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EDITORIAL

A WAR AGAINST CORRUPTION AND BLACK MONEY



Convener National Economic Forum, Former Chairman BoS and Member Central Council Institute of Chartered Accountants of India

The Prime Ministers strongest action against corruption and black money by de recognising High Denomination Notes is a historical step. The de monetisation of Rs. 1000 and Rs. 500 Rupee notes on 8th November has brought India on the centre stage of discussion and acclamation worldwide.

The Indian economy has seen major impact of this decision and rampant money laundering exercise has been observed by the entire system:

- Gold and Diamond brisk sale in first 7 days at hefty premium
- Heavy import of Gold officially as well as through other channels
- Transactions in Real Estate at official price in large numbers at hefty premium
- Currency Mafia became active exchanging old HDN notes with new currency
- A large number of bankers and unprofessional middleman contributed to the Chaos of common man by contributing to the currency Mafia

The deposit of old currency in bank accounts also picked up substantially and it looks likely that the entire money in circulation will get deposited by 30th December 2016, barring a small percentage to walk in through RBI exchange route in Jan- March 2017.

The message from the government is loud and clear that " Na Khaunga Na Khanne Doonga". The real war against the menace of black money got strengthened by the nation wide support to the great initiative. The issue being debated is as to what will be the implication

of this move. The following clear indications are coming:

- A higher tax collection voluntarily from a larger number of new and existing assesseees
- A reasonably large voluntary disclosure in new scheme of 50% tax and 25% deposit
- A large additional bank deposit base leaving about 400,000 Crores to 600,000 crores
- The M³ (Money Velocity) of 6 to 10 times to create substantial additional resources for the system
- An expected reduction of interest rates by 300 basis points (3%) lowering EMI and interest burden
- Big push to Housing, Automobiles, Steel, Cement and infrastructure sector
- Revival of Non- performing assets (Bank Loans) with a lower interest burden will ensure sustainability for larger number of borrowers improving potential for debt restructuring, one time settlement and waiver of accumulated high interest burden
- GDP growth to marginally slow down in 5 months ending 31st March 2016, followed by a GDP growth rate crossing 10% in 2017-18
- Less cash economy initiative will require lesser currency issuance by Government
- Significant reduction in public debt and interest rates (Yield to maturity) will reduce burden on the Government and will reduce deficit financing substantially
- Significant reduction in Bank Deposit rates , except for senior citizens and special classes
- A major reduction in Income Tax rates and upward revision of exemption and taxation slabs
- The Government can even consider a lower GST middle rate at 4% lower in the announced rate of 12% and

contd.....pg 8

**LATEST IN FINANCE****1.0 Hedging mandatory for External Commercial Borrowings (ECBs)**

In a bid to effectively address currency risk at the systemic level, the Reserve Bank of India on Monday said borrowers tapping External Commercial Borrowings (ECBs) will be required to cover the principal as well as the coupon through financial hedges. AD Category-I banks will have the responsibility of verifying that 100 per cent hedging requirement is complied with.

2.0 RBI issues final guidelines on large exposure of Banks

In a bid to promote export finance, the government recently constituted a panel headed by the finance secretary to look into various issues.

3.0 RBI gives borrowers 60 more days to repay loans

The Reserve Bank of India (RBI) allowed banks, non-banking financial companies (NBFCs) and district central co-operative banks to retain the 'standard' asset classification on loans of up to R1 crore for another 60 days from the date it would have turned non-performing. This

relaxation will be applicable to home loans, farm loans and working capital loans, among others.

4.0 Irdai allows insurers to be part of joint lender's forum

The Insurance Regulatory and Development Authority of India (Irdai) has allowed insurers to be part of the Joint Lenders' Forum (JLF), formed under Reserve Bank of India (RBI) guidelines for loan accounts that could turn non-performing assets (NPAs).

