

ERA WITHOUT BLACK MONEY

The money is money. Colour of money is the definition of tax law of each country. Where there is no income tax there is no colour of money and therefore there is no black money. In the sovereign country, taxation is must and therefore the chances of production of black money are always there. The taxation system sometimes also facilitates the opportunities to the players in the form of treaty leverage, territory benefit, exemption based deductions etc and they evade the tax and remain faithful to the country. International players always keep tax leverage as one of the preferred item in their overall agenda of business strategies. It is also said and also the adopted culture of high end business circle that the evasion of tax is not crime but it is wisdom of tax payers known as tax planning. The debates, the disputes, the litigations, the studies, the recommendations of the committee, the amendments in the law, the political chemistry and the willingness of the ruling and non ruling parties, the life style of rich and influential, the reaction of society, the demand of black money in the political system, demand of religious sector, demand by responsible at various levels etc etc are lot many factors which gives momentum to black money generation and in spite of the fact that everybody of political system, tax system, parliamentary system, judicial system, media system and all other responsible and intellectuals in the society are somewhere, somehow possess, enjoys and facilitate the presence of black money in the system and very well know that how black money is generated , how it is preserved, how it is kept, how it is circulated and how it is used, but so far no perfect check and control could be implemented and achieved by the system and the government.

This is fundamental that if we want dust free street then we will have to find end to end solution of cementing the same or to cover with defined park area or so. Black money eradication from the country also requires an end to end mapping of leakage area and gradually seal all such leakages from the system. Since independence, we all tested and experienced and enjoyed and tolerated also the plus and minus of black money. The time we lost has formed a tradition and culture of the common man and it is not easy to bring and test an era without black money. The design of certain business are so embedded and tuned with black money that the concerned business man is not able to think of the existence and survival of his business without black money and for that a system oriented confidence reposition from related government

authorities is necessary. The purchasing power of the common man is also correlated with the existence of black money and lot many other factors which promotes black money but eventually the nation suffer. But I understand that once wholehearted action plan is designed then imagination of an era without black money is not impossible and one day we may also be a white colour economy like other countries in the world.

I have observed and evaluated the recent measures and steps taken under various law rules and regulations and also studied the determined strides of the present government. I have also observed the pressure of organised and systematic growth of the economic system of the country by the internal and external business forces and I guess that, it is most likely that we all may see a black money free era in the country within 3 to 5 years time scale.

I have discussed here the various measures and the steps taken by the government to control generation, consumption and parking places of black money in the country in this article as under

1. Section 56 Of The Income Tax Act

Section 56 (v) Of the Income Tax Act 1961 is the roll back version of already abolished gift tax in the year 1997. Due to this abolition large scale wealth were transferred to non relatives also and was a great tool to generate and consume black money. The then government felt the requirement to plug this leakage area and had to introduce section 56 (v) in the finance (no-2) act 2004. There after subsection vi, vii, viia, viib and ix introduced in subsequent years to control the generation of black money through share transactions, through real estate transactions, through anonymous gifts etc held with non relatives. This section has given very good results and in almost all asset class under and over valuation tactics to consume as well as generate black money by and large controlled to a great extent. The provisions of the section are therefore quiet meaningful and achieved the purpose of legislature.

2. Income declaration scheme 2016

The honourable finance minister has proposed a income declaration scheme 2016 to be commenced w.e.f. first of June 2016 and close by 30 the September 2016. This scheme is brought basically as a last opportunity to the persons who failed to file their return of

income and either has not declared or under declared their income. The levy of overall tax etc is fixed flat at 45 %. The scheme is rational and one must opt the same because in comparison to maximum flat tax @ 30 %, only 15 % burden is more which a person has already saved in the form of interest leverage etc by not paying the applicable taxes in earlier years in time. I think that the government holds now majority data base to identify income and wealth both of every target person who escaped from the tax system. Day by day due to software support and other information network it will be difficult for a liable person to remain out of the tax net if he is supposed to be there. I would like to suggest all such persons to avail the opportunity as the government appears very strong to close the chapter of black money from our country. The existing tax savvy lobby feels that it is injustice to them that they are in loss by complying in time vis a vis present scheme, but still in the national interest they may stay cool so it's a fair scheme and one should exit from the black money to see a peaceful future.

