mode of payment, no financial transactions would remain undisclosed and consequently an enhanced turnover of business might get reflected in the books of accounts. Under the circumstances, an apprehension has been raised that increased turnover in the current year may lead to reopening of earlier years' cases involving lower turnover u/s 147 of the Income-tax Act, 1961 ('Act') by the Assessing Officer causing undue harassment to tax payers.

- 2. It is hereby clarified that reopening of cases u/s 147 of the Act is feasible only when the Assessing Officer "has reason to believe that any income chargeable to tax has escaped assessment for any assessment year" and not merely on the basis of any reason to suspect. Mere increase in turnover, because of use of digital means of payment or otherwise, in a particular year cannot be a sole reason to believe that income has escaped assessment in earlier years. Hence, Assessing Officers are advised not to reopen past assessments in cases merely on the ground that the current year's turnover has increased.
- 3. The above may be brought to the notice of all for necessary and strict compliance.
- 4. Hindi Version to follow.

(Rohit Garg)
Director ITA.II, CBDT

## No Tax on Digital Turnover up to 66 Lakh after section 80C benefit

## Measures for Promoting Digital Payments & Creation of Less-Cash Economy: Benefit of lower rate of Income Tax on digital turnover for small businesses.

The benefit of lower rate of Income-tax on digital turnover for small businesses up to a turnover of Rs.2,00,000,00 (Rupees Two Crore), announced by the Government yesterday under Section 44AD of the Income-tax Act, 1961 is a huge benefit given to businessmen for promoting digital/banking transactions. The benefits given are explained in the following paragraph.

If a trader makes his transactions in cash on a turnover of Rs. Two Crore, then his income under the presumptive scheme will then be presumed to be Rs. 16 lakhs @ 8% of turnover. After availing of Rs. 1.5 lakhs of deduction under Section 80C, his total tax liability will be Rs. 2,67,800/-. However, if he shifts to 100% digital transactions under the new announcement made, his profit will be presumed to be at Rs. 12 lakhs @ 6% of turnover, and after availing of Rs. 1.5 lakhs under Section 80C, his tax liability now will be only Rs.1,44,200/. Here, digital transaction includes payment received by Cheque or through any other digital means. In the following example, the benefit obtained by traders and small businesses is explained in 3 different scenarios:

Particulars	100% Cash Turnover (Rs.)	60% Digital Turnover (Rs.)	100% Digital Turnover (Rs.)		
Total Turnover	2 Crore	2 Core	2 Crore		
Cash Turnover	2 Crore	0.80 Crore	NIL		
Digital Turnover	NIL	1.2 Crore	2 Crore		
Profit on Cash Turnover @ 8%	16 Lakh	6.40 Lakh	NIL		
Profit on Digital turnover @ 6%	NIL	7.20 Lakh	12 Lakh		
Total Profit	16 Lakh	13.60 Lakh	12 Lakh		
Deduction u/s 80C	1.5 Lakh	1.5 Lakh	1.5 Lakh		
Taxable Income	14.50 Lakh	12.10 Lakh	10.50 Lakh		
Tax Payable	2,67,800	1,93,640	1,44,200		
Tax Saving	NIL	74,160	1,23,600		

Apart from making a tax saving of almost 46% by migrating to banking mode, the small businesses would be able to build their books which may also help them get bank loans easily. Also, if transactions are carried out through banking channels, then anybody having annual turnover up to Rs. 66 lakhs will have zero tax liability after availing the benefit of Section 80C, after amendment of this new rate structure.

Source- Press Information Bureau, Government of India, Ministry of Finance, Dated-20-December-2016

Analysis of CBDT instruction on seizure of jewellery.

CBDT Instruction No. 1916 dated 11th May, 1994 in the matter of seizure of jewellery

#### **CBDT Instruction No. 1916?**

The Central Board of Direct Taxes has issued Guidelines/ Instruction No. 1916 dated 11th May, 1994 in the matter of seizure of jewellery, which reads: Instances of seizure of jewellery of small quantity in the course of operation under section 132 have come to the notice of the Board. The question of a common approach to situation where search parties come across items of jewellery has been examined by the Board and following guidelines are issued for strict compliance.

(i) In the case of a wealth-tax assessee, gold jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return only need to be seized.

- (ii) In the case of a person not assessed to wealth-tax gold jewellery and ornaments to the extent of 500 gms per married lady 250 gms per unmarried lady and 100 gms. per male member of the family, need not be seized.
- (iii) The authorized officer may having regard to the status of the family and the customs and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure. This should be reported to the Director of Incometax/Commissioner authorizing the search all the time of furnishing the search report.