5.0 RBI overhauls debt restructuring schemes S4A Scheme

RBI has given lenders additional time up to 180 days for hammering out a restructuring package under the scheme for sustainable structuring of stressed asset (S4A). Previously, the time limit was 90 days.

SDR Scheme

- The new promoter should have acquired at least 26 per cent of the paid-up equity capital of the borrower company
- The regulations state the new promoter of the company will also be in 'control' of the

SLEW OF MEASURES TO PROMOTE DIGITAL PAYMENTS

The following incentives have been announced to promote less cash Economy:-

- A 0.75 per cent discount on purchases of petrol and diesel using credit or debit cards, e-wallets and mobile wallets.
- Monthly or seasonal tickets in suburban railway networks through digital modes will get a 0.5 per cent discount, effective from January 1 2017
- Railway tickets online will receive free accidental insurance cover worth Rs 10 lakh,
- Railways will provide a discount of 5% on digital payments for railway catering, accommodation, and retiring rooms.
- Public sector insurance companies will provide incentive(s), by way of discount or credit, up to 10% of the premium in general insurance policies and 8% in new life policies of Life Insurance Corporation sold through the customer portals of 4 PSU Insurers.
- Two point-of-sale machines in every village with a population of up to 10 000, and 1 lakh villages will be selected for this scheme.
- A 10 per cent discount will be provided on payments made using RFID or Fast Tags at Toll Plazas on national highways effective till the end of March 2017.
- To enable mobile banking on feature phones, the USSD charges have been rationalized and reduced from Rs.1.50 per SMS to Rs.0.50
- An application for mobile phone payments (*99#) in four languages has been developed
- Service providers' charges have completely waived the charges for limited time.
- Government waived service tax on debit and credit card transactions fee on transaction up to Rs 2,000
- Point of sales machines to be provided to shop keepers at a very low price of Rs. 100 PM.



borrower company, according to the definition of 'control' provided in the Companies Act, 2013.

- It also adds the new promoter should be the single-largest shareholder of the borrower company, which will allow the promoter to make sweeping changes vis-à-vis board and operations, say experts

5/25 Scheme

RBI has also made changes to schemes that allow banks to extend repayment schedule of loans to 25 years, with the option to refinance at the end of five years. Now, it has allowed lenders to extend the 5/25 scheme to new project loans. The scheme can also be extended to existing project loans with an aggregate exposure of Rs 250 crore to banks, compared to the earlier mandate of Rs 500 crore.

6.0 IRDAI to allow insurers to raise stake in co's beyond 15%

The Insurance Regulatory & Development Authority of India (IRDAI) is open to insurers surpassing the 15% limit on equity holdings in a company under some conditions. Permission to increase equity exposure will be decided on a case-to-case basis.

7.0 Union Budget to be presented on Feb 17

The Union Budget 2017-18 will be presented on February 1.

COMPANY LAW

1.0 Central Government notifies amendment in Schedule II of Companies Act, 2013

Central Government has amended the Schedule II in the companies Act, 2013, under Part 'A', in para 3, to substitute sub paragraph (iii), which deals with provisions of the Accounting Standards applicable to the Intangible assets with- "(iii) For intangible assets, the relevant Indian Accounting Standards (Ind AS) shall apply. Where a company is not required to comply with the Indian Accounting Standards (Ind AS), it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006." This notification shall be applicable for accounting period commencing on or after 01st April, 2016.

DIRECT TAXATION

1.0 Change in method of accounting isn't permissible in middle of FY

The High Court of Punjab and Haryana held that change in system of accounting in midst of financial year is not permitted; hence income tax officer was justified in refusing to permit assessee to switch over system of accounting from cash to mercantile system during midst of financial year.

Munjal Sales Corpn. v. Commissioner of Income-tax, Central, Ludhiana. [2016] 75 taxmann.com 170

2.0 No tax on inherited jewels or bought from 'disclosed income'

The Finance Ministry drew attention of instruction No.1916 which provides that during the search operations, no seizure of gold jewellery and ornaments to the extent of 500 grams per married lady, 250 grams per unmarried lady and 100 grams per male member of the family shall be made. Further, legitimate holding of jewellery up to any extent is fully protected, the release added.

