

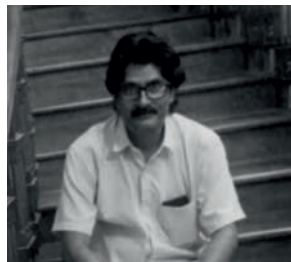


PARALLEL ECONOMY AND VALUER'S ROLE

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This article is based on the government recent measures to bring back the black money stockpiled in foreign countries 'The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015'. This can be viewed in conjunction with "Prevention money laundering act 2002" (Act to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto). To be precise, the former act mainly focussed into foreign income whereas the later one concentrated into ill-effect on economy of country. The presence of uncontrolled growing black money in our economy has grave and devastating distresses. The major effects of black money are discussed below:

1. Dual Economy

The upsurge in the amount of black money in India over a period of time lead to the longlasting growth of economic dualism which consists of Parallel economy. The black economy represents not less than one fifth of the aggregate economic transactions. There is also interaction between the reported and unreported activities such that it is difficult to identify black money from the white money economy. Such a Parallel Economy will wreck the entire economic development of the country.

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering

2. Under-estimation

Since unreported economy is apparently excluded from the official records of the Gross National Product, the estimates of savings and consumption of nations to

the national income and measurement of other macroeconomic variables would be biased and misleading for accurate policy making and planning considerations.

3. Widening the Gap between the Rich and the Poor

Growth of the black economy causes regressive distribution of income in the society. When the black money grows faster, rich becomes richer and the poor become poorer. By way of concentration of income and wealth in few hands, the black money widens the gap between the rich and the poor.

The above concerns are some of the damaging consequences and there are more parameters affected by the money landing/black money circulation.

The major objectives of these acts are:

1. To prevent and control money laundering.
2. To confiscate and seize the property obtained from the laundered money, and
3. To deal with any other issue connected with money laundering in India.

Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law or fact arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal with. (CHAPTER VI APPELLATE TRIBUNAL)

The Directorate of enforcement responsible for enforcing economic laws and fighting economic crime in India. It is part of the Department of Revenue, Ministry of Finance, Government of India. It is a specialised financial investigation agency.

Valuers Role:

Competent valuers known for their integrity will be requested by the Enforcement Directorate to carry out valuation of certain properties for investigation under the Provisions of the Prevention of Money Laundering Act, 2002 (PMLA).

When the Enforcement Directorate has reason to believe that any person is in possession of any proceeds of crime, it may attach a property.

The property has to be valued by a competent person (a registered valuer of CBDT) who is knowledgeable, honest and known for his integrity and capable of defending his report when questioned. As the government plans to bring IBBI registered valuers to bring in one umbrella, it is expected that they may also be allowed to take up such assignments in near future. However the criteria of such empanelment is "knowledgeable, honest, experienced and known for his integrity".

Purpose valuation under the act:
(Exerts taken from Shi K. Sabapathy Study materials)

1. To estimate the cost invested in the building or land or property.
2. To estimate the fair market value of the property for "as is where is" condition.
3. To certify the auction value if directed by the enforcement directorate.

The exact purpose depends upon the specific requirement as directed by the ED.

What is the procedure of valuation if the ED directs the valuer to certify the cost of vacant land?

1. The purpose is: What would be the probable amount that the accused might have spent on the day of acquiring?
2. Ascertain the characteristics of the subject land.
3. Collect sale instances for a similar property held in the nearby area considering 'at an arms length transaction'.

4. Compare with the guideline rate prevailing on that date.
5. Certify suitable value.

What is the procedure of valuation if the ED directs the valuer to certify the cost of newly constructed buildings?

1. The purpose of valuation is to ascertain the cost invested by the accused in the building at the time of construction.
2. Inspect the buildings physically.
3. Observe the specifications.
4. Measure the building accurately.
5. Ascertain the period of construction.
6. One may adopt CPWD plinth area rates or state PWD rates after making adjustments suitably for the specifications adopted.
7. For special buildings where any specific plinth area rates cannot be applied, one may go for detailed estimate method. Remember, the schedule of rates on the date of construction are to be applied.
8. The depreciation is not to be applied if cost is to be certified. It is worthwhile to quote the OFFENCE UNDER THE CUSTOMS ACT, 1962 The offence of wilful attempt to evade any tax, penalty or interest referred to in section 51 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015).

However there other measures shall be implemented by the government to curb Parallel Economy:

- The tax system should be credible in nature. High rates of taxes will only force the people to evade their income from taxes whether it is income tax, capital gains tax or any other tax which will further lead to a generation of black money.
- The authority which is accountable for the collection of taxes should be honest, without any corruption. All the officials should be more focussed and more efficient in their work.
- Various different incentives should be given so that

people voluntarily agree to disclose their real income.

- Economic Intelligence unit must be maintained thoroughly and should be looked after. Honest officials and staff must be rewarded to encourage honest staff in the department.
- Corruption in the administration at all levels must be stopped at any cost.

Note:

1. The procedure for approval of a valuer by the Principal Commissioner or the Commissioner under section 77;
2. The educational qualifications required, to be an authorised representative under clause (f) of sub-section (3) of section 78;
3. The tax authority under clause (c) of sub-section (4) of section 78;
4. The method of rounding off of the amount referred to in sub-section (1) or subsection (2) of section 79

The readers are advised to read "Application for registration as an approved valuer under sub-section (1) of section 77 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015".

