

# ***BENAMI LAW - AT A GLANCE***

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### **EXTENSION OF TIME LIMITS SPECIFIED BY, OR PRESCRIBED UNDER, THE PROHIBITION OF *BENAMI* PROPERTY TRANSACTIONS ACT, 1988 (PBPT ACT) DUE TO COVID19 PANDEMIC**

Section 3(1) of the *Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020* [see **Appendix**] provides for the extension of time limits specified in or prescribed under the PBPT Act as under:

<i>What time limits shall stand extended</i>	<i>Extended till what date</i>
Extension shall apply in respect of time limits which fall during the period 20.03.2020 to 29.06.2020 or such other date after 29.06.2020 as may be notified by the Central Government.	The time limits shall stand extended to 30-6-2020 or such other date after 30.06.2020 as may be notified by the Central Government

The extension of time limits as above shall apply regardless of whether

- (a) The time limit is applicable to any authority or commission or tribunal, by whatever name called, under the PBPT Act, for:
- Completion of any proceeding or
  - Passing of any order or
  - Issuance of any notice, intimation, notification, sanction or approval or
  - Such other action, by whatever name called
- (b) The time limit is applicable for:
- Filing of any appeal, reply or application under the provisions of the PBPT Act or
  - Furnishing of any report, document, return, statement or such other record by whatever name called

However, *see* also **Para 29.2**.

## 2

### WHAT IS 'BENAMI TRANSACTION'?

***Benami transaction is a transaction or arrangement whereby the identity of real owner (beneficial owner) of property is concealed by showing someone else (benamidar) as owner on record. The beneficial owner provides or pays consideration for purchase of property.***

*Benami transactions can be entered into by 'any person' (viz., individual, HUF, firm, company, trust, etc.). The benamidar can be any person. So also, the beneficial owner can be any person.*

***There are 4 categories of Benami Transactions***

#### **CATEGORY I : TRANSACTION OR ARRANGEMENT WHERE CONSIDERATION PROVIDED BY PERSON OTHER THAN THE TRANSFEREE OR THE PERSON IN WHOSE NAME PROPERTY IS HELD**

Under category I, all the following conditions must be satisfied for a transaction to be called a *benami* transaction :

- ◆ The transaction or arrangement actually takes place;
- ◆ Transaction or arrangement results in property being transferred to, or property being held, by a person (*benamidar*);
- ◆ Consideration is paid or provided by person other than the *benamidar*. Such person is called 'beneficial owner';
- ◆ Neither the *benamidar* nor the beneficial owner is fictitious or untraceable;
- ◆ *Benamidar* is aware of and does not deny the transaction or arrangement;
- ◆ The possession of property is with *benamidar*; and
- ◆ The property is held by the *benamidar* for the immediate or future benefit, direct or indirect, of the person providing the consideration (beneficial owner).

#### ***Exceptions to Category I Benami Transactions***

*In following circumstances transactions shall not be regarded as 'Benami Transactions', even though consideration is paid by someone other than the benamidar (person in whose name property is held) and the property is held in benamidar's name.*

#### **1. HUF PROPERTY HELD IN THE NAME OF KARTA/MEMBERS OF HUF** - To avail the exception, following conditions need be satisfied :

- ◆ Property is held by the *karta* or a member of a HUF;