

Benami Transactions:

Under the Prohibition of Benami Property Transactions Act, the following four categories of transactions or arrangements are considered as benami transactions:

1. A transaction or an arrangement-

(a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and

(b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration.

However, there is an exception to above if the property is held by;

(i) a karta, or a member of a Hindu Undivided Family (HUF), as the case may be, and the property is held for his benefit or benefit of other members in the family and the consideration for such property has been provided or paid out of the known sources of the HUF;

(ii) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, a depository or a participant as an agent of a depository under the Depositories Act, 1996 & any other person as may be notified by the central government for this purpose;

(iii) any person being an individual in the name of his spouse or in the name of any child of such individual and the consideration for such property has been provided or paid out of the known sources of the individual;

(iv) any person in the name of his brother or sister or lineal ascendant or descendant, where the names of brother or sister or lineal ascendant or descendant and the individual appear as joint owners in any document, and the consideration for such property has been provided or paid out of the known sources of the individual; or

2. Transaction or an arrangement in respect of a property carried out or made in a fictitious name; or

3. Transaction or an arrangement in respect of a property where the owner of the property is not aware of, or denies knowledge of, such ownership;

4. Transaction or an arrangement in respect of a property where the person providing the consideration is not traceable or is fictitious.

[It may be noted that benami transaction shall not include any transaction involving the allowing of possession of any property to be taken or retained in part performance of a contract referred to in section 53A of the Transfer of Property Act, 1882

if (i) consideration for such property has been provided by the person to whom possession of property has been allowed but the person who has granted possession thereof continues to hold ownership of such property;

(ii) stamp duty on such transaction or arrangement has been paid; and

(iii) the contract has been registered].