

कार्यालय जिला पंजीयक, महासमुंद, (छत्तीसगढ़)

क्रमांक/442/जि.पं./2021

महासमुंद, दिनांक 02/11/2021

प्रति,

उप पंजीयक
महासमुंद / सरायपाली /
पिथौरा / बसना
जिला महासमुंद (छ.ग.)

विषय :- ORDER U/S 26(3) OF PROHIBITION OF BENAMI PROPERTY
TRANSACTIONS ACT, 1988।

संदर्भ :- Reference no. 2081/2020/941, Date 12.10.2021।

--=00=--

उपरोक्त विषयांतर्गत संदर्भित पत्र की छायाप्रति आपकी ओर प्रेषित है। जिसमें श्री श्याम कुमार नेताम पिता स्व. श्री केजुराम नेताम निवासी:- ग्राम राजासेवईया खूर्द तहसील पिथौरा जिला महासमुंद के भूमि तथा दिये गये खसरा नं. की रजिस्ट्री रोकने हेतु पत्र प्राप्त हुआ है। अतः इस संबंध में नियमानुसार कार्यवाही करना सुनिश्चित करें।

संलग्न :- उपरोक्तानुसार

जिला पंजीयक
महासमुंद

महासमुंद, दिनांक 02/11/2021

क्रमांक/443/जि.पं./2021

प्रतिलिपि :-

1. श्री हरि गोविन्द सिंह, न्यायनिर्णायक प्राधिकारी, दिल्ली की ओर सूचनार्थ सादर संप्रेषित।

जिला पंजीयक
महासमुंद



सत्यमेव जयते

भारत सरकार
GOVERNMENT OF INDIA
वित्त मंत्रालय, राजस्व विभाग
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE
कार्यालय सक्षम प्राधिकारी व प्रशासक
OFFICE OF THE COMPETENT AUTHORITY & ADMINISTRATOR
सर्वर एंव विदेशी मुद्रा छलसाधक (संग्रहण) अधिनियम, 1976
एवं स्वायत्त औषधि व मनः प्रभावी पदार्थ अधिनियम, 1985 एवं
SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976 AND
NARCOTIC DRUGS & PSYCHOTROPIC SUBSTANCES ACT, 1985 &
न्यायनिर्णायक प्राधिकारी
ADJUDICATING AUTHORITY
बेनामी संपत्ति राज्यव्यवहार निषेध अधिनियम, 1988
PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988
बी-विंग, नवी मजिल, लोक न्यायक भवन, खान मार्केट, नई दिल्ली - 110003
'B' WING, 9TH FLOOR, LOK NAYAK BHAWAN, KHAN MARKET, NEW DELHI - 110003
Email : ca-delhi@gov.in, cadelhi.05@gmail.com. TEL/FAX : 011-24616379

Reference No. 2081/2020 | 94 |

Dated: 12.10.2021

**ORDER U/S 26(3) OF PROHIBITION OF BENAMI PROPERTY
TRANSACTIONS ACT, 1988**

The Initiating Officer, Assistant Commissioner of Income Tax, (BPU-Raipur), Room No. 201, second Floor, C. R. Building (Investigation Wing), Civil Lines, Raipur (CG)-492001		
Vs		
Shri Shyam Kumar Netam, S/o Late Shri Kejuram Netam, Village-Rajasevaiya Khurd, Tehsil-Pithora, District- Mahasamund(CG)	Benamidar	D-1
Adjudicating Authority	Hari Govind Singh	
Date of Hearing	06 th September, 2021	
Appearance For Initiating Officer	Mr. Kanhaiya Singhal, Ld. Advocate	
For Defendant	None	

The Initiating Officer (IO), Benami Property Unit, Raipur had made a reference dated 03.06.2020 under section 24(5) of the Prohibition of Benami Property Transactions Act 1988 (As amended) (Hereinafter referred to as the Act or PBPT Act) along with a provisional attachment order dated 29.05.2020 passed under section 24(4) as approved by the Joint Commissioner of Income Tax (Benami Prohibition Unit Raipur) who is the Approving Authority, under the PBPT Act, to the erstwhile Adjudicating Authority at New Delhi. The said reference was numbered as R 2081/2020 and along with the related case records later transferred by the said Adjudicating Authority to this Authority consequent to the amendment to the Act and reallocation of charge. The details of the parties are as per the case title.



