INCOME TAX APPELLATE TRIBUNAL BAR ASSOCIATION, NEW DELHI
Room no. 218, B-Tower, F- Block, World Trade Centre, Nauroji Nagar, New Delhi – 110 029
TEL: 43528310, 41825912 / M: 9810870279
E-MAIL: info@itatbardelhi.com / itatbar@gmail.com / itat.bar@outlook.com
Website: www.itatbardelhi.com

Date: 18.08.2026

Dear Member,

The next meeting of Study Circle 2026 shall take place as per programme below:

DAY & DATE: -	**(Friday) 21st August, 2026**
TIME: -	03:30 PM TO 06:15 PM
VENUE: -	**Main Conference Hall,** **First Floor,** **Civil Services Officers Institute,** **Kasturba Gandhi Marg,** **New Delhi- 110001**

You will recollect that we had a very enlightening discussion on some burning issues relating to Benami transactions namely, whether a bogus entry of cheque or purchase can be termed a Benami transaction; whether, where the share capital of a company is held by fictitious persons, such a transaction could be treated as Benami and lead to attachment of the assets of the company; or whether, where substantial cash is found during the course of a search by the Income Tax Department and the assessee is unable to explain its source, such cash can be regarded as Benami property.

In our last meeting, we discussed the background, the law and various aspects of the Benami law, as well as the issues arising in such transactions. However, because of paucity of time, we were unable to conclude the discussion.

We are, therefore, continuing the meeting on 21st August 2026 at CSOI Club, Connaught Place, from 3:30 P.M. to 6:15 P.M.

We will discuss threadbare how the Benami law is to be applied to such transactions. We will also take up the remaining issues relating to PMLA, which could not be deliberated upon at the last meeting.

I would request you to be present for the meeting. We will have the benefit of an additional expert, **Shri Arun Agrawal, President of the SAFEMA Tribunal Bar Association** and, of course, our dear Bar member and eminent lawyer, **Shri Ashwini Taneja, Advocate** who will be there along with **Shri Rakesh Gupta, CIT DR (Retd)**.

This is a must-attend meeting, as we intend to go into these issues in depth and not conclude until we have thoroughly deliberated upon them and arrived at some degree of consensus on the legal position and the appropriate course of action.

YOU ARE REQUESTED TO NOTE THE DATE & ATTEND PUNCTUALLY.

The fee towards membership of Study Circle for the year 2026-27 has been fixed at Rupees 2500/- (Two Thousand Five Hundred Only). You are requested to remit the fee for the year 2026-27 (if not remitted by way of Cheque in favour of "ITAT Bar Association, New Delhi")

The meeting is also open to non-study group members of ITAT Bar Association, New Delhi on a payment of Rs. 850/-.

With warm regards,

Ranjan Chopra
General Secretary

Enclosure: Note outlining the issues identified for deliberation at the previous Study Circle Meeting.

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With my best wishes and warm regards,

Rajan Chopra
General Secretary
ITAT Bar Association, Delhi

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I. **Topic 1: Applicability of the Benami Law to Accommodation Entry Transactions: Emerging Issues and Concerns**

In recent weeks, it has been observed that a number of assessees are being subjected to proceedings under the *Prohibition of Benami Property Transactions Act, 1988*, particularly in cases involving so-called "accommodation entries".

The common pattern emerging from these notices is that cash is allegedly provided by one person (treated as the beneficial owner), and in lieu thereof, a cheque is issued by another person (treated as the benamidar). The amount reflected in the cheque is then sought to be characterised as "benami property". In several cases, this is followed by initiation of provisional attachment proceedings not only in the hands of the alleged benamidar but also against the alleged beneficial owner.

These developments raise certain foundational legal and jurisdictional concerns. The core issue is whether such accommodation entry transactions, even if assumed to be correct on facts, can at all be brought within the statutory framework of a "benami transaction" as defined under the Act. Equally important is the question whether coercive measures such as provisional attachment can be sustained where the underlying transaction itself stands reversed or squared up prior to initiation of proceedings.

In light of the increasing frequency of such actions, it is proposed that these issues, along with other allied aspects, be examined in a structured and interactive manner. The discussion will focus on the statutory scheme, essential ingredients of a benami transaction, scope of the definition under Section 2(9), and the manner in which these provisions are currently being invoked in practice. The endeavour would be to combine doctrinal clarity with practical insights relevant to ongoing matters.

