INTERPLAY of LAWS dealing with ECONOMIC OFFENCES (With Emphasis on International Transactions)

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IMPACT OF ECONOMIC OFFENCES LAWS ON BUSINESS ENTITIES

ORF

TeamLease™ RegTech

JAILED FOR DOING BUSINESS

The 26,134 Imprisonment Clauses in India's Business Laws



PLC

GAUTAM CHIKERMANE

RISHI AGRAWAL

Over 26,000 ways an entrepreneur can land in jail for non-compliance of business laws

[Research report by TeamLease RegTech and Observer Research Foundation (ORF)]

hindustantimes

CBI, ED action may now follow I-T default probes

Rajeev Jayaswal
rajeev.jayaswal@htlive.com

NEW DELHI: Trouble will now descend in threes for income tax defaulters with tax investigations coinciding or being followed by probes by the Enforcement Directorate and the Central Bureau of Investigation, with the three agencies coordinating among themselves as well as using the power of higher-order data analytics, two government officials said on condition of anonymity.

The idea is to identify major crimes behind tax cases, they added.

This doesn't currently happen, one of the officials explained, which means that sometimes people get away lightly.

"Most of the violations under the income-tax law are compoundable and people used to get away easily by paying a penalty of 20% or so... serious crimes hidden behind tax violations can no longer remain hidden," one of the officials cited above said.

The officials said that the two agencies and the tax department have been successfully able to detect and act swiftly against crimes of financial nature in recent months because of the help they get from data analytics and mutual cooperation and

CONTINUED ON P 6

MULTI-AGENCY SCRUTINY

The three agencies are coordinating among themselves as well as using the power of higher-order data analytics

- I-T officials said the CBI and the ED along with the tax dept have been successfully able to detect and act swiftly against financial crimes in recent months because of the help they get from data analytics, and mutual coordination.
- "HDIL is one such case where data analytics played a significant role and the ED could effectively act against the accused," said an official.
- The revenue department is using technology to reduce the compliance burden on honest taxpayers, but at the same time, nab wilful defaulters, who earlier used to defraud the system, the officials said.
- As a result, in about 10 days, the I-T dept has detected about a half-a-dozen serious cases of evasion and fraud, they added.

Recent news

Modi's benami law has companies running for cover

BY SUGATA GHOSH, ET BUREAU | UPDATED: JAN 03, 2019, 04.08 PM IST

Post a Comment

Indian tax authorities are inundated with pleas from various trade bodies — some believed to be acting as proxies for large industry lobbies — to soften the benami law that was activated two years ago to tackle the menace of holding properties and assets in someone else's name to escape tax, sidestep regulations and even fool creditors.

The tax department has invoked the law to question a string of transactions which includes outright sham deals such as borrowing from shell companies in Kolkata to roping

RELATED VIDEO



Confiscated benami assets worth Rs 6,900-cr: I-T department

The tax department started initiating action under this law, implemented by the Modi government, from November 1, 2016.

PTI | Updated: Jan 29, 2019, 11.00 AM IST

Save

18 Comments

BCCL



NEW DELHI: The Income Tax Department has confiscated assets worth Rs 6,900 crore till now as part of its action under the anti-benami transactions law, the agency said in a public advertisement on Tuesday.

The message issued in leading dailies said people who "abet and induce" benami transactions, benamidar (in

ing

partner in a firm

SC/ST member acting as front to acquire land in Rajasthan

Infra cos building land bank via opaque structures

Buying properties in friends' name

1,777 properties worth ₹6,588 cr provisionally attached

भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

प्रेस विज्ञप्ति
PRESS RELEASE

संपर्क प्रभाग, सेबी भवन, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051
Communications Division, SEBI Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051
दूरभाष / Tel: +91-22-26449000 ईमेल / email:press@sebi.gov.in वेबसाइट /website: www.sebi.gov.in

PR No.38/2020

SEBI signs MoU with CBDT

Securities and Exchange Board of India (SEBI) signed a Memorandum of Understanding (MoU) with Central Board of Direct Taxes (CBDT), Government of India, today, for data exchange between the two organizations. The MoU was signed by Ms. Anu J Singh, Pr. DGIT (Systems), CBDT and Ms. Madhabi Puri Buch, Whole Time Member, SEBI in the presence of senior officers from both the organizations via video conference.

The MoU will facilitate the sharing of data and information between CBDT and SEBI on an automatic and regular basis. The MoU will ensure that both CBDT and SEBI have seamless linkage for data exchange. In addition to regular exchange of data, CBDT and SEBI will also exchange with each other, on request and suo moto basis, any information available in their respective databases, for the purpose of carrying out scrutiny, inspection, investigation and prosecution.

The MoU is an ongoing initiative of CBDT and SEBI, who are already collaborating through various existing mechanisms. A Data Exchange Steering Group has also been constituted for the initiative, which will meet periodically to review the data exchange status and take steps to further improve the effectiveness of the data sharing mechanism.

The MoU marks the beginning of enhanced cooperation and synergy between SEBI and CBDT. The MoU comes into force from today.

Mumbai

July 08, 2020

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 22nd November, 2022

G.S.R. 832(E).— In exercise of the powers conferred by clause (ii) of sub-section (1) of section 66 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments to amend the notification of the Government of India, in the Ministry of Finance, Department of Revenue, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 382(E), dated the 27th June, 2006, namely:-

In the said notification, after serial number (10) and the entry relating thereto, the following serial numbers and entries shall be inserted, namely:-

"(11) National Investigating Agency;

(12) Serious Fraud Investigation Office;

(13) State Police Department;

(14) Regulator, as defined under clause (fa) of rule 2 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005;

(15) Director General of Foreign Trade;

(16) Ministry of External Affairs;

(17) Competition Commission of India;

(18) Special Investigation Team constituted, *vide* notification of the Government of India, Ministry of Finance, Department of Revenue published in the Gazette of India, Extraordinary, Part-I, Section-I, *vide* number F.No.11/2/2009-Ad.E.D. dated the 29th May, 2014;

(19) National Intelligence Grid;

(20) Central Vigilance Commission;

(21) Defence Intelligence Agency;

(22) National Technical Research Organisation;

(23) Military Intelligence;

(24) An inquiry authority appointed under sub-rule (2) of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the provisions of the Public Servants (Inquiries) Act, 1850 (37 of 1850) and any other preliminary enquiry authority appointed with concurrence of the Central Vigilance Commission, by the Disciplinary Authority, with the prior approval of the Central Government;

(25) Wildlife Crime Control Bureau."

[F.No. P-12011/8/2020-ES Cell-DOR]
SHASHANK MISRA, Dir. Headquarter

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 382(E), dated the 27th June, 2006 and subsequently amended vide number G.S.R. 609(E), dated the 1st October, 2020.

INDIA

In a first, ED attaches chimpanzees, marmosets under PMLA

PTI | Updated: Sep 21, 2019, 22:49 IST



HIGHLIGHTS

- ED said the chimpanzees that were seized by customs from the smuggler's house were being kept at the Alipore Zoological Garden in Kolkata.
- The agency said the first-of-its-kind attachment under the Prevention of Money Laundering Act (PMLA) "enabled" the zoo authorities to retain the animals as the sm king attempts to take them away.

