

TAXATION & IMPLICATIONS POST DEMONETIZATION

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CBDT INSTRUCTIONS ON CASH DEPOSIT CASES DURING DEMONETIZATION



STANDARD OPERATING PROCEDURE (SOP) TO BE FOLLOWED BY THE ASSESSING OFFICERS IN VERIFICATION OF CASH TRANSACTIONS RELATING TO DEMONETISATION

Instruction No. 3/2017 dt 21-02-2017 *(Click on Instruction No. For PDF)*

- A.** No verification is required for Individuals with no businesses who deposit Cash less than INR 2.5 Lakhs.
- B.** The above limit is extended to INR 5 Lakhs for Individuals with no businesses who are over 70 years.
- C.** No verification is required if Books are maintained and Cash deposited is less than Cash balance as on 31-03-2016 in ITR for AY 2016-17. (This provision is however not available if the AO believes that cash balance as on 31-03-2016 has been increased by Backdating transactions in revised return)

D. AO may seek relevant information like Sales summary, stock registers, Bank Statements etc. to identify fictitious Sales.

E. Points indicating suspicion

- a) Non availability of Stock or Stock Inflation by showing Bogus Purchases.
- b) Abnormal jump in cash sales during the Demonetisation period.
- c) Sudden increase in percentage of Cash Sales to un-identified persons.
- d) Transfer of Cash to un-identified entity.

ISSUE OF NOTICE UNDER SECTION 133(6) FOR VERIFICATION OF CASH DEPOSITS UNDER 'OPERATION CLEAN MONEY'

Instruction No. 4/2017 dt. 3-3-2017 *(Click on Instruction No. For PDF)*

Following issues may kindly be kept into consideration while issuing notices under section 133(6) of the Act, in applicable cases:

- i. Notice under section 133(6) of the Act is required to be issued, after obtaining prior approval of Pr. CIT/CIT/Pr. DIT/DIT as provided in the Act, in cases where the 'person under verification' fails to file Online response in a timely manner in spite of issue of reminder by the Assessing Officer. The approval would be taken Online once the facility in ITBA module gets operationalised;
- ii. Notice shall be generated through the ITD System only. Hence, no hand written/typed notice is required to be issued by the Assessing Officer in an individual case;
- iii. Response to notice under section 133(6) of the Act has to be furnished within the stipulated period by the 'person under verification' only through the Online mode;
- iv. It is re-iterated that verification under 'Operation Clean Money' is to be made through the Online Verification Portal only in accordance with *SOP dated 21-02-2017*;
- v. In case no response is furnished within the specified timeframe, Assessing Officer may form a view that 'person under verification' has no plausible explanation to offer regarding the cash deposits in his/her bank account(s) and consequentially, the case may be escalated as 'Not-Acceptable' for further action in accordance with the procedure prescribed in the SOP of CBDT vide Instruction No. 3/2017 dt. 21.02.2017

SOP FOR ISSUE OF NOTICE U/S 142(I) OF THE ACT IN CASES RELATED TO SUBSTANTIAL CASH DEPOSIT DURING THE DEMONETIZATION PERIOD

F. No. 225/363/2017-ITA.II dt. 05-03-2019 *(Click on Instruction No. For PDF)*

- It is possible that a particular PAN might pertain to an entity which is not obliged to file the return (e.g. CSD Canteens, Army Hospitals etc.). Such cases should be marked as “No Return Required” by using the functionality provided in AIMS module of ITBA by the concerned Assessing Officer.
- in remaining cases under “Notice u/s 142(I) for AY 2017-18”, the jurisdictional Assessing Officer shall issue notice u/s 142(I) of the Act to the concerned assesseees for filing return of income for Assessment Year 2017-2018.
- To facilitate service of notice, information regarding addresses in PAN database and earlier ITRs is available in ITBA portal.
- Notice u/s 142(I) shall be issued electronically as well as through postal authorities.