3. Phasing Out Incentive Based Deduction

It is noticed that wherever there are incentive or exemption based tax system to promote trade or to give benefit to the society or to direct economy, some devices, tactics or adjustments came in to vogue to save taxes from that route and make the provision litigatory and such provisions are also responsible to generate black money and promote bribery to let go the issue. But recently, the government has expressed its intention in the finance bill 2016 to phase out all incentive based taxation and by and large majority of them will be no more by the end of financial year 2020. This was the commonly known leakage area and likely to be plugged in.

4. Money Laundering Act

Money Laundering Act came in force in the year 2002. The provisions of the act are generally to administer and control all economic offence related and crime related proceeds including its concealment, possession, acquisition, or use and projecting or claiming the same. Once the offence is proved the subject money or asset is confiscated by the govt which prevents a person to enjoy the same and discourages the attempts in the sense that the purpose for which he has committed offence or crime that he will enjoy the rest of life with such money is not served as the money does not remain with him and over and above he is also subject to prosecution and may face imprisonment also. Thus in almost all

fraud cases the provisions of the element of black money and money laundering both are simultaneously checked. This is an effective act.

5. Declaration Of Wealth By All Govt Employees

This has been made obligatory on all government employees. This however is very old requirement but little more emphasis is now given by all govt departments on this issue and the person who is not declaring is under watch of the vigilance department. Worldwide administrative and other influential govt machinery are more exposed for the demand of bribe which encourages a common person to generate black money willy nilly. The compulsory declaration of the wealth by govt employees is some sort of pressure and some where controls the demand of black money

6. Guideline Value

By and large the guideline value mechanism has become a powerful tool in the hands of taxation authorities which decides minimum transaction value for the purpose of income tax and eliminates the possibility of generation and consumption of black money to a great extent. But it is observed that very big gap into the real and guideline value sometimes make the mobility and liquidity in the transaction difficult or again black money oriented adjustment becomes unavoidable. The government should examine the rationales of the overall mechanism, its workability, its genuineness, its ease of getting done, and ultimately to encourage and develop a tendency in the mind of common man that " no no what is the use of doing cash transaction if there is no extra load of stamp duty or income tax to me .. sorry i won't prefer such deal " if both buyer and seller side is of this thinking then the entire segment will be black money free which will be a game changer orientation in the tax system and eventually in the economy.

7. TDS On Purchase Of Immovable Property

With effect from 1-6-2015 as per the provisions of section 194IA of the Income Tax Act 1961 it has become obligatory on the transferee of the property to deduct TDS @ 1 % on the entire consideration value where it exceeds Rs 50 lacs. The provisions have taken into clutches all such transactions under the information net work of the income tax authorities and the possibilities to unearth dubious deals increased.

8. Section 285BA Oriented AIR

Section 285BA is a powerful tool in the hands of the Income Tax Department and other authorities to watch all major and special transaction from the tax evasion point of view. The recent changes in rule 114 B, to 114 E are the fresh outlook of the government to bring more transactions into that information network. One such important provision in rule 114B inserted is to obtain PAN of each person who is dealing for a transaction exceeding Rs 2 lac either cash or cheque or obtain form 60 and file form 61. Second in rule 114 D each businessman under tax audit is under an obligation to provide annual information return u/s 285BA of the person from whom he received a cash payment exceeding Rs 2 lac in a year against sale of goods and services and file form no 61A. These provisions will have far reaching changes in the governance to control black money oriented deals. These requirements will discourage peoples who do not like to come under the taxation network or otherwise they will have to remain a small player and suffer their business volumes. On the other hand the genuine businessman will avoid doing business with such persons who show reluctance to obtain PAN or to pay respect and regard to the tax system of the country.

