

## General Studies – 2 Topic: Important aspects of governance, transparency and accountability

### **Benami Transactions (Prohibition) Amendment Act of 2016**

#### **1) Introduction**

- Several efforts are made by the government to fight black money, money laundering etc.
- One such serious and sound step is enactment of the Benami Transactions (Prohibition) Amendment Act 2016.
- The Act amends the existing Benami Transactions (Prohibition) Act, 1988, and came into effect on November 1, 2016.
- The modified new legislation will be known as Prohibition of Benami Property Transactions Act, 1988 (PBPT Act).

#### **2) What is Benami transaction?**

- Transaction where a property is held by or transferred to a person, but has been provided for or paid by another person.
- the transaction is made in a fictitious name
- Property transactions among family members are not Benami transaction.
- Only lineal ascendants (father, mother, grandparents and great grandparents) and lineal descendants (children, grandchildren and great-grandchildren) are considered as family members.

#### **3) What is Benami Property?**

- Benami property is the one whose legal owner is different from the actual owner.
- Benami property includes: immovable assets such as land, flat or house, movable assets such as gold, stocks, mutual fund holdings, bank deposits etc.
- If the property is sold, then the proceeds from the sale are also included under Benami property.

#### **4) Need for the Amendments?**

- To effectively prohibit Benami transactions and consequently prevent circumvention of law through unfair practices
- To empower the Union Government to confiscate Benami property by following due procedure
- Curbing domestic black money.

#### **5) Salient Features**

- The PBPT Act defines Benami transactions, prohibits them and further provides that violation of the PBPT Act is punishable with imprisonment and fine.
- The PBPT Act prohibits recovery of the property held Benami from benamidar by the real owner.
- Four authorities to conduct inquiries or investigations regarding Benami transactions: (i) Initiating Officer, (ii) Approving Authority, (iii) Administrator and (iv) Adjudicating Authority.
- Properties held Benami are liable for confiscation by the Government without payment of compensation.
- It amends the definition of Benami transactions
- It establishes an Appellate Tribunal to hear appeals against any orders passed by the Adjudicating Authority.
- The Act gives the Initiating Officer the power to enquire into any person, place, documents or property in the course of investigation

- Certain sessions courts would be designated as Special Courts for trying offences which are punishable under the Act

### 6) Implications

- In Real estate, the financial transactions and black money is very rampant. The government can control the layering that happens, where lot of black money is converted to white.
- This can control the inflation on property prices. With PBPT in place, we may see the corrections in the property prices
- It will reduce practice of using fake owners & will bring transparency in real estate sector
- It will boost confidence of lenders especially banks & also private individuals.
- The amendment will have a greater impact on Benami transactions happening on a larger scale in agriculture land.
- lot of land inventory may become available to the government which can be used for affordable housing plans for the poor
- A fresh breath of professionalism will be ushered in.

### 7) Concerns / Challenges

- There could be scope for harassment
- Concern at genuine transactions being labelled Benami because of lack of clear titles, especially in rural areas.
- Act only has post-facto effect that is after Benami transactions have happened.