Open in app

CASE-STUDY

1. FACTORY PURCHASED IN THE YEAR 2005.



2. ALLEGED VIOLATION OF ENVIORNMENT PROTECTION ACT AND WATER POLLUTION ACT IN THE YEAR 2009.



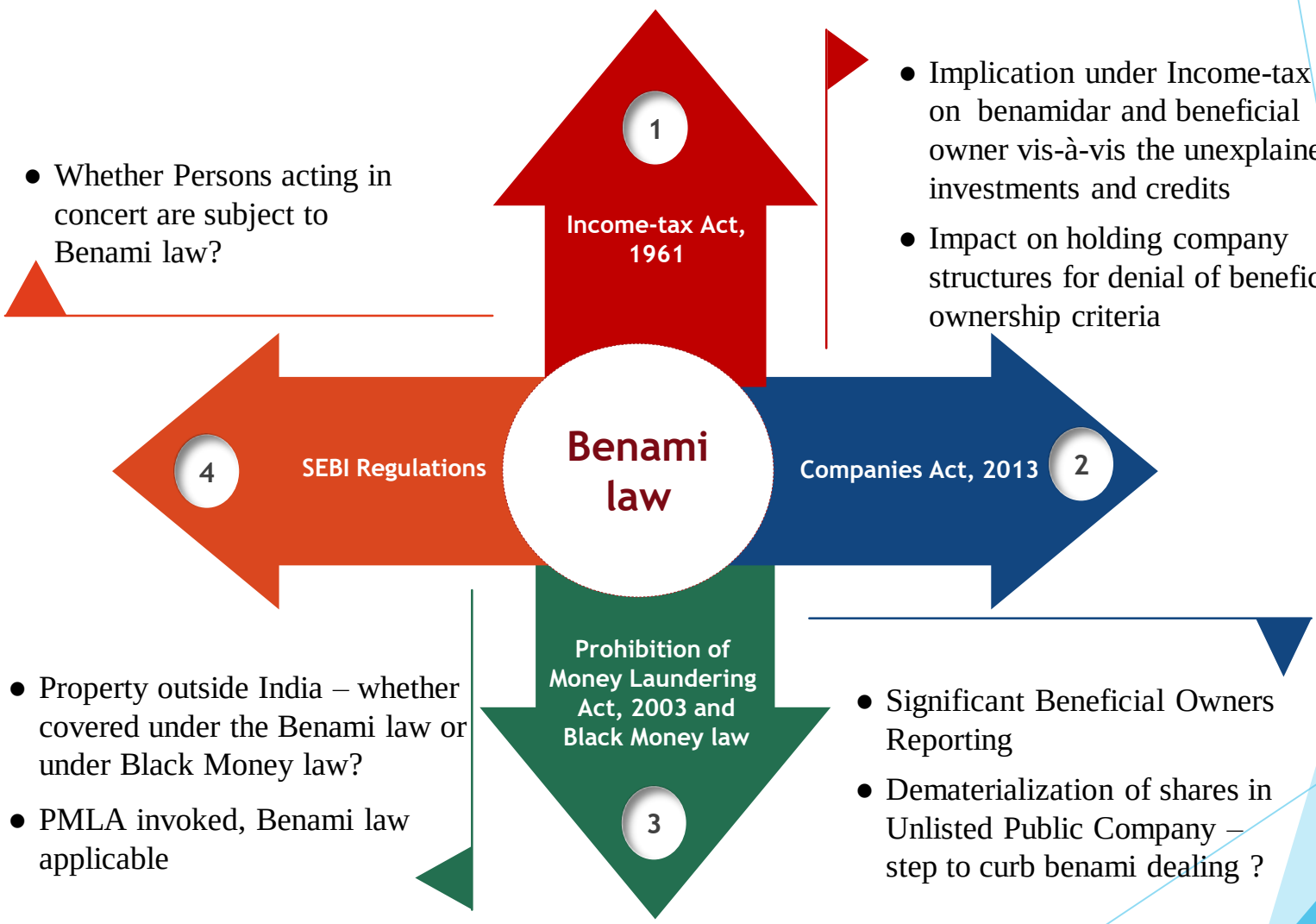
3.POC ILLEGALLY CALCULATED FROM THE YEAR 2007-08 TILL 2012-13.

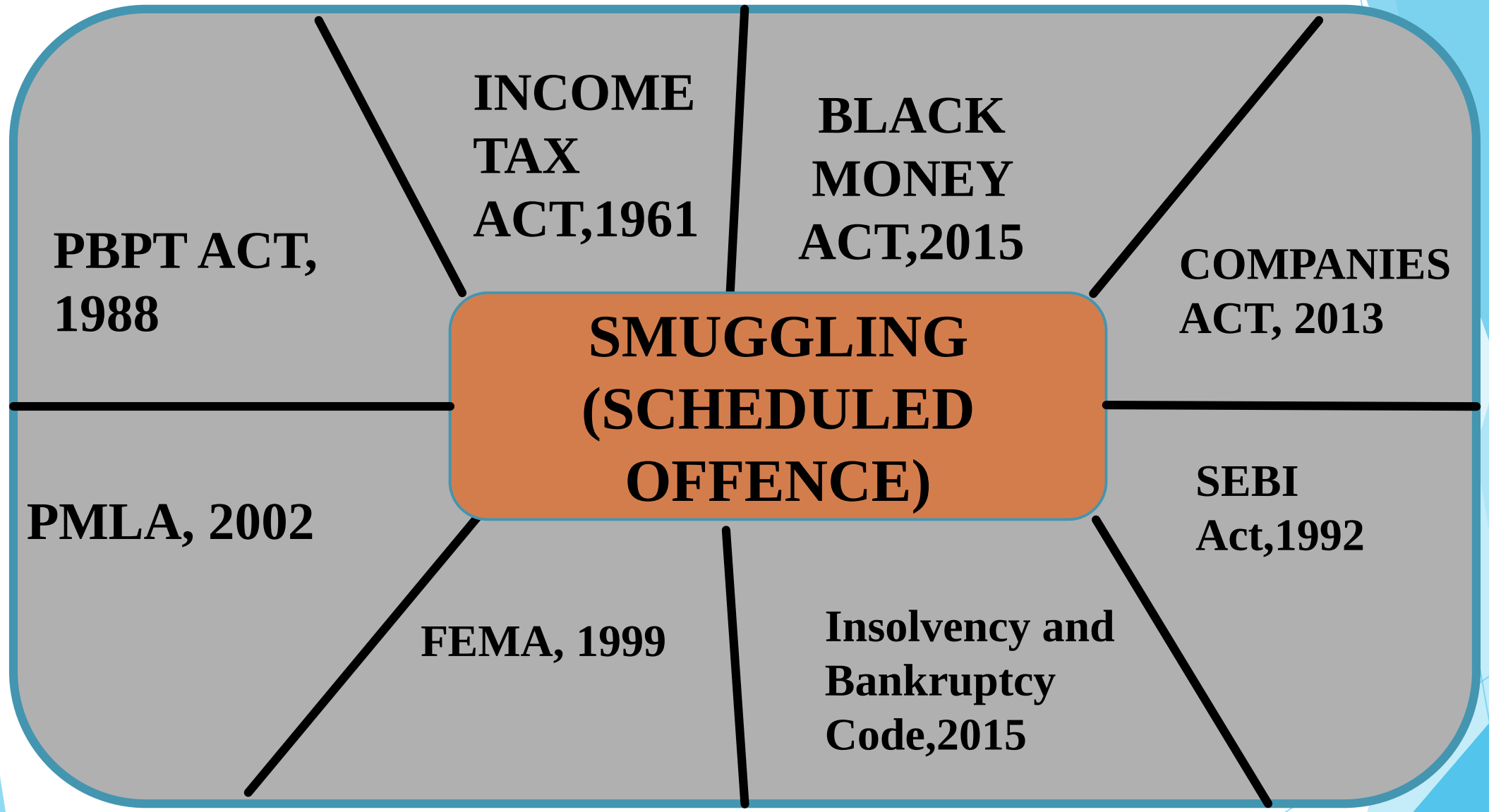


4. FACTORY ACQUIRED IN 2005 HAVING NO NEXUS WITH POC ATTACHED BY THE ED UNDER PMLA IN 2018



Interplay of various Laws Dealing With Economic Offences.




INCOME TAX ACT,1961
BLACK MONEY ACT,2015
PBPT ACT, 1988
COMPANIES ACT, 2013
SMUGGLING (SCHEDULED OFFENCE)
PMLA, 2002
SEBI Act,1992
FEMA, 1999
Insolvency and Bankruptcy Code,2015

ANTI-MONEY LAUNDERING:

The Prevention of Money Laundering Act,2002 defines the offence of Money Laundering u/s 3 as

FEW FUNDAMENTAL QUESTIONS

- What is ‘Money Laundering’?
- Is it different from tax evasion?
- Whether tax evasion is also Money Laundering?
- What are the authorities governing Money Laundering Laws in India?
- What is the punishment or offence of money laundering defined under PMLA,2002 ?