9. Shell Company Checks

The income tax department network has identified thousands of the companies as shell companies who are someway or other involved in the process of conversion of black money into white money. Stock market regulator SEBI has also identified hundreds of shell listed companies who were somehow or other involved in money laundering transactions or black money conversion transactions. A big in fact very big tool prevailing in the country is now collapsing. The large scale conversion transactions are almost negligible or stopped and the department is also reopening such cases to bring those transactions in the tax net. This is of course a late step but was inevitable to discourage black money generation and consumption system in the country. Here I would like to suggest that the persons who facilitated the conversion should also be equally responsible in comparison to the person who got the conversion done. Both ends should be discouraged.

10. **Income Tax Scrutiny Criteria**

CBDT from time to time fix the criteria for manual as well as computer assisted selection of scrutiny (CASS) in which if a person has taken unsecured loan exceeding Rs 10 lac, or a person has disproportionate cash transactions in his bank statement during the year then in spite of cheque transactions and PAN and TDS, the case may be selected for scrutiny to examine such transaction. The system therefore alarm assessee to undertake carefully such transaction or stay away with such transactions. In the scrutiny the provisions of section 40A(3), 68, 69,69A,69B,69C 69D 269SS,269T etc are also taken care of which discourage cash transactions.

11. **Transfer Pricing**

International as well as domestic transfer pricing oriented taxation law of the country brought many fake, under invoiced, over invoiced, financial, commission, royalty, or other similar transactions having tax leverage in to the close observation of the authorities which brings pressure on the relevant assessee to become fair and transparent to the tax system.

12. **GAAR – General Anti Avoidance Rules**

These rules were first introduced by the finance act 2013 and were likely to be implemented w.e.f 1-4-2016. But it is deferred due to some or other reason and now it is likely to be made applicable w.e.f 1-4-2018. The provisions are very important so far as transactions involving any arrangement like round tripping finance, accommodating party, offsetting effect transactions, disguised transactions, lack of commercial substance etc. This all will help to control black money generation as well as consumption.

13. **Black Money ACT**

The Provisions of Black Money (Undisclosed Foreign Income And Assets) And Imposition Of Tax Act, 2015 are made applicable to Indian residents. Such assessee are required to disclose their wealth which was parked anywhere in the world either by transfer of their Indian income or by earning income outside India and not declaring the same in India. They have to disclose such income as well as wealth, bank account details etc compulsorily in their income tax return. This is a great measure to stop wealth flight out of India and everyone concerned who is defaulter will be liable for huge

penalty etc under the above act besides consequences of income tax act.

14. **Benami Property Act**

The provisions of Benami Transactions (Prohibition) Act 1988 is proposed to be amended vide Benami Transactions (Prohibition) Amendment Bill, 2015 pending parliament. The amendment if comes in force then it will cover all movable and immovable properties held in the name of name lenders or non existing persons or dummy persons except some relatives. This will be a very good law of legislature which will bring all unaccounted wealth into the account of actual holders. I observed that for the purpose of avoiding wealth tax or land ceiling or to take government benefits or to park black money in to land pieces, lot of benami properties are held which somewhere also contributes and encourages the generation of black money and its consumption. The measures through the provisions of the act will be of great help to bring down the magnitude of black money in the country.

15. **No Compromise For Jewellers On Excise**

Recently, the honourable finance minister appeared quite sturdy to jeweller's community that in any case excise on gold will not be rolled back. It is an example of strong governance and I appreciate the same. In spite of the potential political loss among the peoples of said powerful community the ruling government took this step which is a strong signal of positive politics where national agenda comes first and thereafter party agenda. Everybody is aware that the gold and jewellery is an asset class which is popularly popular for the parking of black money. This is unproductive asset class for which every year huge forex is expended by our country which is in the region of 60-70 billion dollars. Once the entire sector is brought in the taxation network then the consumption of black money may gradually reduce, tax will be generated, import will be reduced and ultimately the tendency of parking of black money will be reduced to a great extent.

