

# Benami Law Provisions

Posted at: 19/10/2024

## Supreme Court Reverses Ruling on Benami Law Provisions

### Context:

- The Supreme Court set aside its 2022 judgment, which had declared certain provisions of the **Benami Transactions (Prohibition) Act, 1988**, unconstitutional.
- The provisions under scrutiny were **Section 3(2)** and **Section 5** of the Act.
- The case has been referred for fresh adjudication before a newly constituted bench.
- The decision to recall the earlier ruling came after a petition filed by the Central Government was allowed.

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### Background of the Case:

- **Benami Transactions (Prohibition) Act, 1988** initially prohibited benami transactions without proper enforcement mechanisms.
- The **Benami Transactions (Prohibition) Amendment Act, 2016** introduced stricter rules and penalties.
- The **2016 amendments** were challenged for retrospective application, leading to the 2022 Supreme Court ruling.

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### Key Highlights of the Recent SC Judgment:

#### 1. Constitutionality of 1988 Act:

- The SC clarified that the constitutionality of the **unamended 1988 Act** was not in question in the original proceedings.

#### 2. Scope of 2022 Judgment:

- The only issue in the original hearing was whether the 2016 amendments should have **prospective** or **retrospective** effect.

#### 3. Review Petition by Government:

- The Central Government filed a review petition arguing that the 2022 verdict had disrupted long-standing legal precedents.
- It contended that the 2022 judgment went beyond the primary issue of retrospective

application and wrongly declared Sections 3(2) and 5 unconstitutional.

#### 4. Fresh Adjudication Ordered:

- The SC set aside the 2022 ruling, allowing for fresh arguments before a new bench.
  - The new bench will reconsider the constitutionality of the benami law provisions in the context of an active legal dispute.
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### Benami Transactions and Related Rules:

#### 1. Definition:

- **Benami** means "without a name." It refers to assets acquired under fictitious ownership.
- It can involve any kind of property—movable or immovable.

#### 2. Benami Transactions Act, 1988:

- The original law aimed to deter illegal transactions, such as tax evasion or money laundering.
- However, the law was ineffective due to the absence of proper procedural rules.

#### 3. Amendment Act of 2016:

- Provided a clearer definition of benami transactions and imposed stricter penalties.
  - Empowered authorities with wide-ranging powers for enforcement, including property confiscation and penalties.
  - Imposed a prison term of **1 to 7 years** and fines up to **25% of the property value** for those involved in benami transactions.
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### 2016 Amendments and Legal Challenges:

#### 1. Retrospective Application:

- The 2016 amendments were applied retrospectively, which was later challenged.

#### 2. 2019 Calcutta HC Ruling:

- The **Calcutta High Court** ruled that the 2016 amendments could not be applied retrospectively.

#### 3. 2022 Supreme Court Verdict:

- The SC upheld the Calcutta HC ruling, declaring Sections 3(2) and 5 unconstitutional for their retrospective punishment.
- The court raised concerns over the extensive powers granted to authorities, which lacked adequate safeguards.