SOME OF IMPORTANT ISSUES TO BE CONSIDERED WHILE FRAMING SCRUTINY ASSESSMENT PERTAINING TO FILING OF REVISED/BELATED RETURN BY ASSESSEES, POST DEMONETIZATION

F.NO.225/391/2017/ITA.II, dt. 24-11-2017 *(Click on Instruction No. For PDF)*

Some instances which might indicate that assessee had filed revised or belated return merely as a cover up to explain the cash deposits in bank accounts are:

- i. Unsubstantiated reduction in closing stock in the revised return *vis-a-vis* the figures in original return;
- ii. Reporting of higher sales in the revised return;
- iii. Cash-in-hand as on 31-3-2016 or 31-3-2015 was enhanced in the revised return;
- iv. Additional cash inflow claimed to be out of earlier year savings, receipt of loans/advances/gifts/repayments/sale of capital assets;
- v. In some cases, cash outflow might have been reduced by paying some of the liabilities in cash;
- vi. Significantly lower closing stock as on 31-3-2015 or 31-3-2016 as compared to the earlier years in a belated return;
- vii. Significantly higher cash-in-hand as on 31-3-2016 or 31-3-2015 compared to the preceding year in a belated return.

In such scenarios, following issues may be kept in consideration during verification and framing of assessments—

- I. The claim of enhanced sales may be compared with the Central Excise/VAT returns;
- II. Whether the parties to whom additional sales were disclosed have identity, creditworthiness and transaction was genuine or not;
- III. Where the accounts are subjected to tax-audit, whether omission or wrong statement in the original return was pointed out by the audit or not;
- IV. The source of cash-in-hands of the person who had made payments to the assessee has to be verified carefully;
- V. The past profile of the concerned assessee should be thoroughly analysed;
- VI. Where as a result of enquiries/investigations it emerges that figures in the revised/related return are fudged, the figure of manipulated receipts/sales/stock etc. is liable to be taxed as a cash credit under section 68 and not merely on net profit basis;
- VII. Any undisclosed expenditure detected after reduction of cash-in-hand by the assessee may be verified carefully;
- VIII. Unaccounted income so assessed in scrutiny assessment is liable to be taxed at a higher rate without any set off of losses, expenses etc. under section 115BBE of the Act;
- IX. In the scenario pertaining to Wealth tax returns of earlier years, it should be examined whether there is an attempt to build cash-in-hand or any other asset so as to justify deposit of cash, post demonetisation.

SOP FOR ISSUE OF NOTICE UNDER SECTION 142(I) IN CASES RELATED TO SUBSTANTIAL CASH DEPOSIT IN BANK ACCOUNT(S) DURING DEMONETIZATION PERIOD

F.NO.225/391/2017/ITA.II, dt. 15-11-2017 *(Click on Instruction No. For PDF)*

On the basis of data analytics and information gathered during the first phase of online verification under 'Operation Clean Money', a list of assessee's who had deposited substantial Cash in bank account(s) during the demonetisation period (8th November, 2016 to 30th December, 2016) but have not yet filed Income-tax return for Assessment Year 2017-18 till date has been generated for further follow up action by the Income-tax Department.

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

- i. While Government PANs (using 4th character) have not been flagged in the list, it is possible that a particular PAN might pertain to an entity which is not obliged to file the return (e.g. CSD Canteens, Army Hospitals etc.). Such cases should be marked as "No Return Required" by using the functionality provided in AIMS module of ITBA by the concerned Assessing Officer.
- ii. Thereafter, in remaining cases under "Notice u/s 142(I) for AY 2017-18", the jurisdictional Assessing Officer shall issue notice u/s 142(I) of the Income-tax Act, 1961 ('Act') to the concerned assessee's for filing return of income for Assessment Year 2017-18.