- What are consequences if provisions of PMLA are invoked by Enforcement Directorate?

- What are the broad powers vested with Enforcement Directorate?

- What kind of properties are attached as prescribed in PMLA,2002? Whether a property purchased out of any business activity which is not legitimate in the eyes of law can be covered under PMLA ? What all things cannot be covered under Illegal business?

- What are the legal remedies available ?
- What are the precautions to be taken to avoid entering into money laundering laws?
- What is the effect and impact of attachment of property by Enforcement Directorate?

- What is a status of Bonafide purchaser ?
- What is the status of a ‘Donee’ of a property which was involved in money laundering?
- What is status of Property purchased with clear transaction but previously subject to Money Laundering or Benami effect?
- Whether Unexplained Cash Credit (Loan) added by Income Tax into Taxable income, be covered under Money Laundering ?

- **Which Hawala transactions (Entries) can be covered under PMLA ?**

- **How overlapping of multiple offences & laws are dealt with (like IPC and these laws) ? Which Act will prevail ? Whether punishment under one Law will rest the matter ?**

- Whether Statements made by third party about accommodation entry/transaction lead to attachment and confiscation of property under any law?

- Can property gifted out of Benami, Money Laundering & Black Money transaction be confiscated and recovered ?

- Can defaults in bank loans obtains through fraud can be covered under Money Laundering or any other Law?

MONEY LAUNDERING:

The Prevention of Money Laundering Act,2002 (PMLA) defines the offence of Money Laundering u/s 3 as:

"Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming as untainted property shall be guilty of offence of Money Laundering".

New Amendment wef 1.8.2019

Explanation.—For the removal of doubts, it is hereby clarified that—

(i) a person shall be guilty of offence of money-laundering if such person is found to have directly or indirectly attempted to indulge or knowingly assisted or knowingly is a party or is actually involved in one or more of the following processes or activities connected with proceeds of crime, namely:—

(a) concealment; or

(b) possession; or

(c) acquisition; or

(d) use; or

(e) projecting as untainted property; or

(f) claiming as untainted property, in any manner whatsoever,

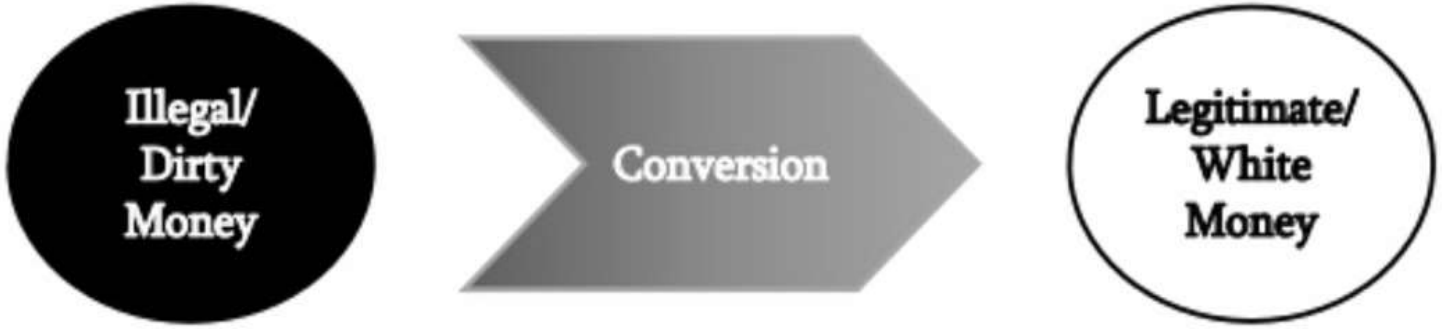
……*CONTD*….

(ii) the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever.

Definition - Money Laundering

OFFENCE OF MONEY LAUNDERING:-

- Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the [proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering.



- In easier terms, any action which leads to conversion of Illegal money/assets into legitimate fund/assets shall be considered as an "Offence of Money Laundering" .

Some of the Popular Activities through which Money is laundered…



Stock Markets

False Export-Import Invoices



Agricultural Products



Popular Activities

Showing Loans







Creating Bogus Companies

Property Markets

PROCESS OF MONEY LAUNDERING

STAGE -I
COMMISSION OF THE SCHEDULED OFFENCE

STAGE-II
GENERATION OF PROCEEDS OF CRIME

STAGE-III
COMMISSION OF MONEY LAUNDERING BY:
PLACEMENT
LAYERING
INTEGRATION

MONEY LAUNDERING INVOLVES 3 STAGES

PLACEMENT

- ASSIMILATING OF PROCEEDS OF CRIME INTO FINANCIAL SYSTEM

LAYERING

- ROUTING OF ASSIMILATED PROCEEDS OF CRIME TO HIDE ITS SOURCE

INTEGRATION

- RE INTRODUCTION OF THE PROCEEDS OF CRIME SUBSEQUENT TO ABOVE TWO STAGES TO PROJECT SUCH PROCEEDS OF CRIME AS WHITE MONEY.

PROCEEDS OF CRIME 2 (1)(u):

It is defined as:

"proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a ***scheduled offence*** or the value of any such property **or** where such property is taken or held outside the country, then the property equivalent in the value held within the country or abroad;

SCHEDULED OFFENCE

- The Scheduled Offences are the offences as prescribed in the schedule to the PMLA, which is divided in 3 parts i.e. Part ‘A’ ‘B’ ‘C’.
- The Schedule Offence is the genesis of the offence of Money laundering, as there cannot be any offence of Money Laundering unless and until an Offence provided in the Schedule of the PMLA has been first committed.

