

# Restriction on cash transactions

## INTRODUCTION

As soon as Modi Government resumed power in central on 26/05/2014, on its first day in office, Prime Minister's new government has constituted a Special Investigation Team or SIT to unearth and bring back black money stashed away abroad. Since then each step is in the direction of bringing unaccounted money into the system whether it is disclosure of foreign income and assets or Black money and imposition tax act, 2015 or Income Declaration Scheme or [Pradhan Mantri Garib Kalyan Yojna](#).

In another step to restrict cash economy and to promote digital economy The Finance Bill, 2017 passed on 22/03/2017 proposes to insert new sections 269ST and 271DA effective from 1-4-2017 so as to provide penalty for accepting cash in excess of 2 lakhs (originally proposed as Rs.3 lakhs in Bill) in certain cases.

## SECTION 269ST

The [Finance Bill, 2017](#) propose to insert a new section 269ST from 1-4-2017 so as to provide that no person shall receive an amount of two lakh rupees or more

1. in aggregate from a person in a day; or
2. in respect of a single transaction; or
3. in respect of transactions relating to one event or occasion from a person,

Otherwise than by an account payee cheques or an account payee bank draft or use of electronic clearing system through a bank account.

## Applicability of Provision

Sections 269ST says that no person shall receive an amount of two lakh rupees or more therefore, this restriction applies to all persons. Person here would take its meaning from section 2(31) of the Act.

## Exceptions

Proviso to section 269ST provides that section 269ST shall not apply to

Any receipt by

- government;
- any banking company, post office savings bank or co-operative bank;
- transactions of the nature referred to in section 269SS.
- such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

(i) Transaction specified in section 269SS

Section 269SS specifies the receipt of the following items:

- any loan;
- Any deposit;
- Specified sum.

Therefore, receipt of loan, deposit or specified sum will be out of purview of section 269ST.

Specified sum here means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not transfer takes place.

(ii) Status of transactions not within the ambit of section 269SS

First proviso to section 269SS provides that the provisions of section 269SS shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,

- the Government;
- any banking company, post office savings bank or co-operative bank;
- any corporation established by a Central, State or Provincial Act;
- any Government company as defined in clause (45) of section 2 of the Companies Act, 2013;
- such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.

Second proviso to section 269SS provides that the provisions of 269SS shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agriculture income and neither of them has any income chargeable to tax under this Act.

Since section 269ST provides that transaction of the nature referred to in section 269SS shall not be hit by it. Can it be inferred that above transaction shall not be covered by section 269ST. This issue is not clear.

## **SECTION 271DA**

The Finance Bill, 2017 also proposes to introduce a new section 271DA from 1-4-2017 so as to provide that if a person receives any sum in contravention of the provision of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt.

It is provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

Any penalty imposable as above shall be imposed by THE JOINT COMMISSIONER.

## **OBSERVATIONS IN DIFFERENT SITUATIONS**

If one party sells goods to another party against different bills and cash is received at different times on a day and each bill is less than Rs.2 lakhs than provisions of sec.269ST (a) is violated and hence penalty under 271DA will be leviable on seller.

If one party sells goods to another party against different bills and cash is received on different days and each bill is less than Rs.2 lakhs than provisions of 269ST are not violated and hence penalty under 271DA will not be leviable.

If one party sells goods worth Rs.3 lakhs in one bill and receives cash of total amount than sec.269ST (b) is violated and hence penalty under 271DA will be leviable on seller.

If one party sells goods worth of Rs.5 lakhs in cash and accepts cash less than Rs.2 lakhs on different dates than sec.269ST (b) is violated and hence penalty under 271DA will be leviable on seller.

If one party engages another party for different works and pays entire amount in cash at different dates each instalment being lower than Rs.2 lakhs than all transactions are related to one event and total payment exceeds Rs.2 lakhs sec.269ST (c) is violated and hence penalty under 271DA will be leviable on seller.

If any person receives cash from different persons beyond specified limit but cash from each person is below specified limit hence 269ST are not violated and hence penalty under 271DA will not be leviable.

If company issues shares of Rs.5 lakh to person and accepts in instalments less than specified limit or at one go than sec.269ST (b) is violated and hence penalty under 271DA will be leviable.

If person accepts cash gift of an amount more than specified limit than sec.269ST (b) is violated and hence penalty under 271DA will be leviable.

## PROPOSALS PUT UP IN FINANCE BILL, 2017 TO CURB CASH TRANSACTIONS

Section	Proposed amendments	Effective from assessment year
13 A	<p>A new condition is proposed to provide that no donation exceeding two thousand rupees is received by political party otherwise than by an account payee cheques drawn on a bank draft or use of electronic clearing system through a bank account or through electoral bond. Otherwise, no exemption will be allowed.</p> <p>As per section 35AD (8) (f) any expenditure of capital nature shall not include any expenditure incurred on the acquisition of any land or goodwill or financial instrument.</p>	2018-19
35AD	<p>Section 35AD (8) (f) is proposed to be amended so as to provide that any expenditure of capital nature shall not include any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheques drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees.</p> <p>Section 40A(3) provides that where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.</p>	2018-19
40A(3)	<p>Section 40A (3) is proposed to be amended so as to reduce the above limit to ten thousand. and also to provide that payment by electronic clearing system shall also be treated as proper method of payment.</p>	2018-19
43(1)	<p>Similar amendments are proposed to section 40A (3A).</p> <p>Where the assessee incurs any capital expenditure for acquisition of any assets or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheques drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceed ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost and on such part no depreciation shall be allowed.</p>	2018-19
80 G	<p>The Finance Bill 2017 proposes to amend section 80G so as to specify therein that any payment exceeding a sum of two thousand rupees shall only be allowed as a deduction if such sum is paid by any mode other</p>	2018-19

than cash.

It may be noted that the above limit is not applicable on aggregate basis but is applicable on individual basis. If one makes donation of an amount equal to or less than two thousand to one more than one institution then the deduction will not be denied. But if cash donation in an amount exceeding two thousand is made to any particular institution at one go then the deduction will be denied.

## CONCLUSION

Intentions of Government are very clear and honest regarding all steps taken to curb cash transactions and that is "Go Digital Be Accountable". Benefits like Reduction in income tax rates, cheaper food items, Reduced Home loan interest rates, improved standard of living, Reduction in bribery or donations in government offices and educational institutions as everything is cashless, Increase in Government welfare schemes, Increase in Government revenues, Reasonable check on Havala transactions, Check on illegal, immoral and shameless transactions, Reduction in theft etc. It is a reward to honest taxpayers and punishment to black marketers and hoarders. For the first time Hardworking people are rewarded. Country will definitely shine under the able leadership of our Honourable Prime Minister.

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