- iii. To facilitate service of notice, information regarding addresses in PAN database and earlier ITRs is available in ITBA portal.
- iv. The notice should be generated through the ITBA System only.
- v. Notice u/s 142(I) shall be issued electronically as well as through postal authorities. The evidence of service of notice as well as postal remarks (in case of return of notice) should be preserved carefully. Where notice could not be served either electronically or through the postal authorities, then, personal service through departmental ITIs/Notice-servers should be made.
- vi. In cases where difficulties are faced in service of 142(I) notice, ITIs may make local enquiries to trace the concerned assessee and serve the notice upon him. As a final alternative, as far as possible, notice by affixation with due procedure should also be done. In all cases of affixture, information should be captured in the system by selecting the appropriate option in ITBA. However, where notice could not be served even by affixture because of fictitious/non-existent address, this information should also be captured in the system against the appropriate option available in ITBA.

ANNEXURE FOR FURNISHING CASH DEPOSIT DETAILS DURING ASSESSMENT PROCEEDING (CLICK ON ANNEXURE FOR PDF)

1.	Please furnish details of cash deposits in your bank a/c in the following format			
	Period	FY 2015-16	FY 2016-17	% increase between (B) and (A)
		(A)	(B)	$(B)/(A) \times 100-100$
	Cash deposited during period from 1 st April to 8 th November			
	Cash deposited during period from 09 th November to 31 st December			
2	Please furnish details of cash sale in the following format			
	Period	FY 2015-16	FY 2016-17	% increase between (B) and (A)
		(A)	(B)	$(B)/(A) \times 100-100$
	Cash sales during period from 1 st April to 8 th November			

3.	Please furnish Month wise details of cash sales and cash deposited from 01 04.2015 to 08.11.2015 and 09.11.2015 to 31.03.2016 in the following format					
	Month wise	Op. cash in Hand	Cash sales	Cash deposited in bank	Cash withdrawal from bank	Closing cash on hand
	April, 2015					
	May, 2015					
	June, 2015					
	July, 2015					
	August, 2015					
	September, 2015					
	October, 2015					
	November till 08.11.2015					
	09th Nov. 2015 to 30th Nov. 2015					
	December, 2015					
	January, 2016					
	February, 2016					
	March, 2016					

4.	Please furnish Month wise details of cash sales and cash deposited from 01 04.2016 to 08.11.2016 in the following format					
	Month wise	Op. cash in Hand	Cash sales	Cash deposited in bank	Cash withdrawal from bank	Closing cash on hand
	April, 2016					
	May, 2016					
	June, 2016					
	July, 2016					
	August, 2016					
	September, 2016					
	October, 2016					
	November till 08.11.2016					
5.	Please furnish reason for mounting cash in hand in F.Y. 2016-17 till 08.11.2016					
6.	Whether small part of the cash is deposited in or withdrawn from the bank despite having huge cash in hand? If yes. please furnish the reasons thereof.					
7.	Please furnish copy of all vat returns filed during F.Y. 2015-16 and 2016-17. Whether quarterly VAT return is revised in the post-demonetisation period, if yes please furnish reasons thereof.					
8.	Whether there are large change in the purchase and sales figure between the original and the revised VAT returns? Please furnish the reasons thereof with corroborative evidence.					

POINTS TO BE CONSIDERED WHILE ANALYZING THE ASSESSMENT ORDER



POINTS TO BE CONSIDERED

- Whether during assessment the books of accounts have been rejected.
- As per books what is the source of the cash deposit.
- Whether the credit for reduction in inventory is being provided by the AO if the cash is due to sale of goods.
- In respect of trade advances, whether the goods have been delivered in due course.
- Whether the amount has been credited in the books of accounts of the assessee.
- Whether the money deposited during demonetisation was withdrawn from the same bank account 1-6 months prior to deposit.
- Cash deposit made by debtors and purchase parties in bank account of assessee in other cities.
- Maintenance of books of accounts necessary for addition U/s 68.
- If addition is made U/s 69A and the amount is duly recorded in books then no explanation is required for such transaction.
- Whether PAN, address, ledger accounts of the debtors submitted during assessment.
- Bank statement and bank passbook do not constitute to be books of account.