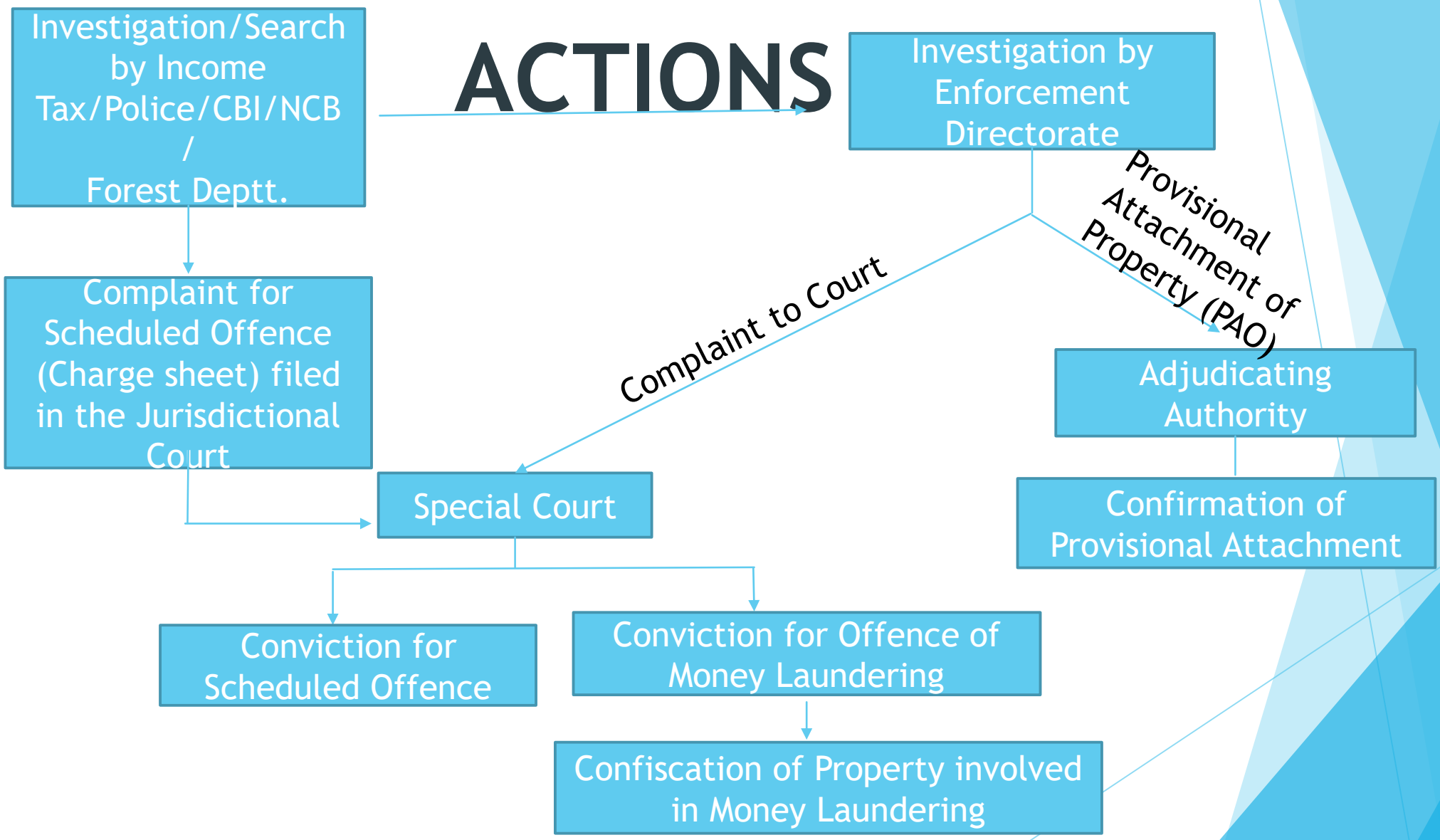
REVERSE BURDEN OF PROOF

- **Section 24:-** **"In any proceedings relating to proceeds of crime under this act-**

  a) in case of person charged with offence of Money Laundering, the authority or the court shall unless the contrary is proved, presume that such proceeds of crime are involved in Money Laundering.

  b) in case of any other person the authority or court may presume that such proceeds of crime are involved in Money Laundering."

WEB OF ACTIONS



BANK



LOAN OBTAINED BY FRAUD

COMPANY



PROPERTY ACQUIRED QUA BANK LOAN ACQUIRED THROUGH FRAUD

PROPERTY IS THUS PROCEEDS OF CRIME

PROPERTY



Bitcoin scheme floated in the year 2015 which ended in the year 2017



FDR created in the bank in the year 2018 out of funds having no nexus with the scheme





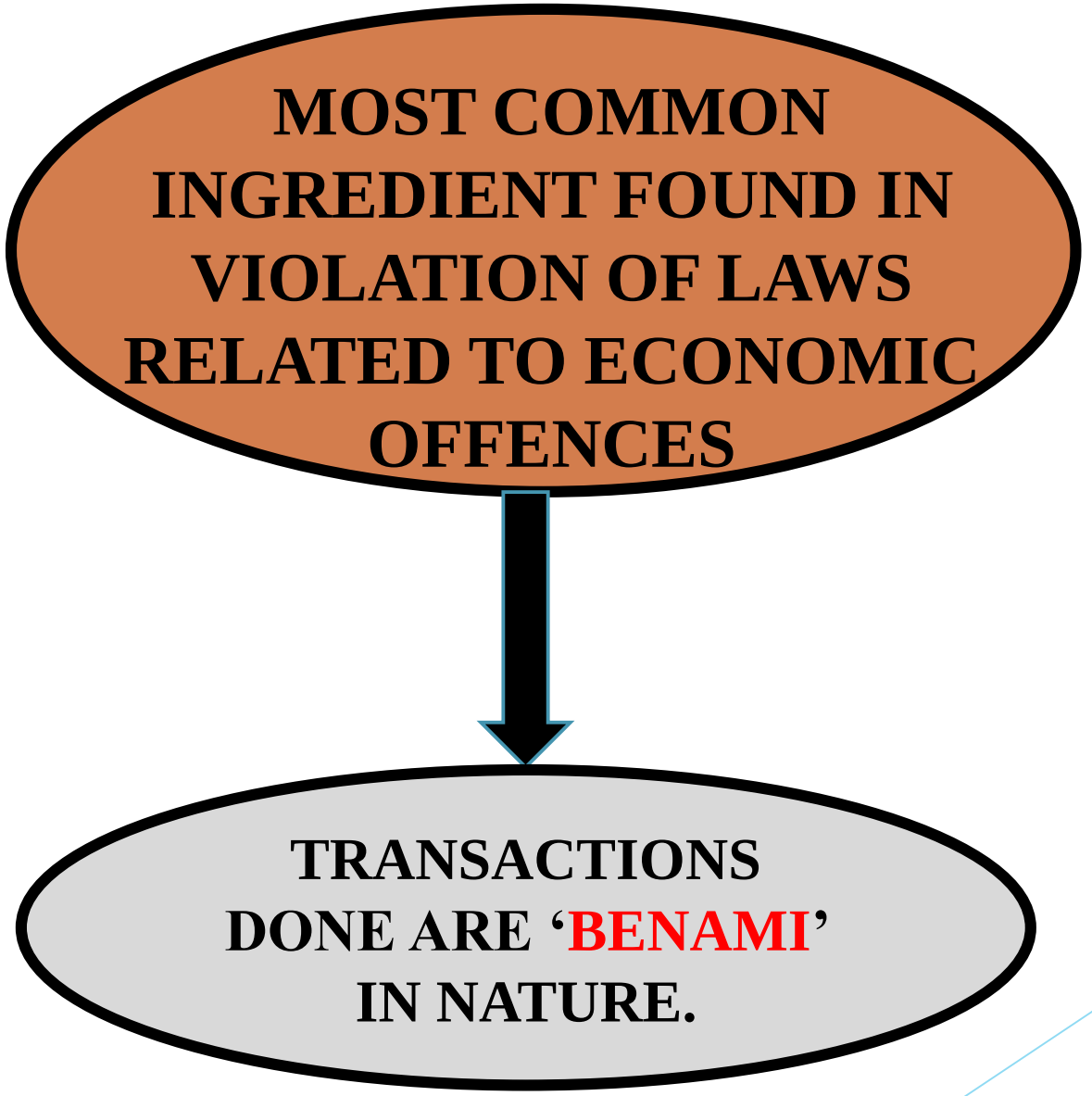
FDR attached by ED without identifying any transaction linking POC with the attached property