The Initiating Officer has provisionally attached the following Immovable properties in respective villages and sought confirmation of the same from the Adjudicating Authority;

Sr. No.	Village	Khasra No.	Area (In Hectares)
1	Rajasewaiya khurd	344	0.07
2	Rajasewaiya khurd	345	0.05
3	Rajasewaiya khurd	346	0.05
4	Rajasewaiya khurd	347	0.1

5	Rajasewaiya	348	0.09
6	Rajasewaiya khurd	349	0.1
7	Rajasewaiya khurd	350	0.03
8	Rajasewaiya khurd	351	0.02
9	Rajasewaiya khurd	352	0.07
10	Lahrod	633/1	0.08
11	Lahrod	308	0.33
12	Lahrod	324	0.04
13	Lahrod	part of 308	0.05
14	Lahrod	340	0.11
15	Lahrod	part of 647	0.02
16	Lahrod	part of 751	0.09
17	Lahrod	part of 414	0.7
18	Lahrod	part of 414	0.12
19	Lahrod	353	0.01
20	Lahrod	353	0.06
21	Lahrod	309	0.08
22	Lahrod	part of 347	0.22
23	Lahrod	part of 923	0.06 (6432 Sq. Ft.)
24	Lahrod	623	0.17
25	Pithora	689/1	0.169
26	Lohrakot	265	0.41
27	Lohrakot	267	0.56
28	Dongerpali	902	1.59
29	Dongerpali	906	0.6
30	Lahrod	322/2	0.13
31	Patparpali	415	0.07
32	Patparpali	308	0.29
Total area			6.539

2. **Facts of the case as enumerated by IO in the order u/s 24(4) of the Act:**

(Quote)

During investigation in the case of Shri Laxman Sarthi and Late Shri Ramesh Gond an information was received from the local villagers about the benami properties in the name of Shri Shyam Kumar Netam, Resident of Village - Rajasevaiya Khurd, Teh-Pithora, Dist-Mahasamund(CG). It had been reported that the lands in various villages were purchased in the name of Shri Shyam Kumar Netam by Shri Laxminarayan Agrawal, the beneficial owner in the case of Shri Laxman Sarthi.

After preliminary verification of the information, approval of the Approving Authority has been taken by the Initiating Officer (IO) under section 23 of the Prohibition of Benami Property Transaction Act, 1988 (PBPT Act) on 16/12/2019.

3. *The information about the lands owned by Shri Shyam Kumar Netam has been received from the Asstt. Registrar, Mahasamund(CG) and the same has also been confirmed from Bhuiyan site of Chhattisgarh Government. As on date the following land has been found in the name of Shri Shyam Kumar Netam as per the State Revenue records and Bhuyian internet site:*

Sr. No.	Village	Khasra No.	Area
1	Rajasewaiya khurd	344	0.07
2	Rajasewaiya khurd	345	0.05
3	Rajasewaiya khurd	346	0.05
4	Rajasewaiya khurd	347	0.1
5	Rajasewaiya	348	0.09
6	Rajasewaiya khurd	349	0.1
7	Rajasewaiya khurd	350	0.03
8	Rajasewaiya khurd	351	0.02