- The AO will be empowered to seek an explanation from the assessee as to how a particular amount of income is received and where such assessee fails to prove satisfactorily the source of incomes, the AO will be entitled to treat the source as unacceptable and draw the inference that the receipts are unexplained and impose higher tax u/s 115BBE.
- Now misreporting per se will not attract penalty under section 270A @ 200%. To attract the penalty @ 200%, misreporting should result in assessed income being more than what is determined on processing under section 143(1)(a).
- Declaring past years' income as current year's income will amount to making of false statement in verification and would attract prosecution under section 277.
- Department will not accept a disproportionate spurt compared to preceding year as current year's income unless satisfactorily explained.
- Where assessee is acting as a middlemen like a broker and owner of cash is somebody else and assessee is just acting like a conduit.

ADDITION U/S 68, WHERE ASSESSEE DOES NOT MAINTAIN BOOKS OF ACCOUNTS

As per the provision of section 68, an addition can be made of unaccounted income only where such sum is found **credited in his Books of Account**. However the assessing officers in their order for AY 2017-18 (i.e. assessment year pertaining to demonetization period) were making addition u/s 68 on account of cash deposited in bank account irrespective of the fact whether the assessee was maintaining books of account or not for the period.

Hon'ble Bombay High Court in the case of [CIT vs Bhaichand H. Gandhi 141 ITR 67](#) held that the passbook supplied by the bank to the assessee could not be regarded as a book of the assessee.

Also held in case of [Smt. Ramilaben B. Patel vs ITO \(2018\) 100 taxmann.com 325 \(ITAT Ahmedabad\) & Amitabh Bansal vs ITO \[2019\] 102 taxmann.com 229 \(ITAT Delhi\)](#).

Hence, in view of above judicial pronouncement, action of assessing officers making addition u/s 68 of the Act, only on the basis of sum found credited in bank account is not justifiable.

Further , Hon'ble Mumbai ITAT in the case of [Mehul V. Vyas vs ITO \[2017\] 80 taxmann.com 311](#) held that “where assessee was not maintaining any account books, bank statement could not be construed to be a book maintained by assessee and, thus, impugned addition was unsustainable on account of inapplicability of section 68”

REGULAR CASH SALE CONVERTED AS UNEXPLAINED CASH CREDIT

As per Instruction No. 3/2017 dt. 21-02-2017, CBDT issued SOP for AO and covered the cases where “Abnormal jump in cash sales during the Demonetisation period”. However assessing officers not accepted regular cash sales made before the demonetization period and made addition as unexplained cash credit.

Hon’ble ITAT in the case of [Agons Global \(P.\) Ltd. vs ACIT \[Appeal No 3741 to 3746/Del/2019\]](#) has held that mere addition made on this ground that there is deviation in ratio is not proper. When the assessee had regular cash sale and deposit of cash in bank accounts and if nothing incrementing is found contrary then addition u/s 68 of such cash sale would tantamount to double taxation.

Reliance can also be placed on the decision of Hon'ble Supreme Court in the case of [CIT v. Devi Prasad Vishwanath Prasad \[1969\] 72 ITR 194](#) that "It is for the assessee to prove that even if the cash credit represents income, it is income from a source, which has already been taxed". The assessee has already offered the sales for taxation hence the onus has been discharged by it and the same income cannot be taxed again

INORDINATE DELAY IN DEPOSIT OF CASH FROM WITHDRAWALS

In various cases, It may have been argued by the assessee that cash deposited during demonetization period sourced from withdrawals from the banks i.e. 1-6 months prior to deposit. In most of cases, Department has not considered the said arguments and made addition on the ground that what was the use of money in intervening period and where it was kept etc.