STEPS INVOLVED in CORRECT APPROACH

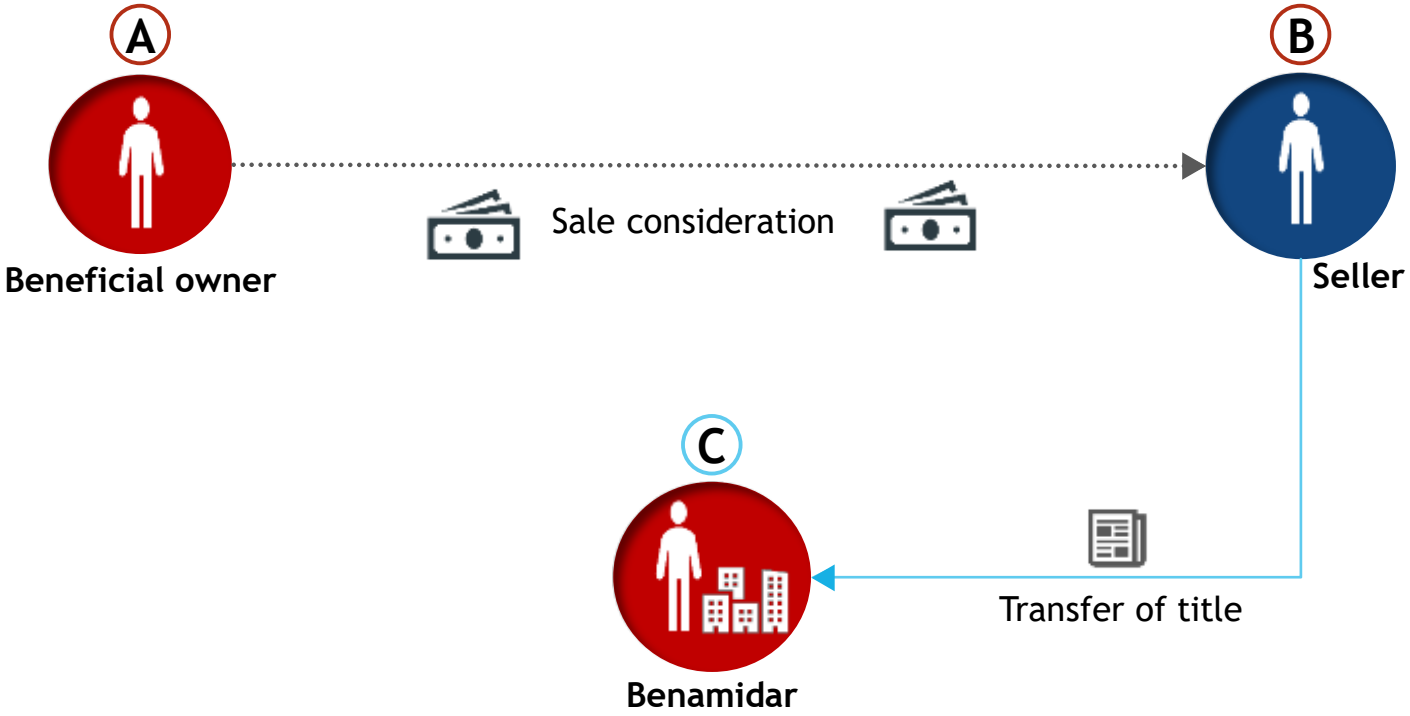
ROLE OF CHARTERED ACCOUNTANTS, TAX LAWYERS and COMPANY EXECUTIVES IN HANDLING NOTICES AND ATTACHMENT ORDERS ISSUED BY THE ED

- **Finding out the source(s) and quantifying amount of Proceeds of Crime (POC) from commission of an offence**
- **Identifying the Properties to be attached (acquired with POC)**
- **Identifying the source of such properties and connecting it with the POC.**
- **Identifying Loan utilization in the attached property.**
- **Calculation of the correct value of the POC.**
- **Valuation of the property attached and comparison with the alleged POC.**
- **Proper Financial Accounting and Analysis.**
- **Preparation of Money Trail for the attached properties to demonstrate the source(s) of funds.**

NEW FINDINGS of INVESTIGATION AGENCIES



Benami Transaction – Background

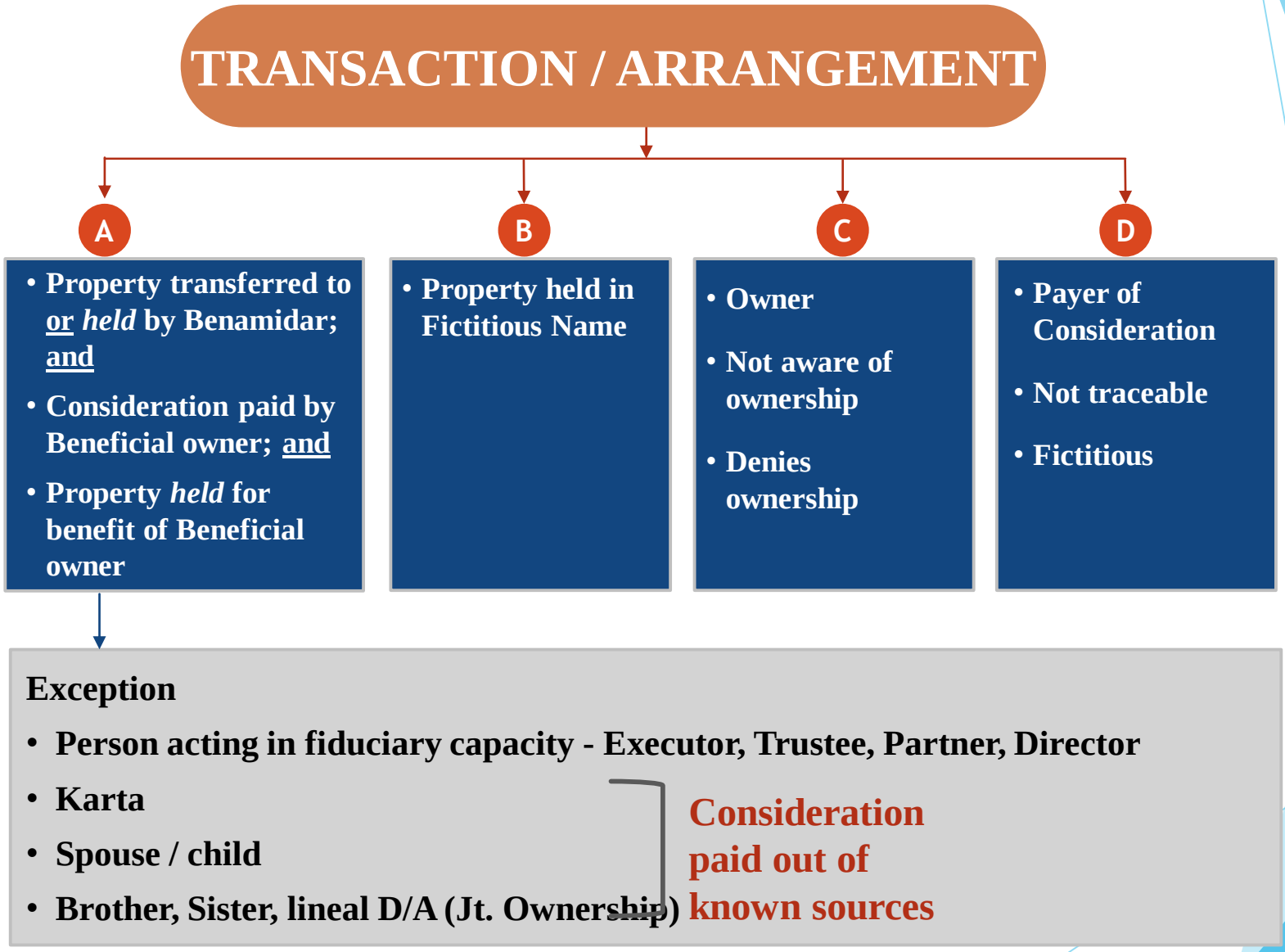


Factors leading to the origin of Benami law

Fraud on creditors | Tax evasion | Black Money

Corrupt practices

What is a Benami Transaction?