9	Rajasewaiya khurd	352	0.07
10	Lahrod	633/1	0.08
11	Lahrod	308	0.33
12	Lahrod	364/1	0.15
13	Lahrod	part of 308	0.05
15	Lahrod	part of 647	0.08
16	Lahrod	part of 751	0.09
17	Lahrod	part of 414	0.12
18	Lahrod	part of 414	0.7
19	Lahrod	648/3	0.17
20	Lahrod	352/1	0.11
21	Lahrod	353	0.01
22	Lahrod	353	0.06
23	Lahrod	309	0.06
24	Lahrod	part of 347	0.22
25	Lahrod	Part of 348	0.11
26	Lahrod	part of 923	0.04
27	Lahrod	part of 923	0.24
28	Lahrod	623	0.17
29	Pithora	689/1	0.169
30	Lohrakot	265	0.41
31	Lohrakot	267	0.56
32	Patparpali	415	0.07
33	Patparpali	308	0.29
34	Dongerpali	902	1.59
35	Dongerpali	906	0.6
36	Lahrod	322/2	0.13
37	Sarkada	993	0.29
38	Sarkada	944	0.57
39	Sarkada	828/1	0.28
40	Sarkada	815	1.42
41	Sarkada	457	0.71
42	Sarkada	367	0.04
43	Sarkada	359	0.42
44	Sarkada	32	0.27
45	Sarkada	1213	0.05
46	Sarkada	1149	0.07
47	Sarkada	1138	0.21
48	Sarkada	1086	0.13
49	Sarkada	1022	0.37

4. Whereas, considering the above facts, evidences have been collected in form of statements on oath of the witnesses, bank statement and land records etc.

Testimonies of the witnesses

4.1. Statement of Shri Shyam Kumar Netam

Summons had been issued to Shri Shyam Kumar Netam, S/o Late Shri Kejuram Netam on 27-12-2019 and his statement under section 19(1) has been recorded on the same day.

4.1.1 It could be gathered from these statements that Shri Shyam Kumar Netam, S/o Late Shri Kejuram Netam, resident of Village - Rajasevaiya Khurd, Teh.-Pithora, Dist.- Mahasamund(CG) had inherited 12 acres of land in his ancestral village-Sarkada and also possesses 10 decimal of land at Village Rajasevaiya Khurd where he had constructed his residence. He is an Adivasi and his educational qualification is 12th Pass. He was also a BPL card holder from 2003 to 2018. It is worthwhile to note here that as per the law, land property belonging to an Adiwasi cannot be purchased by anyone except an Adiwasi. He also stated that the lands at Villages Pithora and Lahrod were purchased on the directions of Shri Akash Agrawal and the purchase amount was also paid by Shri Akash Agrawal only. Some of the registry papers were in possession of both Shri Shyam and Shri Akash Agrawal. Apart from the



above two lands, it had been stated that he had purchased 2 acres at Amlidih in the year 2013-14 and 1 acre at Lahrod in the year 2016, the details of seller, rate etc are not known to him. Land admeasuring 2 acres was also purchased in village Lohrakot. It had been admitted by Shri Shyam Kumar Netam that all the dealings in respect of sale and purchase of lands were done by Shri Aakash Agrawal. In answer to question No-10 Shri Shyam had stated that he sold some lands at villages – Pithora, Lahrod and Sarkada, but the details of purchaser, rate and date of sales etc. are not known to him. He admitted that the dealings were done on the directions of Shri Aakash Agarwal, S/o Shri Madan Agrawal.

4.1.2 In response to question No-3 Shri Shyam had stated that he does not file ITR as he does not have the taxable income. When confronted in question No-13 regarding filing of ITRs for AYs-2016-17 and 2017-18 he stated that he is not aware of this fact. On perusal of ITRs of Shri Shyam, it had been found that the mobile number and email id given in the ITR are of Shri Anand Agrawal, CA, 503, 5th Floor, Lalganga Business Park, Pachpedi Naka, Raipur(CG). A letter dated 17-02-2020 was issued to Shri Anand Agrawal, CA to appraise this office about certain issues. Vide letter dated 20-02-2020 received in this office on 24-02-2020, it had been stated that Shri Shyam Kumar Netam was walk in client and he himself had requested for filing of his ITRs to claim the refund. It had also been stated that the documents were provided by Shri Shyam himself. Whereas, in his statement recorded on 27-12-2019 Shri Shyam had expressed his unawareness about the ITRs filed in his name.

