

## BLACK MONEY ACT - A DAMP SQUIB ?

By Aditya Kumar



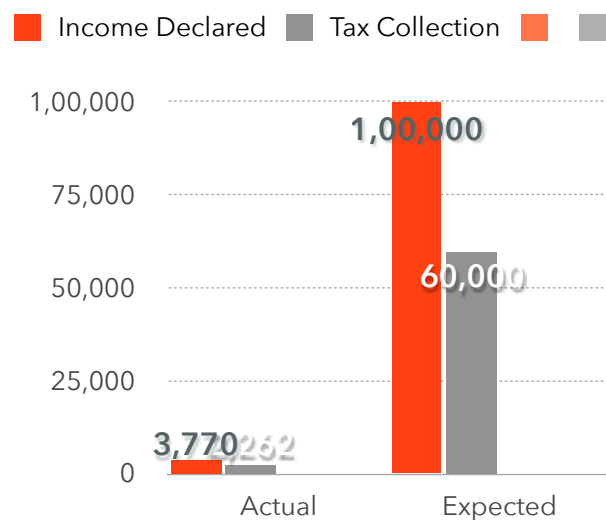
In one of our communiques, we had predicted that an amnesty scheme was in the making considering the promise of the government to bring back tons of black money stashed in tax havens. However, we were proved wrong, when the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (herein after referred to as the Black Money Act) was operationalised not in the form of an amnesty

The Black Money Act, was propagated as a step by the Government to give a message to the tax evaders that no amnesty will be given and this is the best opportunity they will get to pay Rs. 600 crores on an asset valued at Rs. 1000 crores else face complete net worth erosion and suffer the wrath in prison for 10 years. Ambitious as it sounded, it also lacked the vision to understand the psyche of the big black wealth holders, who would be happy to take their chances with the law as tax havens would have helped them keep their money concealed and/or move it to different locations.

The numbers on the actual amount of tax collected/to be collected is a paltry Rs. 2,262 crore which if handed over to the bank accounts of 125 crore people of the country (as per the promise of our Hon'ble Prime Minister) would be a measly **Rs. 18 per account.**

Another bill, the Benami Transactions (Prohibition) (Amendment) Bill, 2015, wants to deal equally severely with domestic black money and could be passed in the monsoon session. The two laws, dealing with foreign assets and domestic black money, are draconian and counter-productive for the simple reason that black money is not all about corruption and greed. Black money got generated in the past because government had the ability to damage businesses and created laws to extract rents in every possible way. Politicians funded their elections with black money, and businessmen were happy to help them in return for other favour that restricted competition and enabled super profits at the cost of the consumer.

Thus, while the Black Money Act is nothing but a damp squib, questions arise what could have been done better. It should not have cast such hardship and there should have been clear amnesty in the scheme. Further, there should have been better drafting of the legislation. Considering the fact that even till the last date, there were clarifications pouring in goes to show the obscurity in the drafting of the legislation. Should the government now provide another amnesty - it would be like biting it's own teeth. What the Government can do now is :



1. Provide a sum of Rs. 18 into every bank account to show it's promise and tell the public there's more coming there way.
2. At the cost of sounding sheepish and disappointing the moralists, announce another scheme as a mechanism to collect taxes rather than to penalise as the aim is to bring rightful money of the country.
3. Step up surveillance on high value transactions by politicians, senior bureaucrats and their immediate relatives who fall under the "politically exposed persons" (PEP) category. The government already has started this measure as reported in a news article (See more at: <http://indianexpress.com/article/india/india-others/high-value-transactions-by-politicians-under-fiu-scanner/#sthash.3yCHfPDa.dpuf>)
4. Based on such information carry out search and surveys under the provisions of the Act to create an atmosphere of deterrence that these actions will be punishable. In this process it would be important for the government to handle such actions with due intelligence and care.

## How does this impact you ?

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You could be falling under any of the two categories:

### All Your Incomes are Accounted For

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While, the chances of the taxman coming to your doors are less, it would be advisable to have all necessary documents in one place

### All Your Incomes are Not Accounted For

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Before the Taxman comes knocking on your doors, you could still make a disclosure for domestic assets before the Income Tax Settlement Commission which could save you from penalties and prosecution. As regards Foreign Assets - you seem to have missed the boat

In both cases you could look out for our next newsletter wherein we will share with you a primer on steps to be taken during a search/survey and the next steps

## Contact

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