16. **Upcoming GST**

Indirect tax system and its leakage is very much responsible to generate black money. GST is a time tested solution worldwide and is a most efficient indirect tax model. Though GST is facing lot of resistance since introduction of the concept in our country due to lack of overall political willingness which requires moral depth to

consider nation first, then party politics. But in spite of all odds one day it will come into play I hope. The prudent business class worldwide and also in our country is eagerly waiting the enactment of GST. It is observed that among the most of the business class nobody wants tax evasion but due to prevailing practices in the market may be of peers, they are forced to do that. Once GST is ok the good days of genuine businessman and entrepreneurs will command the market trends and traditions and gradually non tax savvy elements will go out of the business. One more thing which I guess that once GST bill is passed and effectively implemented in our country , huge FDI across the sectors will be attracted because the players want a seamless and end to end tax system and do not like to fight with the bureaucracy or in the judiciary or at any other level. There lust and thrust is to do business for which our country may provide lot of opportunities.

17. Real Estate Act

The provisions of Real Estate (Regulation & Development) Act 2016 will help regularising the overall real estate sector and the generation and consumption of black money in the sector will be the talk of history. So far real estate happened to be the most desirable and preferred parking place of black money at the end of builders as well as consumers. Due to the above ACT read with other provisions of income tax act etc the entire system will weed out the presence of black money.

18. Form Number 15CA/CB Of The Income Tax Act

Earlier the foreign remittance from the country had no strong surveillance mechanism and it was easy to transmit any amount of money from our country to anywhere in the world. Since there was no check on such remittances and the possibilities of flight of unaccounted money cannot be ruled out. But due to the requirement of form no 15CA/15CB the watch and control of the RBI could be possible to control non purposeful money flight from our country. This has also controlled parking of black money out of India through official banking channels.

19. Competition Act 2002

The provisions of competition act are to keep check on cartelism and unfair trade practices. Cartelism prevails worldwide but wherever the law is strict it is minimised. Cartelism promotes

profiteering activities which is more than normal profit and which is endless and ultimately leads to generation of black money. To hide cartelism the business man try to show less profit in the books and siphon out the excess profit enjoyed due to cartelism and generates black money. In our country the law is there but the business lobby is very strong and the system fails to identify such activities, or ignore it or take lacklustre steps to punish the concerned parties. Little more tightness in the provisions may discourage such activities and help creating a black money free economy.

20. FATACA and joint forum for AEOI

Recently, leaders of G20 countries agreed and fully endorsed the OECD model for establishment of a joint forum for automatic exchange of information (AEOI) which will facilitate the identification and exposure of unaccounted money or black money which may provide end to end exposure of all existing as well as ongoing transactions, bank accounts and other details. Further US government has also introduced FATCA for the similar type of exchange of information. This all will discourage the international transactions of black money.

21. Credit/Debit card, prepaid card

Recently the government has rolled out a scheme to provide facility of credit card and debit card to all retailers including sabjwala panwala and even thelewala to accept credit card or debit card. Which will gradually encourage the peoples to avoid cash dealings and ultimately more and more money will be under record and surveillance. Similarly the government has promoted pre paid cards for payment to certain toll naka, train etc which again will help a cashless system in the country.

22. Tax Credit Of Foreign Tax

Recently the government has entered into certain treaties to facilitate a tax credit system where it will be easy for a resident who pays tax in foreign country or his tax is deducted over there but he is not able to get the credit of the same in his return of income tax filed in India and to avoid double taxation he tends to conceal the said income from the system. The measure will avoid such things and more income will be recorded.

23. Treaty leverages

India has double taxation avoidance agreements with major business countries of the world. Almost all treaties are designed to protect the tax system of both the countries. Mauritius treaty may be said as an exception. Mauritius happened to be a known tax heaven at each level. It appears that it was specially designed to facilitate the reroute of converted money with an argument to bring more foreign exchange. Recently the government has sealed the said leakage which shows the perfect agenda of the government to close all such means to facilitate the promotion of black money. It is highly appreciated.

24. Lower tax rate

Recently the government has expressed its commitments to reduce the general corporate tax rate from present 30 % to 25 % in one or more instalments. It is most likely that the rates of individual, HUF etc will also be reduced to that extent. As it is if a tax payer has returned income of Rs 1000000/- then he is liable to pay tax of Rs 128750/- which on an average comes at 12.87% only which is not much as compared to other countries and if we consider exemption to the extent of Rs 400000/- on account of house loan interest, section 80C, 80D etc then the average comes at 9.20%. This rate of taxes will also support the black money free economy. Here I would like to suggest to the general tax payer that don't go by 20 % slab, go by overall average and fix a mind set to declare actual income and stay away from all regulatory clutches.