Return of AY-2016-17 and 2017-18 have been filed by declaring total income of Rs. 600/- and Rs. 4,790/- respectively. An amount of Rs. 60/- has been claimed as refund for AY-2016-17 and Rs. 2,27,057/- for AY-2017-18. Moreover, the bank statements do not reflect any of such entries wherein the refund has been shown as credited in any of the bank accounts.

Shri Shyam in his statement had appraised the fact that presently he earns Rs. 15-30 thousand per month from his shop named M/s Shyam Choice Centre. He also earns Rs 4 lakhs as agricultural income annually. Whereas the return of income was filed for Rs. 600/- and Rs. 4,790/- for AY-2016-17 and 2017-18. This clearly indicates the fabrication of accounts.

4.1.3 It could also be gathered from the statements of Shri Shyam Kumar Netam He also stated that he received compensation in lieu of land acquired at village Lahrod for National Highway-53 to the tune of Rs. 42 lakhs in the year 2019 and had deposited the same in PNB, Baya.

The perusal of Account No-2768000100090669 of PNB, Baya reveals that the said account was opened on 25-05-2015 and an amount of Rs. 20,39,558/- was credited in the said account on 29-05-2015 through Cheque No-646536. On 25-06-2015 an amount of Rs. 20,30,000/- was withdrawn in cash through Cheque No-524411.

As stated by Shyam Kumar, no entries in respect of the compensation amount of Rs. 42 lakhs were found in the bank statement of PNB, Baya.

Analysis of Sale Deed and Bank statement of Shri Shyam Kumar Netam

5. As per the registry deeds, the maximum number of lands were purchased by Shri Shyam during the FY-2009-10 and 2010-11. Two of the lands were purchased in the year 2014 and 2015. The consideration for purchase was paid in cash. Shri Shyam Kumar Netam had maintained his accounts in the following banks, the details are as under:

S.No.	Name and address of bank	Account Number	Remarks
1	Dena Bank, Bundeli Branch, Pithora	085510004798	Savings account. Maximum deposit from the year 2009 to 2015 is Rs. 42,275/-. Withdrawals does not exceed Rs. 10,000/-.
2	Canara Bank, Pithora	5265101001288	Savings account. Account opened on 23-11-2016. During FY-2017-18 deposits



			were made through cheques and withdrawals through cash and that too amounting to Rs. 1 lakh only.
3	State Bank of India, Pithora	37529533571	Savings account. Major transactions are from his own SBI, KCC account.
4	State Bank of India, Pithora	33959002458	Kisan Credit Card account.
5	Punjab National Bank, Baya	2768000100090669	Account opened on 25-05-2015. Credit entry of Rs. 20,39,558/- on 05-06-2015 and Debit entry – Self Rs. 20,30,000/- on 05-06-2015.
6	Co-operative Bank, Pithora	99928	The account pertains to KCC and deposits of agricultural produce sales
7	HDFC Bank, Mahasamund	50200036158310	No Transaction

The perusal of above accounts shows that Shri Shyam Kumar Netam never had enough balance in his bank accounts to support the purchase of lands by him. Also, the source of income as explained by him, fails to support the purchase of lands. This clearly indicates that the consideration for purchase of lands were provided to Shri Shyam Kumar Netam by somebody else.

6. As regards the possession of land at Pithora or Lahrod, Shri Shyam Kumar Netam has denied, in the given statement, for possession or use of any land. Apart from the above two lands it had been stated that he had purchased 2 acres at Amlidih in the year 2013-14 and 1 acre at Lahrod in the year 2016, the details of either the seller or rate etc are not known to him. Land admeasuring 2 acres was also purchased in village Lohrakot for which he expressed his unawareness about the seller or the price at which such land has been purchased.