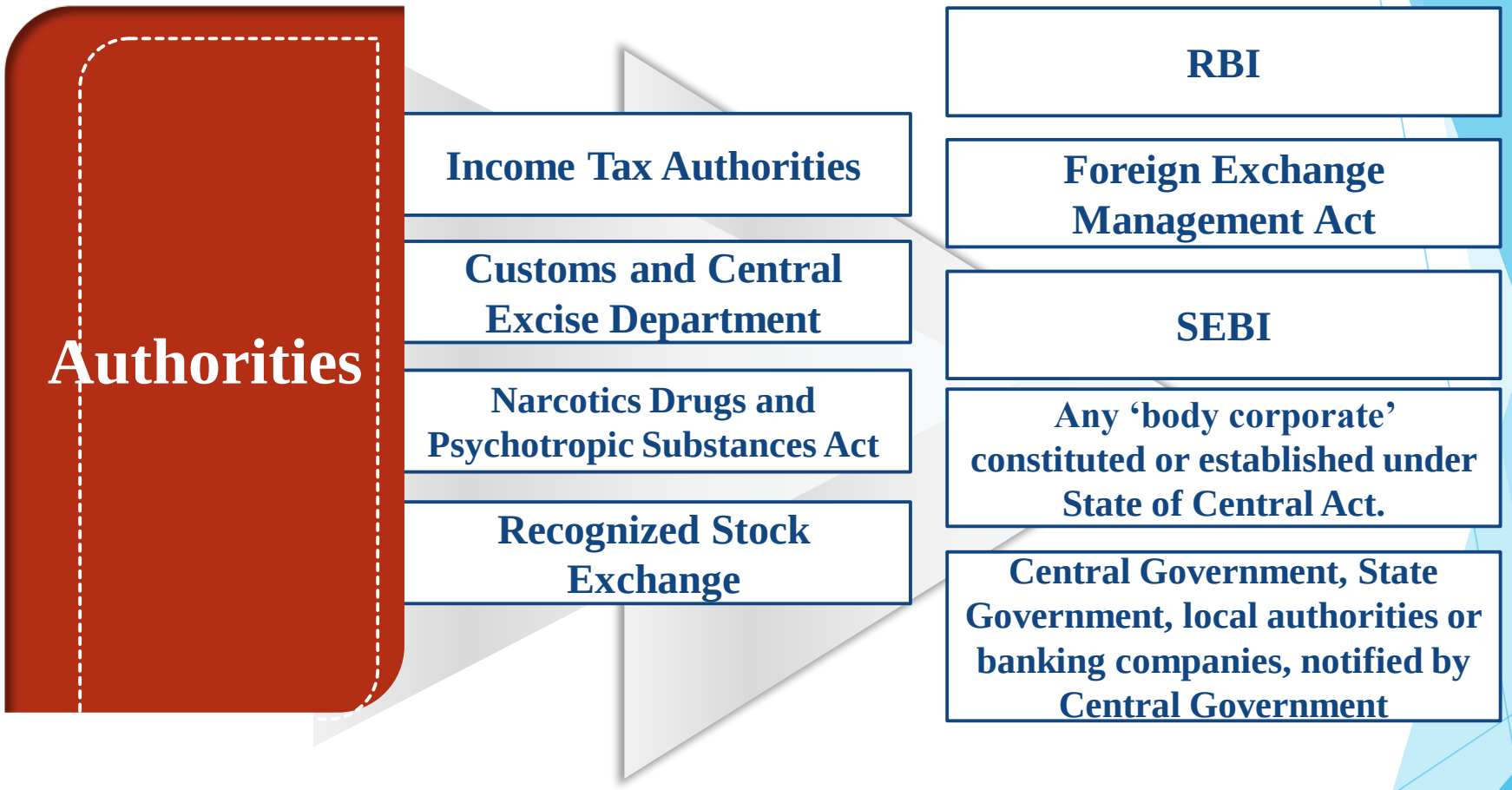


Authorities under Benami law

Authorities				
Initiating Officer (IO)	Approving Authority	Adjudicating Authority	Appellate Tribunal	Administrator
Assistant / Deputy Commissioner of Income Tax	Additional / Joint Commissioner of Income Tax	Bench of three Members chaired by CIT / Joint Secretary	Bench of three Members	Income Tax Officer
• Conducting inquiries, impound documents • Provisional attachment of property	• Grants approval to IO	• Pass order confirming or revoking the provisional attachment • Pass order for confiscation of property	• Review the order passed by Adjudicating Authority	• To receive and manage the property • To dispose of the property

Adjudicating authority to pass order confirming / revoking the provisional attachment within one year from the date of reference made by the IO

Assistance from other Authorities



'Shell Companies' - PMO set up a task force in February 2017 under the joint chairmanship of the Revenue Secretary and Secretary, MCA

FUNDAMENTAL QUESTIONS

1. Whether transactions done in the past and properties held presently (purchased decades back) can also be attached under new benami law?
2. Whether there is any future time limit for making attachment of the property purchased today under this law?
3. Whether properties acquired in the names of close relatives can also be attached as 'benami' e.g. in the name of Brother, Sister, Mother, Father, Grand Parents, Grand Children, Wife's Brother/Sister, Sister's Husband etc.
4. What about property acquired in the name of wife or children? (Contd……)

5. What kinds of properties are covered under new PBPT Act, 1988;

whether immovable properties only are covered or movable also covered?

6. Whether it affects any particular class of people or any individual (of any class) can be roped in?

7. Whether the bonafide intention/motive of the person can be an escape route and such transaction can be excluded from the proceedings under PBPT Act, 1988?

8. Is there any protection to the purchaser who had no knowledge of benami transaction? Any protection available to a bonafide purchaser under the new law? (Contd……)

(…….Cont.)

9. Whether the provisions of the PBPT Act, 1988 debar the provisions of benami law and vice-versa?
10. Is there any scope of U-Turn if benami transaction is done inadvertently?
11. Is there any provision of compounding or settlement under the law?
12. Whether the application of other laws is debarred if the provisions of PBPT Act, 1988 are applicable?
13.Is there any provision of compensation from the government to the affected party for the wrong attachment done by Department?

Few Startling Facts about New Benami Law:

- **Retrospective Operation**: It attempts to cover old transactions done **even prior to 1.11.2016** (date of notification of new law).

- Word – 'held' used in current definition of benami property. It covers 'held' as on date.

No Future Time Limit

There is no future time limit for taking action under the new law for transaction being done now. Thus, it is essential to ensure for the buyers that property being purchased is **NOT a benami property.**

- **Any Property Covered**: It covers not only immovable properties like land & building but also movable and other assets e.g. **shares, FDRs, bank accounts, Gold** etc.



- **Any Class**: It may hit not only rich but poor also, as it has **no threshold limit.**
- It may affect **not only urban people but rural also,** as it extends to whole of India.
- **Any Profile**: It is troubling not only errant politicians, but also officers in the public service or otherwise, **businessmen, employees of PSUs as well as private sectors** and every else who may possess wealth in the form of properties not found registered in their names.

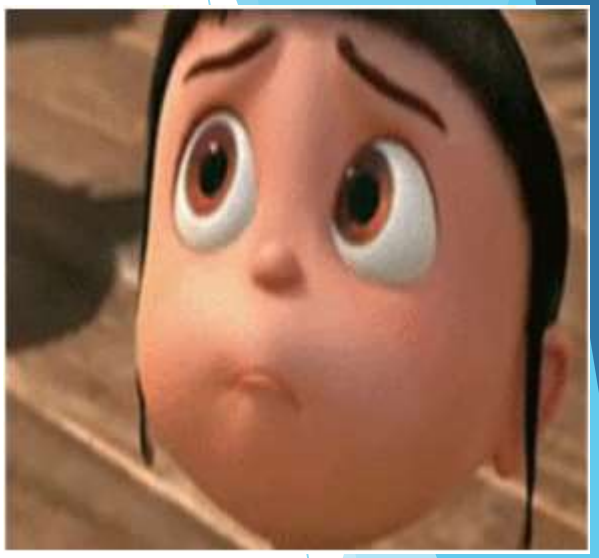
- **Any Structure**: It is roping in **corporate as well as non-corporate entities** and **individuals** as well.



- **Any Intention**: Whether there was malafide intention of the offender **<u>or not</u>**, if Benami transaction has been done, then property transferred/held as Benami may be acquired/confiscated under this law.

- **Any Motive**: Intention or motive may be relevant for prosecution u/s 53, **<u>but not for acquisition/confiscation of the property.</u>**

Inadequate Protection for Bonafide Purchasers:



Though protection has been provided to the purchasers of bonafide properties, but it is **neither absolute nor free from ifs and buts.**

Makes no distinction between

‘Black Money’ and ‘Tax-Paid Money’:

Any property held Benami shall be treated as Benami Property under the law and all consequences of its confiscation and prosecution of offenders shall follow **irrespective of the fact whether BLACK MONEY was used or TAX-PAID MONEY was used.**



No U-Turn allowed:

Once benami transactions is done and benami property is acquired, its **re-transfer is not allowed** under the law. Thus, its correction or reversal is **NOT** envisaged under the old or new law. There is no scope of confession or surrender or settlement or compounding etc. Thus, **legal consequences of entering into the benami transaction are imminent** viz. confiscation of benami property and prosecution of the offender.