3.0 New tax treaty with Cyprus

A substantial amount of investments into the real estate sector in India had come through the Cyprus route. After the government in November 2013 notified Cyprus as a non-cooperative jurisdiction over tax matters, concerns had risen over the applicability of exemption from capital gains tax for existing deals. The amended tax treaty provides India the right to tax capital gains on the sale of shares by a Cyprus company. However, what comes as a major relief is that investments made prior to April 1, 2017, will not be liable to capital gains tax in India.

4.0 CBDT notifies forms & rules to furnish statement of income distributed by securitization trust

CBDT has inserted Rule 12CC after Rule 12CB in the Income-tax Rules, 1962, to notify the statement to be furnished by securitisation trust to Income Tax department and to Investor in accordance with Section 115TCA of Income Tax Act, 1961.

CA Certified copy of "Form No. 64E" is to be furnished by securitisation trust to the Principal



Commissioner or the Commissioner of Income-tax as the statement of income distributed in accordance with prescribed manners and time limits.

Verified Copy of Form No. 64F is also required to be issued to the investors in the prescribed manner and time. Further format of Forms are also notified in the same notification.

Notification No. 107/2016, Dated 28th November, 2016

5.0 Revised guidelines for application of Section 9A – Fund Manager

CBDT has amended Rule 10V of the Income Tax Rules which provide guidelines for application

of Section 9A of Income Tax Act. Section 9A was inserted from 1st April, 2016 which defines certain activities not to constitute business connection in India for the purpose of Income Tax Act.

Effects of the amendment under Rule 10V are as follows-

- Now the institutional entity which is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf can also invest directly in the eligible investment fund if it fulfils other conditions prescribed (this is a fund established or incorporated or

NEW INCOME DISCLOSURE SCHEME

DO OR DIE FOR BLACK MONEY HOLDERS

Pradhan Mantri Garib Kalyan Yojana, 2016 gives an opportunity to all the black money hoarders to come out clean by declaring their undisclosed income and paying heavy taxes and penalty. The provisions of scheme require declarants to pay-

1. Tax @30% of the undisclosed income.
2. Penalty @10% of the undisclosed income.
3. Surcharge @33% on the amount of tax, which amounts to approximately 9.9 % of the undisclosed income.

The total amount payable will be 50% of undisclosed income .

Deposit: Apart from paying tax and penalty, the declarants will also be required to deposit 25% of the amount disclosed in the Pradhan Mantri Garib Kalyan Yojana, which will be interest free deposits locked in for a period of 4 years.

After analysing the provisions of the new scheme and the amendments made in the existing provisions of the Income Tax Law, a person holding black money is left with **three options-**

- Declaring income under PMGKY, by filling a declaration form attracting a tax of 50% (30% tax, 33% surcharge on tax, 10% penalty) and depositing an additional 25% of income in the Pradhan Mantri Garib Kalyan Yojana, 2016 (which is refundable after 4 years)
- Declaring income, while filing the return of income

under section 115 BBE [i.e. not declaring the income in the PMGKY but declaring at the time of filing the return] attracting a tax of 75% (60% tax and 25% surcharge on tax). The rate of 75% is as per the amended section in Income Tax Law.

- Not declaring income and taking chance with the Income Tax Department and attracting a tax of 85% (60% tax, 25% surcharge on tax and 10% penalty) when caught. In this case, prosecution provisions will also be applicable.

There is another aspect of the third option in case of applicability of Section 271AAB i.e. in case there is a search in the premises of the assessee, in addition to the above taxes and surcharge an additional penalty of 30% is payable , in case income is accepted during the search process and entire tax , interest and penalty is paid at the time of filing the block assessment return, failing which the penalty under section 271AAB will be further increased by another 30% i.e. penalty @ 60% on the undisclosed income.