In a recent decision the Hon'ble Delhi Tribunal in the case of [*Gordhan vs. DCIT ITA No. 811/Del/2015*](#) held that “no addition can be made u/s 68 on the sole reason that there is a time gap of 5 months between the date of withdrawals from bank account and redeposit the same in the bank account , Unless the AO demonstrate that the amount in question has been used by the assessee for any other purpose. In my view addition is made on inferences and presumptions which is bad in law.”

Like wise I the case of [*ACIT v. Baldev Raj Charla \[2009\] 121 TTJ 366 \(Delhi\)*](#) also held that merely because there was a time gap between withdrawal of cash and cash deposits explanation of the assessee could not be rejected and addition on account of cash deposit could not be made particularly when there was no finding recorded by the assessing officer or the Commissioner that apart from depositing this cash into bank as explained by the assessee, there was any other purposes it is used by the assessee of these amounts. In view of above facts, the ground number 1 of the appeal of the assessee is allowed and orders of lower authorities are reversed.

ISSUES AND RELEVANT PRECEDENTS

- Deposit in Bank – Failure to explain the source satisfactorily

Dismissing the appeal of the assessee, the court held that Failure to explain the source satisfactorily, addition was held to be justified.

[\[Krishan Kumar Sethi vs. CIT \(2018\) 403 ITR 189 \(Del\)\]](#)

- Cash deposits were supported by registered sale deeds of flats sold and materials purchased was supported by duly signed vouchers

Dismissing the appeal of the revenue, the court held that; Cash deposits were supported by registered sale deeds of flats sold and materials purchased was supported by duly signed vouchers, hence deletion was held justified.

[\[CIT vs Mohd. Sahid Prop. M/s Azim Builders \(2018\) 402 ITR 110 \(All\)\]](#)

- Bank details and other particulars were furnished. Merely on basis of report, addition cannot be made

Dismissing the appeal of the revenue, the Court held that the assessee has filed Bank details and other particulars were furnished. Merely on the basis of report, addition can not be made. Deletion of addition is held to be justified.

[\[PCIT vs Adamine Constructions \(P\) Ltd. \(2018\) 259 taxman 132\]](#)

- No addition on mere frequent withdrawal and deposit of own money

The tribunal dismissed revenue's appeal by citing that there is no law which prevents citizens to frequently withdraw and deposit his own money. Entire transaction of deposits and withdrawals were duly reflected in assessee's Bank Account and were verifiable from relevant records. Thus additions were not justified.

[\[DCIT vs Smt.Veena Awasthi ITA No. 215/LKW/2016 \(ITAT Lucknow\)\]](#)

- No addition for cash deposits when assessee offered income u/s 44AE

The tribunal ordered the AO to delete additions made towards unexplained cash deposits on Peak Credit theory as assessee had duly explained the deposits in his Bank accounts.

[\[Bijoy shribastab & Anr.Vs ITO \(ITAT Kolkata\)\]](#)

- Deposit in Bank Account- Not maintaining books of accounts- Presumptive taxation u/s 44AF- Return was accepted

It was held that since assessee has not maintained the books of account and return filed under presumptive taxation has been accepted. For mismatch in the gross receipt and net income, amount deposited in the bank account, addition cannot be made as cash credits.

[\[Babbal Bhatia \(Smt.\) vs ITO \(2018\) 65 ITR 532\]](#)

- Cash deposit in Bank-opening balance was not doubted-nothing to show that opening balance was utilized somewhere else-accepted part deposit out of said balance and only part not accepted-addition not justified

The AO taxed cash deposited in Bank as undisclosed income of the assessee. The tribunal held that, the AO did not doubt the availability of the opening balance with the assessee. He had not brought anything on record to show that opening balance was utilized somewhere else. Additions were made only on ground that wealth tax returns were not filed. Held that addition not justified.

[\[ACIT vs Shyam Indus Power solutions \(P\) Ltd. \(2018\) 62 ITR 512 \(ITAT Del\)\]](#)

- Mere cash deposit above 10 lakhs in Bank account does not indicate income has escaped assessment

It was held that merely the fact that deposits have been made in a bank account doesn't indicate that these deposits constitute an income which had escaped assessment. The assumption of AO was fallacious and overlooked the fact that deposit need not necessarily be income of the assessee.