Multiplier Effect:

Provisions of the Benami Law are in addition to provisions contained in any other law. These are not designed to be mutually exclusive. Thus, in any given situation **all three laws i.e. Income Tax Law, PMLA as well as Benami Law can be invoked simultaneously** if violation has taken place or offence has been committed in respective laws.



No compensation for any damage:

There is **no** provision for payment of any **compensation** to the person whose property is confiscated under PBPT Act, 1988. Similarly **no damage can be claimed** for vacation of any wrongful attachment done under this law.

Variety of other issues arising under new Benami Law



- Is Benami Law applicable to properties situated outside India?
- What if the jewellery purchased 10 to 20 years back and the person in possession is not having the receipt of the jewellery. Can that be roped into benami transaction?

- If anyone purchase land through NRI salary and paid money through NRI account cheque and registered the land on wife's name. Will this land considered as benami property?

- If A is from Punjab, but wants to do business in Himachal, where he can not buy property, so he buys a property in the name of his cousin who is a ‘himachali’, and sets up a hotel, and starts reaping benefits, will that property be considered benami or not?

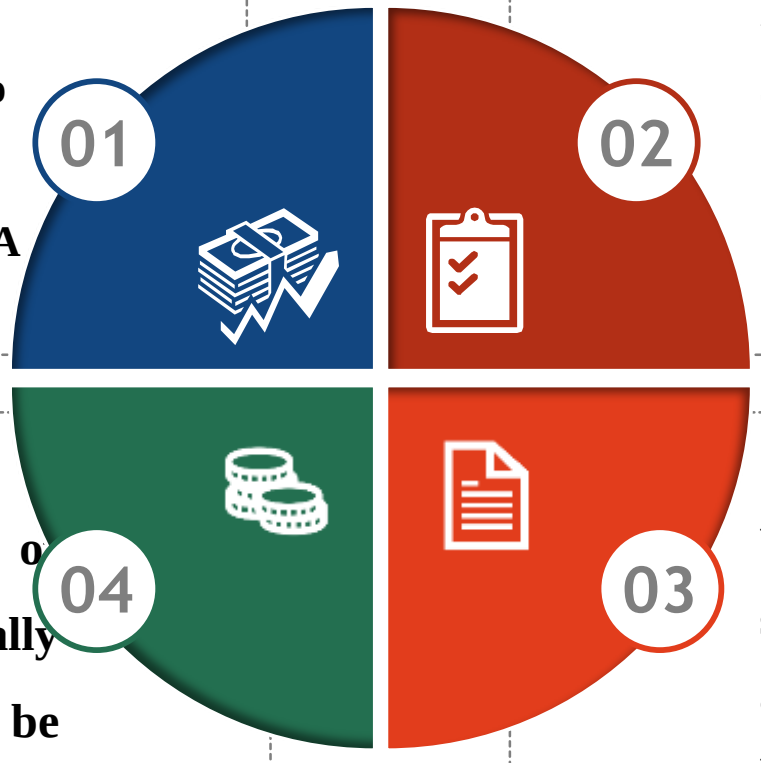
Interplay with Income Tax Act

01 Whether provisions of Benami law can apply to the transaction covered under section 68 and 69A ?

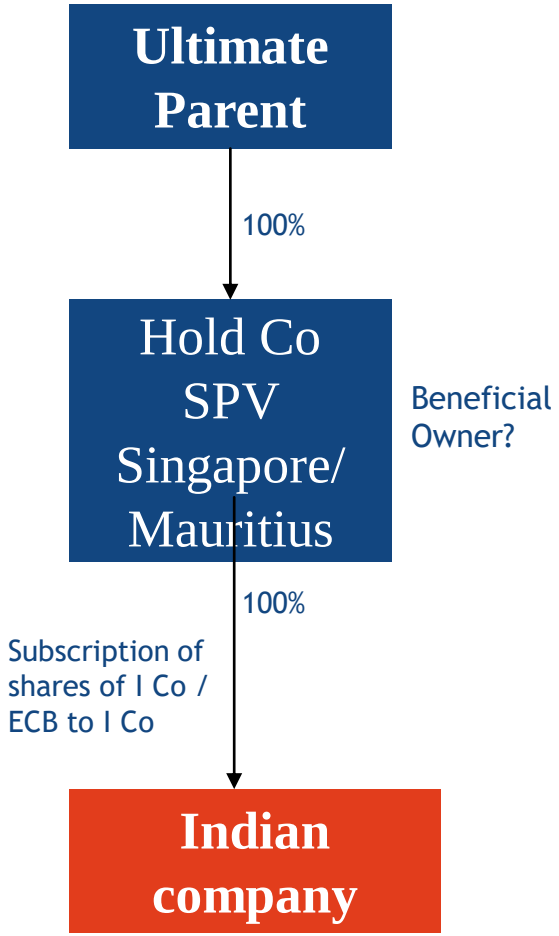
02 Implication under section 56(2)(x) ?

04 Whether application of both the law is mutually exclusive or it can be cumulative also ?

03 Whether a transaction subjected to GAAR be also exposed to the Benami Law ?



Interplay with Income Tax Act - Holding Structures



Typical issues in holding company structures

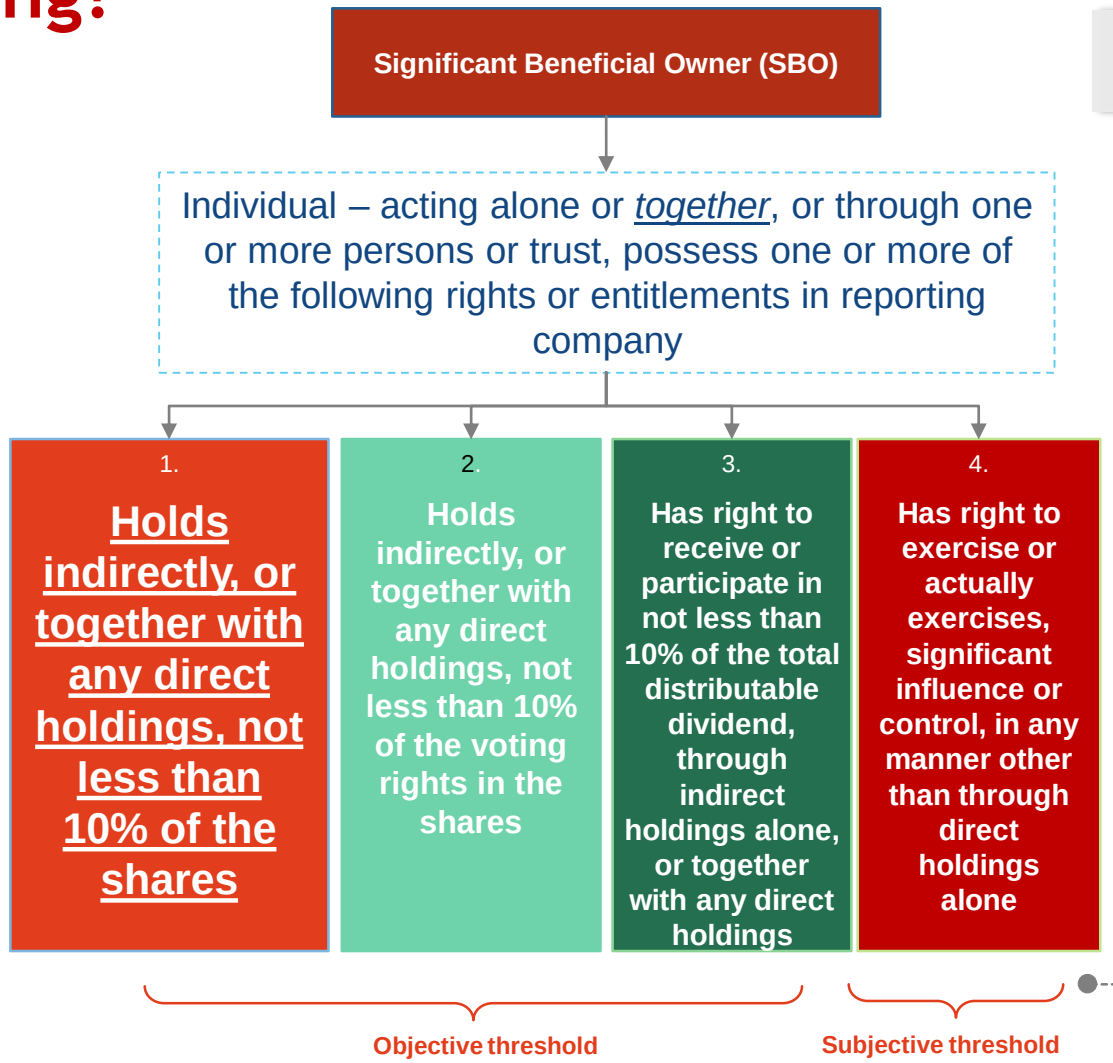
- Benefits under tax treaties available to beneficial owners
- Beneficial Ownership of Assets and Income of SPV under challenge under the Income Tax Proceedings
- Can denial of tax treaties on beneficial ownership criterion be the basis for invoking Benami law?