7. From the above discussions and analysis made, the following conclusions can be made:

- i. Shri Shyam Kumar Netam was BPL card holder and beneficiary of government schemes from the year 2003 to 2018.
- ii. His source of income is from a shop named M/s Shyam Choice Centre, Bus Stand, Pithora and presently earns Rs. 15-30 thousand from this shop per month. He also earns Rs. 4 lakhs as agricultural income annually.
- iii. However, the return of income filed by him for the A.Y. 2016-17 and A.Y. 2017-18, the agricultural income has been shown at Rs. 69,620/- and 1,07,432/- only respectively. Also, the deposits against the agricultural sale proceeds in bank account at Zila Sahkari Bank, Pithora is taken into consideration, it has been observed that the annual agricultural income has never exceeded Rs. 2,00,000/- for any of the year. Thus, it may be construed upon that in the given statement, Shri Shyam Kumar Netam has exaggerated his agricultural income. It may also be noted that Shri Shyam Kumar has not supported his statement with any documentary evidence. This clearly depicts that he has no capacity or source for purchase of land.
- iv. Possession of the lands are not with Shri Shyam Kumar Netam.
- v. Shri Shyam Kumar Netam had no source of income for purchase of land as explained in above Paras. This inference gets supported by his statement as to he is unknown of persons or the rate or total consideration paid to the sellers of land.
- vi. Even otherwise, he has shown his unawareness of person or rate or consideration received against sale of land at Pithora, Lahrod and Sarkada.
- vii. Under no circumstances, it is possible that a person selling or purchasing land fails to quote the rate or consideration paid against the dealing of his own land. The ignorance of Shri Shyam Kumar



- Netam about the involved transaction of land clearly establishes that there is some another person who had dealt everything on his behalf.
- viii. Even the life style of Shri Shyam Kumar established him to be a benamidar. During the period of purchase of land in his name he was a BPL card holder and had availed benefits of government schemes. The analysis of bank account also supports the status of Shyam Kumar of not being able for such transaction as done in his name.
- ix. Thus, it has been concluded that another person has been involved in conspiring the sale of lands in others name, receiving benefits out of the said deals, holds possession of land which are in the name of Benamidar (Shri Shyam Kumar Netam).

8. As stated by Shyam Kumar Netam that the lands have been purchased or sold in his name by Shri Aakash Agarwal, a summons has been issued to Shri Akash Agrawal on 05-02-2020 and his statement has been recorded on 12-02-2020. In his statement Shri Aakash Agarwal has denied in toto of financing the purchase of land in the name of Shri Shyam Kumar.

As no evidences has found till date to link the alleged beneficial owner for the purchase of land in the name of Shri Shyam Kumar, it may be concluded that the alleged beneficial owner is not identifiable.

9. Considering the above discussion and as stated by Shri Shyam Kumar Netam about his ancestral land at Village Sarkada, the following land is being concluded as Benami Properties. It may be noted that ancestral land has been excluded from the list of properties as mentioned in Para-3 above.

Sr. No.	Village	Khasra No.	Area (In Hectares)
1	Rajasewaiya khurd	344	0.07
2	Rajasewaiya khurd	345	0.05
3	Rajasewaiya khurd	346	0.05
4	Rajasewaiya khurd	347	0.1
5	Rajasewaiya	348	0.09
6	Rajasewaiya khurd	349	0.1
7	Rajasewaiya khurd	350	0.03
8	Rajasewaiya khurd	351	0.02
9	Rajasewaiya khurd	352	0.07
10	Lahrod	633/1	0.08
11	Lahrod	308	0.33
12	Lahrod	324	0.04
13	Lahrod	part of 308	0.05
14	Lahrod	340	0.11
15	Lahrod	part of 647	0.02
16	Lahrod	part of 751	0.09
17	Lahrod	part of 414	0.7
18	Lahrod	part of 414	0.12
19	Lahrod	353	0.01
20	Lahrod	353	0.06
21	Lahrod	309	0.08
22	Lahrod	part of 347	0.22
23	Lahrod	part of 923	0.06 (6432 Sq. Ft.)
24	Lahrod	623	0.17
25	Pithora	689/1	0.169
26	Lohrakot	265	0.41
27	Lohrakot	267	0.56
28	Dongerpali	902	1.59
29	Dongerpali	906	0.6
30	Lahrod	322/2	0.13
31	Patparpali	415	0.07
32	Patparpali	308	0.29
TOTAL AREA			6.539