It may be noted that in terms of section 271 AAB , the income accounted for in books of accounts at the time of search cannot be termed as undisclosed income and no penalty under section 271AAB can be levied, as the income is excluded from the definition of undisclosed income.

The applicability of section 115 BBE will be limited to cases which are covered by ambit of section Section 68, 69, 69A, 69B , 69C and section 69 D. These sections will cover cases where the income tax officer "Found" or voluntarily so declared by the assessee.



registered outside India, which collects funds from its members for investing it for their benefit and fulfils the conditions provided in Section 9A).

- Fund manager shall not be considered to be a connected person of the fund merely for the reason that the fund manager is undertaking fund management activity of the said fund.
- Any remuneration paid to the fund manager, by the fund, which is in the nature of fixed charge and not dependent on the income or profits derived by the fund from the fund management activity undertaken by the fund manager shall not be included in the profits referred to in the said clause, if the conditions specified under section 9A are satisfied and such fixed charge has been agreed by the fund manager in writing at the beginning of the relevant fund management activity.

Notification No. 106/2016, Dated 21st November, 2016

6.0 Section 115BA-Depreciation restricted to forty per cent

CBDT has restricted the allowability to forty percent (40%) in respect of depreciation of any block of assets entitled to more than forty per cent under section 32(1)(ii) of the Income-tax Act, 1961 with effect from the 1st day of April, 2017.

This restriction is only for a domestic company which has exercised option under section 115BA(4) of the Income-tax Act, 1961 who has opted for paying 25% Income tax instead of 30% from financial year starting from 1st April, 2017

Notification No. 103/2016, Dated 7th November, 2016

7.0 New Income Tax Rule 12E on 'Prescribed Authority under Section 143(2)' notified by CBDT

CBDT has inserted new Rule 12E after Rule 12D of Income Tax rules, 1962 to notify the "Prescribed Authority" for serving the notice for the purpose of section 143(2). Under this Section assessee is issued a notice to attend the office of the Officer to produce any evidence on which the officer may rely in support of the return.

Under the new inserted rule CBDT has notified that the income-tax authority not below the rank of an Income-tax officer who has been authorized

by the CBDT to act as income-tax authority for section 143(2).

Earlier, in the Section 143 (2) of Income Tax Act, prescribed income-tax authority was not defined for the purpose of serving the notice

8.0 Exp. on issue of bonus shares should be allowed as revenue exp, rules Bombay HC

The High Court of Bombay held that expenses incurred for issue of bonus shares are to be allowed as revenue expenditure.

Commissioner of Income-tax-2 v. Tata Chemicals Ltd. [2016] 75 taxmann.com 228

9.0 New cars used in hiring business are entitled to higher depreciation irrespective of their use for public transport

The ITAT Ahmedabad Bench held that on new induction of motor car, depreciation at higher rate would be admissible to assessee engaged in business of giving vehicles on hire; such vehicles needed not be used for public transportation for people.

Shree Balaji Products v. Income-tax Officer, Ward-7(1), Ahmedabad. [2016] 75 taxmann.com 231

10.0 Fee for implementation of SAP software is revenue exp

The High Court of Bombay held that Professional fees paid by assessee to its collaborator for implementation of SAP software programme for enhancing efficiency of its organisation is revenue expenditure.

Commissioner of Income-tax v. KSB Pumps Ltd. [2016] 75 taxmann.com 184

11.0 Signing of 'Joint Declaration' by India and Switzerland for the implementation of Automatic Exchange of Information (AEOI) between the two countries

India and Switzerland for the implementation of Automatic Exchange of Information (AEOI) between the two countries has signed the 'Joint Declaration'. As a result, it will now be possible for India to receive from September, 2019 onwards, the financial information of accounts held by Indian residents in Switzerland for 2018 and subsequent years, on an automatic basis.