In all put together, if the steps taken under all the above fields , rules, regulation and law are strict, uninfluenced, quick and non litigatory, and the defaulters are effectively punished then the peoples and the system will welcome the same and adopt the same as normal feature and the defaulters and the victim tend to realise that

- ✓ *" are yaar jis dhan ko kamane mai maine itne ghotale kiye wohi mere kam nahi aa raha hai ulta mai ek to oosko bacha nahi paya, tax penalty aur bhugati aur ab jail ki hawa bhi kha raha hu aur ghar pariwar jiske fayde ke liye ye sab kiya oos per to koi asar dikhayi hi nahi de raha hai.ulta muze hi updeshe de rahe hai ki kisne bola tha ye sab karane ko..*

*iisse to accha hai jitna kamao tax do aur sukh se raho
..khani to ant pant dal roti hi hai "*

- ✓ *do you have cash of 10 lacs. No I don't have I can give cheque*
- ✓ *I have jewelery of my fore fathers and I want sale. The jeweller will say ok but I will pay by cheque only. But I will have to pay tax thereon . ok pay, but we do not deal in cash*
- ✓ *I want to purchase a flat . I have a budget of Rs 50 lac
50 : 50 cash cheque. No sir, we want cheque of 50 lac
sorry.*
- ✓ *I want to spend vacation in foreign country. Please give your PAN and pay cheque . our company do not deal with cash. Sorry*
- ✓ *Next generation with his dadaji .. dadaji aap abhi black money ki bate kar rahe the kisi se.. ye black money kya hota hai.*
- ✓ *Officer ..ye kam karane ke 25000 lagenge. Sirji sabhi to on record hai kis bat ke .. aapko jo dekhana hai dekhlo.. aur fir bhi aapko chahiye to mai cheque de sakata hu.. chahiye to bolo.. adhikari..kya jamana aa gaya hai..ab rishvat bhi cheque mai lena padegi..jao bhiya jao aapka kam kar diye hai.*
- ✓ *ghar mai cash rakha hai yar jan jokhim bani huyi hai.. kaha rakhu koi rasta batao.. sare raste to band kar diye government ne sona kharidu to koi 2 lakh se upper nahi deta property liquid nahi hai ooska kya karu..share market mai black money lagata nahi hai...bazar mai byaj pe du to vapis aayenge ki nahi ye tension bani rahati hai..kharcha kitna karu roj roj, bade kharche mai har jagah to PAN number mangte hai..de du to income tax walo ke notice aa jate hai kya karu..5 – 10 lakh ho to ghar mai bhi rakh lu parantu ek aadh crore kaise rakhu..samaz nahi aa raha.. consultant se poochata hu to wo bolta*

*hai income show karo..tax bharo aur sukhi raho..
bhai sab wo sahi bol raha hai..tax bharo aur jan
chudao.. thik hai yehi karata hu..”*

- ✓ *are yar benaami property rakh kar hi galti karadi...ab
sabhi kuch to computer pe hai...manual hota to
kuch set kar lete .. per computer koi jankari
mangata hai nahi do to aage nahi badata hai...koi sale
karo to seller ki detail mangata hai..wo hai nahi...ab
wo property hai bhi aur nahi bhi..lagata hai ek bar to
declare karake job hi tax penalty hai de le kar mukti
pau.*

After all these observation, discussion and futuristic approach and upcoming measures and the steps of the government a cloudless scene of black money free economy can be perceived by us in our country. Some business may dilute some may completely finish but new business will develop or the same business may become dynamic and experience more favourable situation. Black money is not a cup of tea of a poor person or a mango man. It is the fruit basket of rich and super rich. So politically no major adverse effect is likely, but the government who took the agenda of black money free economy will be remembered for ever in the history of the country.

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