10. And whereas, the properties mentioned in **Para 9** above acquired in the name of Shri Shri Shyam Kumar Netam, S/o Late Shri Kejuram Netam, Village - Rajasevaiya Khurd, Teh.-Pithora, Dist.- Mahasamund (CG) are to be held benami properties as per definition provided u/s 2 of the PBPT Act, 1988, a show-cause notice u/s 24(1) of PBPT Act, 1988 has been issued to Shri Shyam Kumar Netam on 18-02-2020. The reply has also been filed by Shri Shyam Kumar Netam on 18-02-2020 wherein it has been submitted that as on date he is firmly standing on the given statement by him on 27-12-2019 u/s 19(1) of PBPT Act.

11. Considering the above facts and discussion, immovable properties mentioned as above in **Para 9** above are held to be benami which are held in the name of Benamidar namely Shri Shyam Kumar Netam, S/o Late Shri Kejuram Netam, Village - Rajasevaiya Khurd, Teh.-Pithora, Dist.- Mahasamund (CG) for the immediate or future, direct or indirect benefit, who had provided the consideration and who has the possession of the said land properties, as unidentifiable beneficial owner. In view of the above finding, I am of the view that land mentioned in **Para 9** is Benami property.

12. As per the above discussion, the above-mentioned properties in Para-9 are held to be benami which are held in the name of benamidar namely Shri Shyam Kumar Netam for the immediate or future, direct or indirect benefit of the persons who provided the consideration as a beneficial owner who is not traceable/identified till date.

(Unquote)

2.2 The above Provisional Attachment Order (PAO) u/s 24(4)(b)(i) of the PBPT Act, 1988 was passed on 29.05.2020 with the prior approval of the Approving Authority declaring the following property to be a Benami Property:

Sr. No.	Village	Khasra No.	Area (In Hectares)
1	Rajasewaiya khurd	344	0.07
2	Rajasewaiya khurd	345	0.05
3	Rajasewaiya khurd	346	0.05
4	Rajasewaiya khurd	347	0.1
5	Rajasewaiya	348	0.09
6	Rajasewaiya khurd	349	0.1
7	Rajasewaiya khurd	350	0.03
8	Rajasewaiya khurd	351	0.02
9	Rajasewaiya khurd	352	0.07
10	Lahrod	633/1	0.08
11	Lahrod	308	0.33
12	Lahrod	324	0.04
13	Lahrod	part of 308	0.05
14	Lahrod	340	0.11
15	Lahrod	part of 647	0.02
16	Lahrod	part of 751	0.09
17	Lahrod	part of 414	0.7
18	Lahrod	part of 414	0.12
19	Lahrod	353	0.01
20	Lahrod		0.06
21	Lahrod	309	0.08
22	Lahrod	part of 347	0.22
23	Lahrod	part of 923	0.06 (6432 Sq. Ft.)
24	Lahrod	623	0.17
25	Pithora	689/1	0.169
26	Lohrakot	265	0.41
27	Lohrakot	267	0.56
28	Dongerpali	902	1.59
29	Dongerpali	906	0.6



30	Lahrod	322/2	0.13
31	Patparpali	415	0.07
32	Patparpali	308	0.29
Total area			6.539

Proceedings u/s 26 of the PBPT Act, 1985:

In this matter, the PAO was passed on 29.05.2020 and referred to the Adjudicating Authority vide References u/s 24(5) of the PBPT Act, 1988 dated 03.06.2020 which was received on 17.06.2020. Accordingly, the time to pass a final order by the Adjudicating Authority as per section 26 (7) of PBPT Act was expiring on 30.06.2021. In view of the provisions contained in the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020, the Prohibition of the Benami Property Transactions Act, 1988 is a specified Act within the meaning assigned to it in the said Ordinance. By virtue of section 3 in Chapter - II of the Ordinance, the time limit for completion or compliance of the acts referred therein i.e. passing of the Provisional Attachment Order u/s 24(4) of the PBPT Act, was firstly extended to 30 June 2020. Thereafter, the time limit for completion or compliance of the acts referred therein, was further extended till March 31, 2021, vide Notification dated 24.6.2020 (Notification No. 35/2020/No.370142/23/2020-7PL). Further, vide amendment in the Finance Act, 2021, the limitation for passing the order in the time barring matters have been extended up to 30.09.2021 and subsequently extended upto 31.03.2022 by the extraordinary Gazette notification of CBDT dated 17.09.2021 (Notification No. 113/2021/No.370142/35/2020-TPL-Part-1).

3.2 Upon receipt of the above reference, notice u/s 26(1) of the PBPT Act, 1988 dated 14.07.2020 were issued to D-1 to furnish such documents, particulars or evidences as is considered necessary to prove their claim that the property so held by them is not BENAMI property under the Act and is not covered by/involved in the benami transactions within the meaning of section 2(9) of the Act and further to explain as to why all or any of such property should not be declared to be BENAMI property involved in benami transactions under the Act and why the Provisional Attachment Order should not be confirmed. Further in the said notice D-1 was directed to appear before the Bench of the Adjudicating Authority under The Prohibition of Benami Property Transactions Act, 1988, either in person or through Authorised Representative on 23.10.2020 at 01:00 PM. The case was further fixed for hearing on 23.11.2020, 11.12.2020 and 04.02.2021.

3.3 Subsequent to the transfer of case to the incumbent authority, the Defendants were given fresh opportunity to represent their case following principle of natural justice vide letter R.No. 2081/2020/96 dated 25.08.2021. The hearing in the case was fixed on 06.09.2021. Further, perusals of the case records reveal that the Benamidar has neither attended the hearing nor he filed his reply till date. On the date of hearing, I.d. Advocate for IO apprised about the facts of the case.

Analysis:

4.1 In the present case, IO received information regarding Benamidar, a person of very marginal financial capacity, purchasing many land/plots in several villages of the area as benami of Mr. Laxmi Narayan Agarwal. After conducting investigation u/s 23 of PBPTA, IO found that Benamidar had got many land plots registered in his name in the state revenue records. The IO had narrated 49 such lands ownerships in his name. IO recorded statement of BD himself under section 19 and come to know that:-

- (i) That he is an "Adivasi" and his educational qualification is 12th Pass. He was also a BPL card holder from 2003 to 2018.
- (ii) That the lands at Villages Pithora and Lahrod were purchased on the directions of Shri Akash Agrawal and the purchase amount was also paid by Shri Akash Agrawal only. Some of the registry papers were in possession of both Shri Shyam and Shri Akash Agrawal.
- (iii) That he had inherited 12 acres of land in his ancestral village-Sarkada and also possesses 10 decimal of land at Village Rajasevaiya Khurd where he had constructed his residence.
- (iv) That apart from the above two lands, it had been stated that he had purchased 2 acres at Amlidih in the year 2013-14 and 1 acre at Lahrod in the year 2016, the details of seller, rate etc are not known to him. Land admeasuring 2 acres was also purchased in village Lohrakot.
- (v) That he sold some lands at villages – Pithora, Lahrod and Sarkada, but the details of purchaser, rate and date of sales etc. are not known to him. He admitted that the dealings were done on the directions of Shri Aakash Agarwal, S/o Shri Madan Agrawal.
- (vi) That he does not file ITR as he does not have the taxable income. He further added that he is not aware of the fact regarding filing of ITRs for AYs-2016-17 and 2017-18.

In brief IO concluded that

1. BD was a tribal agriculturist having some ancestral land in his name, around 12 acre and 10 decimal.

He had no taxable income, he doesn't file IT returns and he was not even aware that IT returns for A.Y.16-17 and 17-18 were filed on his behalf, he was earning around 15-30 thousand per month, he had in 2019 received some land compensation.