PRESS RELEASE, 22nd November, 2016



12.0 Chapter VI-A deduction on enhanced profits

CBDT has accepted the settled position of the various cases settled by Gujarat High Court, Bombay High Court, and Allahabad High Court and has decided that the disallowances made under sections 32, 40(a)(ia), 40A(3), 43B, etc. of the Income Tax Act, 1961 and other specific disallowances, related to the business activity against which the Chapter VI-A deduction has been claimed, result in enhancement of the profits of the eligible business, and that deduction under Chapter VI-A is admissible on the profits so enhanced by the disallowance.

Accordingly, it has decided that the appeals will not be filed on this ground by officers of the Department and appeals already filed in Courts/Tribunals deemed to be withdrawn/ not pressed upon.

Circular No. 37/2016, Dated 2nd November, 2016

13.0 Payment made to labour contractor to procure material on behalf of builder assessee won't attract sec. 194C TDS

The ITAT Bangalore Bench held that where assessee entered into a contract with a party to supply labourers for construction of flats, mere fact that assessee procured materials also through said contractor without any profit markup involved therein for contractor, it could not be regarded as a case of composite work contract and, thus, assessee was not required to deduct tax at source while making reimbursement of cost of materials supplied.

Dhanashekar Muniswamy v. Assistant Commissioner of Income-tax, Circle-6 (1), Bangalore. [2016] 75 taxmann.com 111

CAPITAL MARKET

1.0 Sebi raises employee quota in public offers

Sebi has notified norms to increase the value of such allotments to Rs5 lakh, up from Rs2 lakh currently, under staff quota.

2.0 Sebi re-constitutes panel on corporate bond market

Markets regulator Sebi re-constituted its committee that suggests roadmap for developing

corporate bond market in the country. The 28-member committee would be chaired by Shyamala Gopinath, former Deputy Governor at the Reserve Bank.

3.0 Review of requirement for copy of PAN Card to open accounts of Foreign Portfolio Investors (FPIs)

Based on representations received from stakeholders and to further ease the PAN verification process at the time of account opening of FPIs, it is decided that the intermediaries can verify the PAN of FPIs online from website authorized by Income Tax department at the time of account-opening for FPIs. However, FPIs need to provide the copy of PAN card within 60 days of account-opening or before remitting funds out of India, whichever is earlier to their intermediaries.

CIR/IMD/FPIC/123/2016, Dated: November 17, 2016

4.0 Other Updates

- SEBI has issued guidelines for Investment/trading in securities by employees of Asset Management Companies (AMCs) and Trustees of Mutual Funds where schemes are floated by Mutual Funds / AMCs.
- Shri Gurumoorthy Mahalingam took charge as Whole Time Member, Securities and Exchange Board of India in Mumbai on Nov 09, 2016 for tenure of five years or till attainment of 65 years of age whichever is earlier
- SEBI has issued guidelines for functioning of Stock Exchanges and Clearing Corporations in International Financial Services Centre (IFSC).

INDIRECT TAXATION

1.0 Service Tax on AC Restaurants is unconstitutional

The High Court of Kerala held that levy of service tax on Air Conditioned Restaurants is unconstitutional since when food is supplied as part of any service, such transfer would be deemed as sale. Thus, there is no component of service which could be charged to service tax



when food is supplied by Air Conditioned Restaurant.

Kerala Classified Hotels & Resorts Association v. Union of India. [2016] 75 taxmann.com 272

2.0 No denial of ST refund to export just because invoice didn't contain details of port and service description

CESTAT, New Delhi bench held that Service Tax paid on Terminal Handling Charges, bills of lading charges, origin haulage charges, repo charges, etc. and Custom House Agent's services used for export goods is eligible for refund in hands of exporter.

