



CA. PRAMOD JAIN

FCA, FCS, FCMA, LL.B, MIMA, DISA

Shared at

CA Vichar Manch (CAVM)

21st September 2017

CAN THESE BE BENAMI?

- ✖ Immovable Property?**
- ✖ Vehicles ?**
- ✖ Bank Deposits ?**
- ✖ Mutual Funds ?**
- ✖ Share Capital ?**
- ✖ Loans ?**
- ✖ S. Creditors / S. Debtors ?**
- ✖ Bogus Purchase / Expenses?**

Benami

Income
Tax

Income Tax

Benami

TAX U/S 115BBE

- ✖ **Amended by Taxation (2nd Amendment) Act 2016 – 15th December 2016**
- ✖ **Applicable if Income assessed u/s 68 / 69 / 69A / 69B / 69C / 69D even if reflected in IT Return**
- ✖ **Tax Rate increased from 30% to 60%.**
- ✖ **Plus surcharge u/Chapter II of Finance Act @ 25% i.e. 75% plus... cesses i.e. 77.25%**

PENALTY U/S 271AAC

- ✖ If tax u/s 115BBE paid within relevant previous year – no penalty otherwise penalty @ 10% of tax
- ✖ Procedure u/s 274 / 275 to be followed for imposing penalty
- ✖ No penalty u/s 270A
- ✖ In case of search penalty u/s 271AAB to be levied not u/s 271AAC

PENALTY U/S 271AAB

- ✖ In case of search initiated after the Amendment Act – if income declared in statement u/s 132(4) and tax and interest paid & ITR Filed– penalty increased from 10% to 30% of income**
- ✖ If source not declared or other conditions not satisfied – Penalty fixed @ 60% of income by Finance Act 2016**

TAXATION OF STRIKE OFF COMPANIES

S. 159

- Legal Representative

S. 170

- Succession of business otherwise than on death

S. 176

- Discontinuation of business

S. 178

- Company in liquidation– responsibility of official liquidator

S. 179

- Liability of directors of private company in Liquidation

TAXATION OF STRIKE OFF COMPANIES

- ✗ **Assessment of company struck off**
- ✗ **S. 248(7) [Companies Act] – The liability, if any of every director, manager or other officer who was exercising any power of management and of every member of the company dissolved shall continue and may be enforced as if the company had not been dissolved.**

TAXATION

**Investors of company
strike off**

Capital Loss??

**Extinguishment of right
therein 2(47)(ii)**

OTHER STRIKE OFF EFFECTS??

- ✗ **Company's shareholder non-existent??**
- ✗ **Auditor responsibility when shareholder does not exist - ??**
- ✗ **GM when shareholders do not exist – if all shareholders non-existent ??**

Thank You!



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