[\[Bir Bahadur singh Sijwali vs ITO \(2015\) 53 taxmann.com 366 \(ITAT Delhi\)\]](#)

- Unexplained credits in Bank account-only income should be brought to tax

Held that only income should be brought to tax and not the credits in the bank account. Accordingly, AO to estimate the profits on Gross receipts at 8% or profit declared by assessee, whichever is higher.

[\[Katikaneni Prem Kumar vs ITO \(2017\) 55 ITR 49 \(ITAT Hyderabad\)\]](#)

- Bank statements are not books of account; sum credited thereon cannot be treated as unexplained cash credit

Assessee failed to substantiate the source of amount credited as cash deposits in her bank account and therefore was treated as undisclosed income. Bank statement not being considered as books of account, any sum found credited in bank passbook cannot be treated as unexplained cash credit.

[\[Smt. Ramilaben B. Patel vs ITO \(2018\) 100 taxmann.com 325 \(ITAT Ahmedabad\)\]](#)

- Mere deposits in Bank cannot be presumed as undisclosed income

It was held that AO's assumption was fallacious that bank deposits constituted undisclosed income, overlooking the fact that source of deposits need not necessarily be income of assessee and therefore addition is not justified.

[\[Gurpal Singh vs ITO \(2016\) 159 ITD 797 \(ITAT Amritsar\)\]](#)

- When a receipt is accounted for as income, no separate addition of same addition can be made
Assessee brought on record relevant evidence showing that the cash found in his possession were advances received from customers which were subsequently recorded as sales of the firm and were accepted by AO. AO can not add the same amount under any other section of the Act as it would be a double addition.
[*\[New Pooja Jewellers vs ITO, ITA 1329/Kol/2018 \(ITAT Kolkata\)\]*](#)
- Unexplained investments – books rejected in original proceedings and income estimated at 8% of gross contract receipt
AO rejected the books and estimated the income at 8% of gross receipts. Held that once the books were rejected, they can not be relied upon to make addition u/s 69.
[*\[Ritu Bajaj vs DCIT \(2018\) 63 ITR 594 \(ITAT Delhi\)\]*](#)
- Unexplained investments – Books of accounts accepted, no addition can be made in respect of suppressed sales of scrap
Held that addition not justified as assessee's books of account were accepted and no evidence whatsoever of suppression of sales of scrap
[*\[Gillette India Ltd. vs ACIT \(2016\) 175 TT\]*](#)

- Burden of proof of Investment lies on AO to prove that investments were made and owned by assessee

Held that onus cannot be discharged by merely referring to the statement given by the assessee to third party in connection with a transaction which was not directly to the assessment and making sole foundation for finding that assessee had deliberately suppressed his income.

[\[CIT vs N. Swamy \(2000\) 241 ITR 363\]](#)

- If assessee is found in possession of demonetized notes, they are equivalent to scrap papers and hence not an investment

Held that the day on which assessee was found to be in possession of high denomination notes, they were only scrap of paper and they could not be used as circulating medium and therefore it can not be said that assessee was in possession of unexplained money.

[\[CIT vs Andhra Pradesh Yarn Combines pvt. Ltd. \(2006\) 282 ITR 490\]](#)

- Income from undisclosed sources

Where purchase of a property is made through court, there is no possibility of an unaccounted investment

[\[Oswal Woolen Mills Ltd. vs ITO \(1987\) 27 TT\]](#)

- Addition u/s 69A is at the discretion of AO

It is at the discretion of the AO or the appellate authorities to determine how much of the value of unexplained investments can be really regarded as representing the undisclosed income of assessee.

[\[CIT vs N. Sowbhagull Mahavirchand \(1983\) 142 ITR 747\]](#)

- Possession of cash is evidence of ownership

Held that addition of cash to politician assessee's income was justified as his claim that the cash belonged to a political party was denied by the President and Treasurer of such party.