(iv) In all cases, a detailed inventory of the jewellery and ornaments found must be prepared to be used for assessment purposes.

What this means is, Vide CBDT Instruction no. 1916 dated 11-05-1994, it has been clarified that no seizure should be made by the Search Party of the Jewellery and Ornaments found during the course of search proceedings under Section 132, where the same have been duly declared in the Wealth-tax Returns filed by the taxpayer or where such ornaments are within the prescribed limits of 100, 250 or 500 grams as stated in the said instruction.

#### For Instance,

A search was carried in the premises of Mr. Ram at his residence and the bank lockers on 14th April, 2016. Gold jewellery of 1294.66 grams was found from the residence of the Mr. Ram as well as his bank lockers. Out of the said jewellery, jewellery to the extent of 500 grams was found to be already declared by the assessee and his wife in the returns of income. In the assessment completed u/s 143(3), the Assessing Officer did not accept the explanation of the assessee in respect of 794.66 grams of jewellery and the value thereof amounting to Rs.12,00,000/-(fictitious figure) was added by him to the total income of the assessee.[He has his wife, Ms. Ram and two children (a daughter, Ms. Sakshi and a son, Mr.Bharat)].

### Now, as per the CBDT Instruction No. 1916, the Jewellery that is allowed and that cannot be seized is as follows:

Particulars	Weight (Grams)		
Married Lady (Ms. Ram) [A]	500		
Male member(Mr. Ram) [B]	100		
Male member(Mr. Bharat) [C]	100		
Unmarried lady (Ms. Sakshi) [D]	250		
Received from mother as per registered will [E]	150.26		
Total allowed Jewellery that cannot be seized [F=A+B+C+D+E]	1100.26		
Existing Holding [G]	1294.66		
Total Jewellery that can be seized and disallowed [G-F]	194.4		

Thus, the total of 194.4 grams of gold jewellery can be assessed and disallowed for making the additions to the total income i.e. can be treated as unexplained and taxed accordingly as per section 69B of The Income Tax Act, 1961 at the rate specified in section 115BBE of The Income Tax Act, 1961.

#### **SOME JUDGEMENTS**

This circular is explained by Hon'ble Ahmedabad I.T.A.T. in case of Kishorbhai V Sakaria Rameshchandra R Patel 89 ITD 203 and Manila! S Dave 117 Taxman 23 referred supra wherein it has been explicitly held that though board circular is a guideline for not effecting seizure during the course of search, extended meaning of same shows the intention that the jewellery to the extent mentioned in such circular should be treated as explained jewellery and gold found to that extent for family members cannot be treated as unexplained in the hand of assessee

In case of CIT v. Satya NarainPatni [2014] 46 taxmann.com 440 (Rajasthan) the Rajasthan High Court held that the CBDT had clearly provided that prescribed limit of jewellery will not be seized, it would mean that taxpayer, found with possession of such jewellery, will also not be questioned about its source and acquisition.

In case of CIT v. Ghanshyam Das Johri [2014] 41 taxmann.com 295 (Allahabad) the Allahabad High Court held that if one goes with CBDT's Instruction No. 1916, dated 11-5-1994 then a married lady of reputed family is expected to own 500 gms of ornaments. Therefore, jewellery found in possession to that extent could not be treated as undisclosed investment.

In the case of CIT v. Divya Devi [2014], it says that though it is true that the CBDT Instruction No. 1916, dt. 11th may, 1996 lays down guidelines for seizure of jewellery and ornaments. In the course of search, the same takes into account the quantity of jewellery which would generally be held by family members of an assessee belonging to an ordinary Hindu household. In the circumstances, unless the Revenue shows anything to the contrary, it can safely be presumed that the source to the extent of the jewellery stated in the circular stands explained.

In the case of Jerambhai B.Khokharia, Surat vs Department Of Income Tax on 5 November, 2015, it is ample clear that gold jewellery found to the extent of limit mentioned in the circular is treated as explained and this can be clearly applied on the assessee's case, wherein no specific deduction of gold jewellery possessed by family members and grand children was given by the Assessing Officer from the total gold jewellery found at the time of search and seizure operation and differential gold jewellery of 1924.22 gr. Is the gold jewellery possessed by the female members and minor children of the assessee's joint family and this quantity of 1924.22 gr. is well within the total limit of jewellery at 2100 gr. as per the CBDT instruction no.1916 dated 11.05.1994.