3. Certain land were purchased in year 2013-14 and 16 in different villages in his name & he was not aware of details of such purchased i.e. name of sellers, purchase rate, date of purchase etc. He admitted of these purchases being made on the direction of Mr. Akash Agrawal using his fund.

4.2 In view of the facts of the case, and the limited material available on the record, it appears that D-1 is a person with little to no means to acquire the properties in question.



Though he himself admitted the fact that the lands were purchased on the direction of Mr. Agrawal and sources of such purchases were provided by one Shri Aakash Agarwal, the latter denied any business association with D-1 and has denied in toto of financing the purchase of land in the name of D-1. It is not in dispute that the alleged purchase of the property is done in the name of D-1 and he himself admitted the fact that the consideration is not paid by him. Further, there is nothing on record which could establish the identity of the Beneficial Owner as the only person, namely Shri Aakash Agarwal, alleged by the Benamidar as the one providing consideration for acquiring these properties, has denied the allegations and charges framed against him. It is further apparent from the reference of the IO that not single evidence is there on record which could establish the link/nexus between the Benamidar and the Beneficial Owner.

4.3 As benamidar was not having specific details of such benami land purchase, the IO apparently sorted out his ancestral land holdings from the list of his present total land holdings and the remaining properties being newly acquired land (which were admitted of being purchased under instruction of Mr. Agrawal) were treated as benami properties by IO. As Mr. Akash Agrawal had completely denied of involvement in these purchases and IO has no other evidence tying him with the impugned purchases, he invoked section 2 of PBPTA to attach the property u/s 24(4). The transaction in the instant case very well falls in the realm of definition of Benami Transaction laid down u/s 2(9)(D) of the PBPT Act wherein the property is purchased in the name of Shri Shyam Kumar Netam but the person providing the consideration is not traceable

5. Findings:

I, Hari Govind Singh, in view of the above findings and in exercise of the power conferred on me by virtue of Section 7 of the PBPT Act, 1988 (As amended) hereby confirms the aforesaid provisional attachment order dated 29.05.2020 passed by the IO, and further direct that the property specified in Para 2.2 of this order shall not be transferred or otherwise dealt with, in any manner, except with the prior permission of the undersigned. The Reference no. 2081/2020 is allowed.



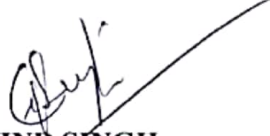
This is an appealable order and any party hereto if aggrieved by this order may appeal to the Appellate Tribunal, 4th Floor, Lok Nayak Bhavan, Khan Market, New Delhi-110 003, within 45 days of the date of this order.

SIGNED AT MUMBAI ON THIS 12th DAY OF OCTOBER 2021.

Sd/-
HARI GOVIND SINGH
 ADJUDICATING AUTHORITY,
 PBPT ACT, DELHI

Copy to:

1. Assistant Commissioner of Income Tax (Benami Prohibition), Raipur(CG), Room No.-201, Second Floor, C.R. Building (**Investigation Wing**), Civil Lines, Raipur (CG) - 492001
2. Shri Shyam Kumar Netam, S/o Late Shri Kejuram Netam, Village - Rajasevaiya Khurd, Teh.-Pithora, Dist.- Mahasamund
3. The District Collector, Mahasamund with the request to direct authorities concerned not to transfer the properties attached till further order and update land records accordingly.
4. The District Registrar, Mahasamund with the request to direct authorities concerned not to transfer the properties attached till further order.
5. The Sub-Registrar, Pithora, Distt. Mahasamund with direction that the attached properties shall not be transferred in any other name.
6. The Tehsildar, Pithora, Distt. Mahasamund with direction that revenue record shall be updated accordingly and the property shall not be transferred in any other name.


HARI GOVIND SINGH
ADJUDICATING AUTHORITY,
PBPTA, DELHI

