

# PRASHANT BHUSHAN

ADVOCATE

**RESI.**

B-16, SECTOR-14, NOIDA  
DIST. GAUTAM BUDH NAGAR  
(U.P.) - 201 301  
PH : 0120-2512632, 2512693  
MOB: +919811164068

**OFFICE.**

C-67, SECTOR-14, NOIDA  
DIST. GAUTAM BUDH NAGAR  
(U.P.) - 201 301, FAX: 0120-4512694  
PH: 0120-2512523, 2512695  
E-MAIL: prashantbhush@gmail.com

**CHAMBER**

301, NEW LAWYERS CHAMBER  
SUPREME COURT OF INDIA  
NEW DELHI  
PH: 011- 23070301,23070645.

---

Dated: January 22, 2015

Member Secretary  
SIT on Black Money  
Dept of Revenue  
Ministry of Finance, New Delhi

Dear Sir,

*SUB: Submission to SIT pursuant to Hon'ble Supreme Court order dated 20.01.2015*

I am writing this pursuant to the order of the Hon'ble Supreme Court dated 20.01.2015 passed in the black money case allowing all the parties and intervenors to make suggestions to the SIT on the issue of black money, and requested the SIT to submit a report to the Hon'ble Court on those suggestions.

Therefore, I am giving the following suggestions to the SIT that would help tackle the issue of black money.

**Curb anonymous investments:**

The primary reason why black money has such a stranglehold on our economy, is because our system not only allows, but in fact encourages the siphoning out of illicit funds abroad, laundering those funds through tax havens, and re-investing the same in India, as legitimate investment through non-transparent instruments such as participatory notes, and anonymous investments through companies registered in tax havens. This allows individuals to first transfer their black money into foreign accounts through Hawala transactions, and then bring it back into the country, usually as investments in their own companies or trusts, by way of participatory notes, or anonymous investments by banks or other shell companies situated in tax havens.

Instruments such as participatory notes and anonymous investments by funds or shell companies need to be disallowed with immediate effect. Every time a company invests in stocks or other financial instruments in the Indian Stock Exchange or elsewhere, the relevant authority must be able to determine the exact ownership of the investment, ending in the final individuals who hold the money that is being invested. In the case of investments made in the name of a company or a trust, the major stakeholders of the company, or the trustees of the trust, must be determined and duly recorded, before the investment is allowed.

**Change in law:**

A new law, or an amendment to an existing law (such as the Prevention of Money Laundering Act), requiring all Indian citizens to disclose all their assets and bank accounts in India and abroad needs to be introduced. Such a law would require citizens to annually disclose to the authorities a full list of their assets and liabilities, including their stakes in companies or trusts registered abroad. Any income or assets that are not disclosed in the required form would be deemed to be “proceeds of crime”, and included as ‘predicate offences’ defined under the UN Convention Against Corruption (UNCAC). This would enable the law enforcement agencies to recover the said assets under provisions of the Prevention of Money Laundering Act allowing for seizure and confiscation of assets that are proceeds of crime, and would also force the foreign governments to cooperate as per the provisions of the UNCAC

**Disclosure of names:**

Full disclosure ought to be made of the names of all the persons who hold accounts in foreign banks: a) where prima facie evidence of illegality has been found, b) where the account holders have admitted that their accounts are in violation of law or that they have committed tax evasion or money laundering, or c) where the government has either closed cases against the account holders after settlement/payment of fines/penalty, or where the account holders have approached the government for settlement.

**Mandatory prosecution:**

The Government must also be forced to prosecute all persons having black money under all relevant laws and not allow anyone to get away with imposition of mere financial penalty.

I request you to consider these suggestions and include them in your report to the Hon'ble Supreme Court. If any clarification or details are required, kindly let me know. I would be more than happy to personally come and meet the SIT regarding the above issues.

Yours sincerely,

**PRASHANT BHUSHAN**

COPY TO:

1. JUSTICE M. B. SHAH, CHAIRPERSON, SIT
2. JUSTICE ARIJIT PASAYAT, VICE CHAIRPERSON, SIT