#### **Conclusion:**

- 1. Jewellery to the extent of 500 gms in the case of a married lady, 250 gms per unmarried lady and 100 gms per male member should be treated as explained and need not be considered as unexplained investments.
- 2. Further, the department has also opined in view the size and status of the family and also considering the normal customs to which the family belongs, the Authorized Officer may exclude larger quantities of gold and ornaments from seizure.
- 3. Further, Legitimate holding of jewellery up to any extent is fully protected.

#### **GOLD PRICE for last 86 years in India**

#### 10 Gms of GOLD PRICE History for the last 86 years in India

Given below is year wise Price of Gold in India in last 86 year. In the initial period, the price of gold was around Rs 18.75 per 10 gm of gold. Now it reaches to value of Rs 26400 per 10 gm of gold. Its a huge rise in price of gold. Investing in gold can most probably will not disappoint you.

#### Here is the price history list, in which the price given are for 10 gm of gold.-

#### 10 Gms of GOLD PRICE History for The Last 86 yrs

Year	Price	Year	Price	Year	Price	Year	<u>Price</u>
1925	₹ 18.75	1947	₹88.62	1969	₹ 176.00	1991	₹3,466.00
1926	₹ 18.43	1948	₹ 95.87	1970	₹ 184.50	1992	₹4,334.00
1927	₹ 18.37	1949	₹ 94.17	1971	₹ 193.00	1993	₹4,140.00
1928	₹ 18.37	1950	₹ 99.18	1972	₹ 202.00	1994	₹4,598.00
1929	₹ 18.43	1951	₹ 98.05	1973	₹ 278.50	1995	₹4,680.00
1930	₹ 18.05	1952	₹76.81	1974	₹ 506.00	1996	₹5,160.00
1931	₹ 18.18	1953	₹73.06	1975	₹ 540.00	1997	₹4,725.00
1932	₹ 23.06	1954	₹ 77.75	1976	₹432.00	1998	₹4,045.00
1933	₹ 24.05	1955	₹ 79.18	1977	₹ 486.00	1999	₹4,234.00
1934	₹ 28.81	1956	₹ 90.81	1978	₹ 685.00	2000	₹4,400.00
1935	₹30.81	1957	₹ 90.62	1979	₹ 937.00	2001	₹4,300.00
1936	₹29.81	1958	₹ 95.38	1980	₹1,330.00	2002	₹4,990.00
1937	₹30.18	1959	₹102.56	1981	₹1,800.00	2003	₹5,600.00
1938	₹ 29.93	1960	₹111.87	1982	₹ 1,645.00	2004	₹ 5,850.00
1939	₹31.74	1961	₹119.35	1983	₹ 1,800.00	2005	₹ 7,000.00
1940	₹36.04	1962	₹ 119.75	1984	₹ 1,970.00	2006	₹ 8,400.00
1941	₹37.43	1963	₹ 97.00	1985	₹ 2,130.00	2007	₹ 10,800.00
1942	₹44.05	1964	₹ 63.25	1986	₹ 2,140.00	2008	₹ 12,500.00
1943	₹51.05	1965	₹71.75	1987	₹ 2,570.00	2009	₹ 14,500.00
1944	₹ 52.93	1966	₹83.75	1988	₹3,130.00	2010	₹ 18,500.00
1945	₹ 62.00	1967	₹ 102.50	1989	₹3,140.00	2011	₹ 26,400.00
1946	₹ 83.87	1968	₹ 162.00	1990	₹3,200.00		

#### Govt investigating Gold sale at Premium after Demonetisation

**GOVERNMENT OF INDIA** 

MINISTRY OF FINANCE

LOK SABHA

**UNSTARRED QUESTION NO: 2948** 

ANSWERED ON: 02.12.2016

Gold Price after Demonetisation

T. RADHAKRISHNAN

SUDHEER GUPTA

MANOJ KUMAR TIWARI

SUNIL BALIRAM GAIKWAD

GAJANAN CHANDRAKANT KIRTIKAR

KUNWAR HARIBANSH SINGH

(SMT.) RATNA DE(NAG)

V. PANNEER SELVAM

VIJAY KUMAR S.R.

**BIDYUT BARAN MAHATO** 

Will the Minister FINANCE

of

be pleased to state:

- (a) whether the Government is aware that gold was sold at a premium after immediate announcement of demonetisation of high denomination currency in the country, if so, the details thereof;
- (b) whether the Enforcement Directorate and Revenue Department have examined the matter and have identified such individuals/companies involved in this exercise;
- (c) if so, the details thereof; and
- (d) the action taken by the Government against those indulging in unlawful activities in this regard?