[\[Sukh Ram vs ACIT \(2006\) 285 ITR 256 \(Del\)\]](#)

- Onus on assessee to prove the ownership of currency found in his possession

Held that the assessee failed to establish that he is not the owner of the amount found in his possession. Accordingly, the said sum is liable to be assessed in his hands.

[\[CIT vs KTMS Mohammad \(1997\) 228 ITR 113\]](#)

- Burden on AO to prove higher consideration

Held that first AO has to find that the assessee has expended an amount which he has not fully recorded in his books of account.

[\[CIT vs Dinesh Jain HUF 254 CTR 534 \(Del\)\]](#)

- Unexplained Expenditure – Addition was made in prior year – Addition can not be made in relevant year

Addition made by AO on account of unexplained expenditure made in prior year which was cleared in relevant year, and must have been repaid out of unrecorded sources was only a presumption without any evidence. The addition was not justified.

[\[Kohinoor Enterprises vs ACIT \(2019\) 410 ITR 153\]](#)

SPECIFIED BANK NOTES (CESSATION OF LIABILITIES) ACT 2017



WHAT IS THE SPECIFIED BANK NOTES (CESSATION OF LIABILITIES) ACT 2017.

- On February 27, 2017 Government of India notified the Specified Banknotes (Cessation of liabilities) Act 2017.
- The Act repealed the Specified Banknotes (Cessation of liabilities) Ordinance 2016 providing for cessation of liabilities for the Specified Banknotes (SBNs) and for matters connected therewith and incidental thereto, with effect from December 31, 2016.
- The SBNs cease to be the liabilities of the Reserve Bank under Section 34 of the RBI Act and cease to have the guarantee of the Central Government.

SECTION 4 OF SBN ACT, 2017 - EXCHANGE OF SPECIFIED BANK NOTES

- 1) The following persons holding specified bank notes on or before the 8-11-2016 shall be entitled to tender within the grace period with such declarations or statements, at such offices of the Reserve Bank or in such other manner as may be specified by it, namely:—
 - i. a citizen of India who makes a declaration that he was outside India between the 9th November, 2016 to 30th December, 2016, subject to such conditions as may be specified; or
 - ii. such class of persons and for such reasons as may be specified.
- 2) The Reserve Bank may, if satisfied, after making such verifications as it may consider necessary that the reasons for failure to deposit the notes within the period specified are genuine, credit the value of the notes in his KYC compliant bank account in such manner as may be specified by it.
- 3) Any person, aggrieved by the refusal of the Reserve Bank to credit the value of the notes under sub-section (2), may make a representation to the Central Board of the Reserve Bank within fourteen days of the communication of such refusal to him.

SECTION 5 OF SBN ACT, 2017 - PROHIBITION ON HOLDING TRANSFERRING OR RECEIVING SPECIFIED BANK NOTES.

On and from the appointed day, no person shall, knowingly or voluntarily, **hold, transfer or receive** any specified bank note:

- Provided that nothing contained in this section shall prohibit the **holding** of specified bank notes—
 - (a) by any person—
 - (i) up to the expiry of the grace period; or
 - (ii) after the expiry of the grace period,—
 - (A) not more than **ten notes in total**, irrespective of the denomination;
 - or
 - (B) not more than twenty-five notes for the purposes of study, research or numismatics;
 - (b) by the Reserve Bank or its agencies, or any other person authorised by the Reserve Bank;
 - (c) by any person on the direction of a court in relation to any case pending in the court.

SECTION 6 & 7 OF SBN ACT 2017 - PENALTY FOR NON-COMPLIANCE

Section 6

- Whoever knowingly and willfully makes any declaration or statement specified under **sub-section (1) of section 4**, which is **false in material particulars**, or **omits to make a material statement**, or makes a **statement which he does not believe to be true**, shall be
- punishable with fine which may extend to **fifty thousand rupees** or **five times the amount of the face value of the specified bank notes tendered**, whichever is higher.