Implications under Benami law

- Is the Ultimate Parent a Beneficial Owner?
- Is SPV a Benamidar? Holding Property for the Ultimate Parent- Consideration provided by Ultimate Parent
- Can shares held in Indian company be held as Benami Property? Subject to provisional attachment?
- Holding company structures – recognized under various commercial laws – Can it be subject to challenge under Benami law?

Burden of showing that transaction is benami lies on the IO

Significant Beneficial Owner disclosure under Companies Act 2013 – uncover Benami holding?



Key considerations

- **SBO required to make disclosures of his beneficial interest to the Reporting Company, which in turn to be reported to Registrar of Companies**
- **SBO disclosures would enable the authorities to "follow the money" in monetary examinations including suspect accounts/assets held by Benamidars**
- **Holding of persons "acting together" is clubbed in respect of their shareholding / influence / control. However, this term has not been defined**
  - **For determining situations of "acting together", can one take reference from definition of "Persons acting in concert (PAC)" from SEBI Takeover Regulations, 2011?**

Burden of proof and Intention of the person

P. Leelavathi (D) v. Shankaranarayana Rao (SC - Civil Appeal No. 1099 of 2008) (2019)

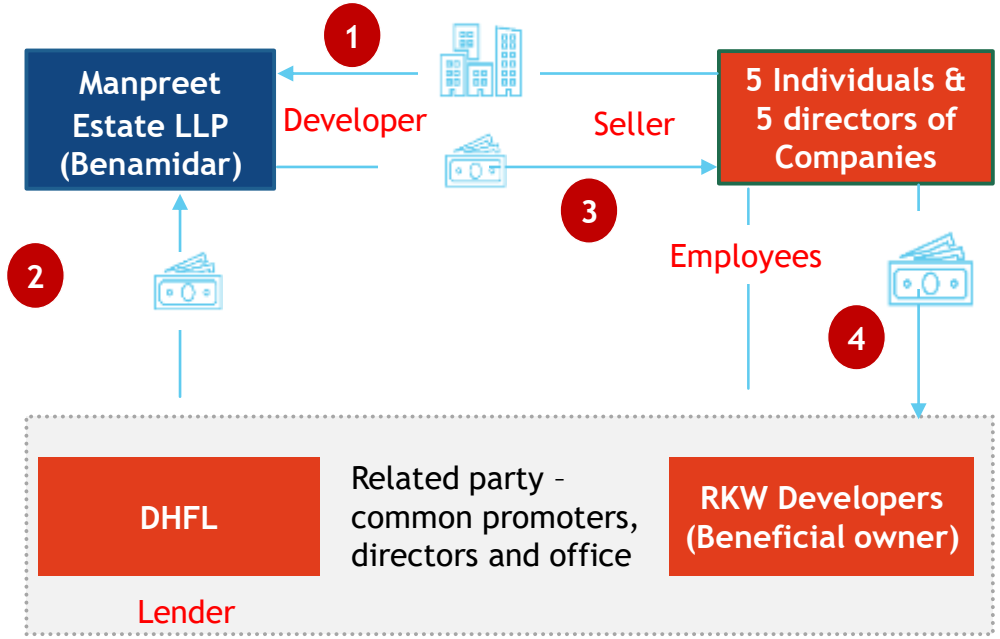
- Burden of proof on the person who assert the transaction is benami which is to be discharged by legal evidence

Mangathai Ammal (Died) vs. Rajeshwari and Ors. (SC - Civil Appeal No. 4805 of 2019) (SC)

- Intention of the person contributed to the purchase money relevant to determine the nature of transaction as benami
- The Amendment Act would not be applicable retrospectively

Followed in *Smt. Pamela Bhardwaj* case by Tribunal under the amended Benami law

Determination of beneficial owner of alleged property prerequisite for treating transaction as Benami



IO Allegation

- Manpreet Estate LLP (MEL) has taken loan from DHFL which was related party of RKW Developers P L (RKW)
- Consideration received by sellers transferred to RKW or to its related concerns
- RKW was beneficiary of development activity undertaken by MEL on said property

- Prerequisite for determining transaction as benami – identification of beneficial owner of alleged property
- Evidences establishing the genuineness of transaction which are at arm's length relevant to determine nature of transaction as benami
- Admissibility of written evidences vs. oral evidence
- Attachment of properties as per rules prescribed

IO v. M/s. Manpreet Estates LLP (FPA-PBPT-206/MUM/2018)(2019)



Land acquisition in India by an NRI (based in USA) (cannot buy agricultural land in India being a non-resident)

Remits funds to his friend who is resident in India





buys land in his name



Search by ITD takes place



He (Indian Friend) makes a statement that he is mere facilitator for transactions done by NRI friend

FEMA PROCEEDINGS

INCOME TAX PROCEEDINGS

BENAMI LAW PROCEEDINGS

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

LIABILITY UNDER THE ACT: CHARGE OF TAX

As per Section 3(1) of BMA :-

- There shall be charged on every assessee
- for every assessment year commencing on or after the 1st day of April, 2016
- subject to the provisions of this Act
- a tax in respect of his **total undisclosed foreign income and asset of the previous year** at the rate of **thirty per cent** of such undisclosed income and asset:

Particulars	Undisclosed Foreign Income	Undisclosed Foreign Asset
A) Amount of income /value of asset	(1) Which has not been disclosed in the return of income furnished by the assessee under sections 139(1) or 139(4) or 139(5) of the IT Act; (2) In respect of which a return is required to be furnished but no return of income has been furnished within time specified under the IT Act.	Value of undisclosed foreign asset (as per section 3(2), of the **BMA**
B) Deduction/reduction	No deduction in respect of any expenditure or allowance or set off of any loss {refer section 5(1)(i)	Following two specified items (section 5(1)(ii)) of the **BMA**: a. The income which has been assessed to tax for any AY under the IT Act prior to A Y to which the BMA applies {i.e. for and up to AY 2015-16) or b. Any income which is assessable or has been assessed to tax for any A Y under the BMA (i.e. from and after AY 2016 17
C) Assessable income	Sum of A(1) and A(2) above	A (1) less B (a) or B (b) above

COMPUTATION OF TOTAL UNDISCLOSED FOREIGN INCOME AND ASSET

Income from source located outside India (foreign income or 'FI') which has not been disclosed in IT Return	XX
FI in respect of which no IT return has been filed	XX
FMV of Undisclosed Foreign Asset (no explanation or unsatisfactory explanation about the source of investment has been provided) - valuation u/r 3 of BMR	XX
Less :	
Income which has been assessed to tax for any assessment year under the IT Act prior to relevant assessment year in which the BMA applies.	(XX)
Income which is assessable or has been assessed to tax for any assessment year in which the BMA applies	(XX)
In case of immovable properties, the deduction will be :	
Value of undisclosed foreign asset as on the first day of the financial year in the same proportion as assessed/assessable foreign income bears total costs	(XX)
Total value of Undisclosed Foreign Income and Asset	XX
Tax @ 30%	XX



Thank You..

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