#### ANSWER

#### THE MINISTER OF STATE IN THE MINISTRY OF FINANCE

(a)to (d) Investigations conducted by the Income-tax Department post 8th November, 2016 have inter-alia indicated exceptionally high sales by several jewellers on 8th November. Investigations have revealed that these were mostly cash sales/advances for future sales, for which some premium was charged. Examination and further action against the entities engaged in such practices is an on-going process. Such action under direct tax laws includes searches, surveys, enquiries, assessment of income, levy of penalties and filing of prosecution complaints before criminal courts, wherever applicable. Further, the disclosure of information regarding specific taxpayers is prohibited except as provided under section 138 of the Income-Tax Act, 1961.

# View: Government should reinstate wealth tax in Budget 2017

Wealth Tax, which was in force since 1957, was abolished in the 2015 Budget. I think this was a big mistake and, therefore, the government should reinstate the wealth tax at the earliest, preferably, in the 2017 Budget itself.

"Ease of tax administration" was the main reason cited by the FM Arun Jaitley for the abolition. And to compensate the tax loss due to this, he has imposed an additional surcharge on high income earning assesses. This is totally against the concept of natural justice and amounts to taxing the same person again and again.

Some argue "why tax assets bought with posttax income"? This is not a correct argument because we are now paying tax on all gains generated from assets invested out of our posttax income.

For example, assume that we are investing in a bank's recurring deposit (RD) or fixed deposit (FD) from the posttax salary income. The interest on RD or FD is taxable even though we already paid tax on the salary income.

More importantly, wealth tax was based on sound economic logic of "taxing unproductive assets". Why only unproductive assets? Because the income generated from productive assets are already taxed. In the above example, there will not be any wealth tax on the money deposited in the bank, because it is used for productive purposes.

Wealth tax would have been applicable, on the other hand, if someone decided to hoard currency notes at home (i.e. instead of depositing it in bank). And any cash held above Rs 50,000 would have been counted for computation of wealth tax.

Similarly, there will not be any wealth tax on residential or commercial property that is rented out, because it is meeting a basic economic need. Real estate properties that were not rented out, however, would have been counted for the computation of wealth tax. Real estate investors booking 1015 flats in several buildings and keeping them under lock for years is a gross waste of national resources and, therefore, needs to be discouraged.

- It is estimated that around 10% of the houses in Mumbai, which is reeling under severe housing shortage, are estimated to be locked up like this.
- Gold, both in bullion and ornament form, is another unproductive asset that Indians hoard in large quantities and, therefore, was part of the wealth tax earlier.
- Since gold is a major item in our import list and drains out more than Rs 2 lakh crore of foreign exchange every year, there is no need to treat this hoard with kid gloves. In addition to collecting tax, wealth tax also used to generate good data that was beneficial in preventing income tax evasions.

- For example, it would have been difficult for someone to declare a wealth of a few crores and at the same time, not show any income. No, I am not asking to make a separate tax filing and collection department for this. This can be managed as part of the income return itself.
- Some wealth tax details are now getting captured under income tax return. But as per the current structure, only persons with income above Rs 50 lakh are supposed to file "assets and liabilities".
- That means the details of hoarders of unproductive assets, whose annual income is below this limit, is not getting captured now.
- Since determining the cost of inherited or gifted assets, assets purchased long back, etc., will be difficult, it is better to keep physical threshold for these unproductive assets for reporting.

## Income Tax Dept Identifies 67.54 lakh Potential Non-Filers

Income Tax Department Identifies 67.54 lakh Potential Non-Filers for F.Y. 2014-15

The Non-filers Monitoring System (NMS) was rolled out for identification of non-filers with potential tax liabilities. Data analytics carried out by the Systems Directorate of Central Board of Direct Taxes (CBDT) identifies non- filers about whom specific information is available in the AIR, CIB and TDS/TCS databases.

The Income Tax Department has conducted the fifth cycle of data matching which has identified an additional 67.54 lakh potential non-filers who have carried out high value transactions in the financial year 2014-15 but did not file return of income for the relevant assessment year i.e. A.Y 2015-16. The information relating to the identified non-filers has been made available in the 'Compliance Module' on the e-filing portal of the Income Tax Department. The information will be visible only to the specific PAN holder when they log into the e-filing portal at https://incometaxindiaefiling.gov.in. The PAN holder will be able to respond electronically and retain a copy of the submitted response for record purpose.

While the Government urges all tax payers to disclose their true income and pay taxes accordingly, the Department would continue to pursue the non-filers vigorously till all the high potential non-filers are covered.

## Thank You CA.NAVEEN KHARIWAL . G