Section 7

- Whoever contravenes the provisions of **section 5** shall be
- punishable with fine which may extend to **ten thousand rupees** or **five times the amount of the face value of the specified bank notes involved in the contravention**, whichever is higher.

SECTION 8 OF SBN ACT, 2017 - OFFENCES BY COMPANIES

- Where a person committing a contravention or default referred to in **section 6 or section 7** **is a company,**
- every person who, at the time the contravention or default was committed, was **in charge** of, and was **responsible to,** the company for the **conduct of the business** of the company, **as well as the company,** shall be
- deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:
- Provided that nothing contained in this sub-section shall render any such person liable to punishment if
- he proves that the contravention or default was **committed without his knowledge** or that he had **exercised all due diligence to prevent the contravention or default.**

NOTIFICATION NO. F.NO. 10/03/2016-CY.I (CLICK ON NOTIFICATION NO. FOR PDF)

- Central Government hereby declares that the specified bank notes shall not be ceased to be legal tender, with effect from the 9th November, 2016, to the extent of transactions specified below-
 - i. for making payments in Government hospitals for medical treatment and pharmacies in Government hospitals for buying medicines with doctor's prescription;
 - ii. at railway ticketing counters, ticket counters of Government or Public Sector Undertakings buses and airline ticketing counters at airports for purchase of tickets;
 - iii. for purchases at consumer cooperative stores operated under authorization of Central or State Governments;
 - iv. for purchase at milk booths operating under authorization of the Central or State Governments;
 - v. For purchase of petrol, diesel and gas at the stations operating under the authorization of Public Sector Oil Marketing Companies;
 - vi. for payments at crematoria and burial grounds;
 - vii. at international airports, for arriving and departing passengers, who possess specified bank notes, the value of which does not exceed five thousand rupees to exchange them for notes having legal tender character;
 - viii. for foreign tourists to exchange foreign currency or specified bank notes, the value of which does not exceed five thousand rupees to exchange them for notes having legal tender character.

TAXABILITY UNDER THE INCOME TAX ACT, 1961



SECTION 115BBE - TAXATION OF CASH CREDIT

- The provisions of sec.115BBE of the Income Tax Act, 1961, are applicable onwards AY 2017-18.
- Section 115BBE of the Act, as amended by the Taxation Laws (Second Amendment) Act, 2016 w.e.f. asst year 2017-18 specifically levies tax on such unexplained items deemed as income
- 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 sections 68, 69, 69A to 69D of the Act.
- Moreover, no deduction in respect of any expenditure or allowance (or set off of any loss) shall be allowed to the assessee under any provision of the Income-tax Act in computing his income referred to in sections 68, 69, 69A to 69D.

TAX SUMMARY

Total tax effect on incomes referred to in section 68 to 69D can be summarized as under:

Particular	Tax Rate
Unexplained income disclosed in return/detected by AO (A)	60%
Add: Surcharge on it @ 25% of 60% (B)	15%
Total (C) = A+B	75%
Add: Cess @ 4% of 75% (D)	3%
Total Tax Payable (E) = C+D	78%

REASON BEHIND CHANGE IN TAX RATE FROM 30% TO 60%

- Before the amendment in section 115BBE, if any person declared any undisclosed income voluntarily in his return of income, then such income shall be liable to tax @30% u/s 115BBE.
- Further there was no penalty on such disclosure of undisclosed income in return u/s 139(1).
- Post demonetization, if any person deposited his undisclosed income in bank account, he can simply use the above lacuna of the provision and pay 30% tax on his unaccounted money without any penalty.
- Thus, it shall have the effect that if any person having cash or deposits in an account maintained by such person after demonetization representing “undisclosed income” with respect to which he is not able to establish the source of earning income, would have to suffer the tax liability @78% of such undisclosed income.



Thank You...!!!