Fateh Granite & Marbles (P.) Ltd. v. Commissioner of Central Excise & Service Tax, Jaipur-II. [2016] 75 taxmann.com 179

3.0 Value of non-excisable and exempted goods should be excluded to decide eligibility of SSI exemption

CESTAT, New Delhi bench held that for deciding eligibility to SSI-exemption Notification, turnover is to be computed as follows : (a) value of non-excisable and exempted excisable goods is to be excluded; (b) value is to be computed at transaction value, as per Central Excise Act and valuation rules; and (c) value of goods liable to duty based on retail sale price, is to be computed after giving benefit of abatement from retail sale price.

Wenger And Company v. Commissioner of Central Excise, Delhi-I. [2016] 75 taxmann.com 243

4.0 Withdrawal of exemption on service tax on cross border B2C OIDAR services provided online/electronically from a non-taxable territory to consumers in taxable territory in India

Government of India vide notification no. 46/2016-ST, 47/2016-ST, 48/2016-ST and 49/2016-ST all dated 9th November, 2016 notifies that Service tax would be chargeable on Online Information and Database Access or Retrieval [OIDAR] services provided by any person located in non-taxable territory and received by Government, local authority, governmental authority, or an individual in relation to any purpose other than commerce, industry or any

other business or profession with effect from 1st December 2016. Service tax shall be payable in reverse charge by the service receiver in the taxable territory.

5.0 Point of Sale (POS) Devices exempted from Excise till 31.03.2017

Two new Sl. No. 256A and 256B has now been inserted in Notification No. 12/2012-C.E. dated 17.03.2012 providing unconditional exemption to the Point of Sale (POS) Devices till 31.03.2017. Sl. No. 256B further exempts goods required for the manufacture of the Point of Sale (POS) Devices provided Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001, is followed.

Notification No. 35/2016-C.E. dated 28.11.2016

6.0 CVD exemption on gold coins (gold content not below 99.5%, and gold findings withdrawn

The CVD exemption earlier available to the Gold coins having gold content not below 99.5% and gold findings vide Sl. No. 323 of Notification No. 12/2012-Cus. Dated 07.03.2012 has now been withdrawn.

Notification No. 59/2016-Cus dated 01.12.2016

FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	0.95	0.88	0.87	0.84
SENSEX	26515.24	26912.39	28082.34	28384.21
NIFTY	8170.80	8321.25	8708.80	8729.85
CRR (%)	4	4	4	4
REPO (%)	6.25	6.25	6.25	6.50
REVERSE REPO (%)	5.75	5.75	5.75	6.00
Gold (per 10 gm)	27477	29733	29809	31150
Silver (per kg)	41119	43770	42231	45524
Crude (USD/bbl)	47.69	45.96	49.83	45.88
₹ vs USD	67.58	67.03	66.58	66.55
₹ vs Euro	71.76	73.12	74.40	75.02
₹ vs 100 Yen	59.06	62.94	64.56	65.13
₹ vs RMB	9.75	9.86	9.94	10.01
₹ vs Pound	85.13	84.18	82.48	88.59
MCX Aluminium (per kg)	117.75	118.25	111.80	104.55
MCX Copper (per kg)	392.50	377.90	321.55	311.85

*As on December 10, 2016

(Sources: MoneyControl, NSE, BSE, RBI, MCX)

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18%. The Excise duty rates and Service tax rates can be immediately cut pending the GST implementation, which is likely to take some more time in consensus building

- Mandatory electronic interface between tax assessee and tax officials has already been announced. In case it is implemented in direct and indirect taxes this year, a major blow to hit corruption can be achieved.

The persuasive approach of Prime Minister has distinguished clearly between the honest and dishonest tax payers. The incentive to hoard cash will also wane away in the course of time. The

properties will become affordable even by the honest. Several other sin in the society will get a big hit for example dowry, lavish expenditure on marriages, unnecessary spent and accumulation of jewellery and so on. Even the terrorism and other crimes will reduce with more and more cash less economy.

Can we achieve upliftment of common man, make in India and evolution of India as number one economy will depend on how fast we move along with Prime Minister and take his initiative forward. The complete eradication of black money will depend on determination of the society leaving a better honest economic system to the next generation.

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