
PREFACE

The black money has substantial impact on the economy. Because of use of black money in the economy, actual GDP cannot be shown, actual tax realisable are not realised and resources required for development are not gathered. Crime and corruption also add to the growth of black money. Another dimension of black money is counterfeit currency which is thrown into the economy by vested interests within and outside India. Inspite of several opportunities provided in the past by the Government to the people, in the form of voluntary disclosure schemes, to pay the tax on their undisclosed income, the tendency to carry business and personal transactions through untaxed money and accumulating cash (and assets) through black money including crime and corrupt money was not reduced. Fake currency was in circulation and every year large sum of fake money was pumped into India. Also, there were informal sectors where cash transactions were carried out in High Value Currency Notes. Therefore, in order to control growth and accumulation of unaccounted, crime and corrupt money and also to control the growth and circulation of counterfeit currency, the Government, in addition to promoting e-transactions, demonetised High Denomination Currency Notes (of ₹ 1000 and ₹ 500) on 08-11-2016. It was expected that demonetisation will take out from the circulation, about 86% of the currency.

All the demonetised currency was required to be deposited in the bank by 31st December 2016 and in special cases to RBI by 31st March 2017. Certain concessions were announced by the Government such as no verification shall be done in case of deposits upto 2.50 lakhs per person. Even thereafter, it was expected that large amount of black money would be surfaced and bring taxes to the Government required for growth. In addition

to demonetisation, the Government also opened certain other windows such as PMGKY for bringing unaccounted cash so deposited in the bank into mainstream of economy. For pushing the people to opt for the scheme, PMGKY, the Government also made amendment in section 115BBE by raising tax rates from 30% to 60% in cases of deposits not satisfactorily explained and which are taxed as deeming income under Chapter VI of the Income-tax Act.

The cash deposited in the banks after 09-11-2016 till 31-03-2017, had fallen for the assessment under Income-tax Act in the FY 2016-17 relevant to the AY 2017-18.

The Government formulated a comprehensive policy for voluntary compliance, verification, investigation, and assessment, including those relating to cash deposits post demonetisation. Some of the objectives were (i) Promote voluntary compliance by e-delivery of services and reducing taxpayer compliance costs (ii) Collect timely and accurate third-party information from Reporting Entities (iii) Increase collaboration and data exchange with government agencies and data exchange partners (iv) Effective identification, assessment and management of risks by leveraging technology and data analytics (v) Effective deterrence for habitual offenders to deter serious and repeated non-compliance. Keeping these objectives in mind, various approaches/explanations to cash deposits were visualized and verification machinery was put into service. Surveys and searches under the provisions of the Act were also carried out and after following due process of Law, assessments of cash deposits were finalized by December 2019. The Government further announced in March 2020 a scheme called Direct Tax Vivad se Vishwas Act, 2020 so as to settle tax disputes pending before Appellate Authorities by only paying taxes and without facing the penalty.

There is no doubt that some of the taxpayers have manipulated evidence to explain their untaxed money, being old currency notes (SBNs) deposited in the bank and Income-tax Department has very efficiently and effectively exposed such manipulation. But in some cases, there have been either violation of due process of law or assessments were made on the basis of misunderstanding of Law or without support of adequate evidence. Many of those

cases where additions have been made on the basis of adequate and direct evidence are preferring VSVT scheme to settle their tax disputes arising out of tax deposits of SBNs in the bank.

Since, it has been experienced that there has been some misunderstanding, on both the sides, the taxpayers and tax collectors, about the law relating to assessment of cash deposits in the bank, a need is felt to compile the relevant data, views and decisions, analyse them and put them at one place. This is expected to help the taxpayers, their counsels, and Departmental Authorities to decide the issues in proper perspective in the light of most appropriate proposition of Law.

To make the work comprehensive, several articles written by me and published in various magazines of Taxmann were utilized, Circulars issued by CBDT and decisions rendered by Income Tax Appellate Tribunal, High Courts and Supreme Court were referred wherever required. Certain topics like revision u/s 263, reopening u/s 147 and power of enhancement of CIT(A)/Tribunal were added so as to provide material in case issue relating to revision or reopening or enhancement crops up in post assessment period. The chapters are designed in the form of independent articles so that material relating to that issue are compiled at one place. Since all the chapters are independent, it is possible that some propositions may find place in more than one chapter. This may appear repetitiveness but it was considered appropriate to make the article in the chapter comprehensive.

Objective of the book is (i) to provide general idea about the tax consequences of demonetisation (ii) to provide an insight into various modes used by the taxpayers to explain their cash deposited in the bank (iii) to highlight the conditions under which various deeming provisions under Income Tax Act can be applied (iv) to highlight the requirement of documentary evidence in support of explanation furnished by the assessee (v) to highlight the circumstances under which enhancement, revision or reopening can be done and (vi) to highlight the circumstances under which penal provisions in relation to cash deposits can be invoked. It is possible that some readers may want quick answers to certain questions. In order to meet this requirement, a chapter on selected questions and answers, which may be called FAQs on

the issues relating to assessment of cash deposits has also been inserted in the book.

As a supplement I have incorporated topics on “power of enhancement by CIT(A) and Tribunal”, “Reopening and reassessment” and “Revision u/s 263” so that usefulness of the book is increased.

In this book, the material available in public domain and the websites of Taxmann and other agencies have been used. Largely, it is a presentation of available data in a form suitable to the issues arising from cash deposits post demonetisation giving personal views wherever considered appropriate.

Even though all the efforts have been taken to make the work error free, it is possible that some inadvertent errors might have crept in. It is sincerely hoped that readers will forgive me for these errors. As and when they come into my notice necessary corrections will be done.

With these words I dedicate this book to esteemed readers, with the hope that it will render maximum assistance to them to defend their cases before Appellate Authorities.

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