

Standing Committee Report Summary

The Benami Transactions Prohibition (Amendment) Bill, 2015

- The Standing Committee on Finance (Chair: Mr Veerappa Moily) submitted its Report on the Benami Transactions Prohibition (Amendment) Bill, 2015 on April 28, 2016. The Bill was introduced in Lok Sabha on May 13, 2015. It seeks to amend the Benami Transactions Act, 1988, which prohibits benami transactions and provides for confiscating benami properties.
- The Bill seeks to: (i) amend the definition of benami transactions, (ii) establish adjudicating authorities and an Appellate Tribunal to deal with benami transactions, and (iii) specify the penalty for entering into benami transactions. Key observations and recommendations of the Committee are summarized below.
- **Need for a new legislation:** The Committee noted that the Income Tax Act, 1961 has adequate provisions to deal with issues of tax evasion and unaccounted wealth. The proposed Bill might result in multiplicity of such provisions. Certain amendments to the Income Tax Act, 1961 to account for unexplained investments made under benami names, will achieve the objectives of the Bill, instead of creating a separate law.
- **Definition of benami transactions:** The Bill defines a benami transaction as a transaction where a property is held by a person, but has been provided by another person. However, if an individual purchases a property using his *income* and the property is held by his family members, it is not considered as a benami transaction. The Committee recommended that such exception must be applicable even if the property is purchased by an individual using sources of money other than income, such as loans. It also stated that the source of funds must be legal.
- **Transactions not covered under definition:** The Committee noted that the current definition of benami transactions does not cater to certain legitimate transactions, such as transfer of property through a ‘general power of attorney’. A general power of attorney is a mechanism by which an individual could transfer his rights to transact on the property to another person. The Committee recommended that such transactions should not be defined as benami under the Bill.
- **Vesting of confiscated properties:** The Bill provides for confiscation of properties which are adjudged as benami properties. Rights over these properties are vested with the central government. The Committee stated that since land is a state subject under the Constitution, rights over confiscated properties should vest with the state governments instead of the central government.
- **Time limit to initiate proceedings:** Under the Bill, an initiating officer might initiate proceedings on a transaction, if he has reasons to believe that it is a benami transaction. The Committee recommended that there should be a time limit within which proceedings against a transaction should be initiated and completed.
- **Time to furnish information:** Under the Bill, the adjudicating authority inquiring into a benami transaction may require the related parties to furnish information within 30 days. The Committee noted that land records in rural India are not traceable, and landowners might require more time for furnishing such information. The Committee noted that such time limit should be extended from 30 days to three months.
- **Time limit for the appellate tribunal to dispose cases:** The Committee recommended that a time limit should be set for the appellate tribunal to dispose the cases under the Bill. The limit could be increased with the approval of a High Court.
- **Extra-territoriality:** The Committee recommended that the Bill should have provisions for transactions where transacting persons and the property are located abroad.
- **Digitization of land records:** The Committee noted that benami transactions could be pre-empted and eliminated by digitization of land records. It noted that amendments in the Transfer of Property Act, 1882 and Registration Act, 1908 may be made to provide for: i) online registration of all immovable properties, ii) linkage of Aadhar and PAN numbers of all parties involved in purchase of a property, and iii) sharing of data by the registration authorities with tax authorities.

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