Issues for Discussion

1. Whether accommodation entry transactions (cash-for-cheque arrangements) can at all fall within the definition of "benami transaction" under Section 2(9) of the Act.
2. Whether the cheque amount itself can be regarded as "benami property", particularly when there is no identifiable property held in a benami capacity.
3. Whether simultaneous proceedings against both the alleged beneficial owner and the alleged benamidar are legally sustainable under the scheme of the Act.
4. Whether provisional attachment under Section 24(3) can be validly initiated in cases where the transaction stands reversed or squared up prior to issuance of notice.

5. Whether proceedings under the Benami Act are being used as a substitute for addressing alleged accommodation entries, which are otherwise covered under the Income-tax Act.

II. **TOPIC 2: Revisiting Benami Jurisprudence Post Ganpati Dealcom Recall: Limits of Review Jurisdiction:**

Whether decisions based on ***Union of India vs. GanpatiDealcom (P.) Ltd. [2022] 447 ITR 108 (SC),*** where orders holding transactions to be Benami were quashed, can now be reviewed or recalled merely because the judgment has been subsequently recalled?

- In ***Ganpati Dealcom (P.) Ltd. [2022] 447 ITR 108 (SC) dated 23.08.2022,*** the Supreme Court held, that the Benami Transactions (Prohibition) Amendment Act, 2016 would operate prospectively, and that only transactions enteredinto after 25.10.2016 would fall within its purview. Accordingly, the appellate authorities, following the judgment of GanpatiDealcom (P.) Ltd. (supra), held that the proceedings, which pertained to periods prior to 25.10.2016, were not valid in law and quashed the same. No further appeal was pursued as the law had been conclusively settled by the Supreme Court.
- ***VIRENDRA AMRUTBHAI PATEL R/SPECIAL CIVIL APPLICATION NO. 12714 of 2021-(para 4-6) followed Ganpati Dealcom (P.) Ltd. [2022] 447 ITR 108 (SC)***
- The judgment delivered in Ganpati Dealcom (P.) Ltd. (supra) was subsequently recalled in the case of ***Union of India vs. Ganpati Dealcom (P.) Ltd. [2025] 474 ITR 354 (SC).*** The Court allowed the review petition, recalled the earlier decision, and directed that the matter be placed for fresh adjudication before a bench to be constituted by the Chief Justice of India on the administrative side. In doing so, the Court made an important observation that has now become the subject of widespread legal debate. It stated that in cases where proceedings had been disposed of based on the earlier ***Ganpati Dealcom (P.) Ltd. [2022] 447 ITR 108 (SC)*** judgment, liberty is granted to the aggrieved party to seek review in light of the present judgment.
- This triggered the Department to file review petitions in hundreds of finalised matters.
- In ***Kokilaben Chhaganbhai Patel [2025] 174 taxmann.com 796 (SC) (para 3-5),*** the Supreme Court held such reopening impermissible. It relied on ***K.L. Rathi Steels Ltd. (2024) 7 SCC 315***, which barred reopening final cases based on later contrary rulings.

- In ***UNION OF INDIA & ORS. versus VIRENDRA AMRUTBHAI PATEL DIARY No(s). 41584/2025 IN SPECIAL LEAVE PETITION (C) No. 8229/2024*** the review petition was dismissed-para 2,4,5.
- Can such a view be sustained in law, especially in light of the interpretation of explanation to Order XLVII Rule 1 of the CPC?

III. **TOPIC 3: Pavana Dibbur vs Vijay Madanlal: Can Tribunals Choose Between Supreme Court Judgments**

Vijay Madanlal Choudhary the Supreme Court adopted a wide interpretation of "proceeds of crime", including the concept of "value thereof", thereby enabling attachment of equivalent value properties. (PARA 250-254 and 296-299)

In ***Pavana Dibbur***, the Supreme Court clarified that a property acquired prior to the commission of the scheduled offence cannot, ex facie, be treated as proceeds of crime, thereby emphasizing the requirement of a live nexus between the property and the alleged criminal activity. (PARA 15,16,17,19,31)