



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

BMA Nos.1 to 3/PUN/2024
Assessment Year : 2017-18

Shaista Suhel Patanwala, Patanwala Classics	Vs.	ADIT (Inv.)-2(1), Pune
Appellant		Respondent

Appellant by	:	Shri Kishor B Phadke
Respondent by	:	Shri Manish Kumar Sinha
Date of hearing	:	17.09.2025
Date of pronouncement	:	04.12.2025

आदेश / ORDER

PER DR. MANISH BOARD, ACCOUNTANT MEMBER :

The captioned appeals at the instance of assessee pertaining to A.Y. 2017-18 are directed against the separate orders dated 26.06.2024 and 25.06.2024 framed by CIT(A), Pune-11 arising out of respective orders framed u/s.10, 41 and 43 of The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (in short BMA Act, 2015).

2. We first espouse BMA No.3/PUN/2024 as the lead case.

Assessee has raised following grounds of appeal :

"1. Learned AO acting under BMA, 2015 erred in law and on facts and learned CIT(A) acting under the BMA, 2015 erred in confirming the assessment of Rs. 93,79,299 under section 10 r.w.s 3(1) of the BMA, 2015.

2. Appellant contends that, net profit emerging from the BITCOIN deals passively effected by Mr. Suhel Patanwala was already offered to tax in I-T returns of Mr. Suhel Patanwala, filed much earlier to the notice issued under the BMA, 2015. Appellant thus contends that,



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jurisdiction assumed by I-T authorities acting under BMA, 2015 is irregular and invalid.

3. *Appellant contends that, Appellant is a house-wife; and; Appellant's husband, Mr. Suhel Patanwala was lured into irregular deals of BITCOINS on a commission basis. Appellant contends that, effects of this truthful contention were glossed over by the I-T authorities acting under BMA, 2015 and; assessment was framed assuming an extreme conservative view, much away from reality.*

4. *Appellant contends that, under the BMA, 2015, only alleged "undisclosed foreign income" is taxable and not any gross transactions of receipt of proceeds from sale of BITCOINS. Learned IT authorities ought to have confined the addition under the BMA, 2015 at Rs.699,010 instead of Rs. 93,79,299.*

5. *Appellant contends that, sufficient enquiry of the matter, including interrogation of the key persons involved in the BITCOIN deals was not made by the learned I-T authorities acting under the BMA, 2015.*

6. *Appellant craves leave to add/alter/delete/modify all or any of the grounds of appeal."*

3. Brief facts of the case are that the assessee is a resident individual staying in India from 2007 onwards and prior to 2007 she was resident of another country namely Fiji and has continued to hold her Fiji Citizenship even after becoming resident of India. Assessee runs proprietary concern M/s. Patanwala Classics and declared income of ₹4,57,790 in her income-tax return for A.Y. 2017-18. Information was received from CBDT that assessee and her husband received total Fiji \$17,30,359 as inward remittances during the period 13.01.2017 to 31.01.2017 in their WBC choice basic account with Westpac Bank, Fiji Account No.980568022. The said information was received in the office of the Assessing Officer (AO) on 24.10.2017. It was accepted by the assessee during the course of proceedings u/s.10 of the BMA Act, 2015 that



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the transactions appearing in the alleged bank account relates to Bitcoin Trading. It was stated before Id. AO that entire Bitcoin Trading activity has been carried out by the assessee's husband Mr. Suhel Iqbal Patanwala who acted as an Agent on behalf of Mr. Ashwin Chandra and others and benefitted from the net profit of Commission emerging from the Bitcoin Trading activity. Details in the bank account were confronted to the assessee and the assessee also submitted detailed statement of Block chain Bitcoin e-wallet through which all the credit and debit transactions in the Bitcoin were carried out. Assessee also provided account of Bitcoin Trading showing the sales of Bitcoin and its purchase cost and other legal and related expenses. Ld. AO converted the figures shown by the assessee in the Fiji Dollars account in Indian Rupee. Ld. AO also disallowed the expenditure of ₹2,84,966 claimed by the assessee and finally observed that undisclosed Foreign Asset in the form of credits received in the Westpac Bank, Fiji Island amount to ₹86,80,289 and the Undisclosed Foreign Income earned by the assessee from Bitcoin transactions (after disallowing the expenditure claimed by the assessee at ₹2,84,966), at ₹6,99,010.2. The total Undisclosed Foreign Assets and Foreign Income have been calculated at ₹93,79,299 under Rule 3(2) of the BMA Act, 2017 and in Fiji Dollar same amounts to 2,66,511.78 and with the conversion rate 1 Fiji Dollar = 32.57, the total Undisclosed Foreign Asset and Foreign Income has been calculated at ₹93,79,299.



4. Aggrieved assessee preferred appeal before Id.CIT(A) but failed to succeed and the finding of Id.CIT(A) reads as under :

“16. It is an undisputed fact that the appellant was maintaining a bank account no. 9805628022 with Westpac Bank in Fiji Island which was not declared in the ITR filed for A.Y. 2017-18 even though the appellant was tax resident for India and had filed her return of income in India. The said bank account was not disclosed in the FA Schedule of the ITR. It is also not in dispute that between the period 13/01/2017 to 03/02/2017, the appellant received substantial amount in her bank account from various persons as detailed at page 40 and 41 of the impugned order. It is also not in dispute that the closing balance as on 31/03/2017 in the said bank account was Fiji \$ 266,897.17 and the same was on account of credit entries received during the year. When enquired by the DDIT (Inv.), the appellant vide submission dated 10/01/2018, submitted that the said credit entries were on account of hand loans availed from various persons. However, the appellant could not give complete details of these persons as well as any proof that these amounts were received on account of loans.

17. On further probing, the appellant changed her stand and vide submission dated 08/08/2018, she stated that the said bank account was being used by her husband for Bitcoin trading in association with other persons. She also gave the details of Bitcoin trading account through which Bitcoin trading was undertaken. In fact, she disclosed an additional income of Rs.1,19,375/- on account of Bitcoin trading in the revised computation of income filed before the Assessing Officer. The said amount of additional income was later revised to Rs.3,81,373/-. Thus, it is also not under dispute that the appellant has undertaken Bitcoin trading through a Blockchain Account and earned income on Bitcoin transaction.

18. The first contention of the appellant before me is that the said income of Rs. 3,81,373/- on sale of Bitcoins stand declared by her husband in the return filed for AY. 2017-18 on 13.07.2017, therefore, there is no undisclosed income on account of Bitcoin trading. The said contention of the appellant cannot be accepted because the said claim was never made before the Assessing Officer and in fact during the investigation, the appellant owned up the Bitcoin trading in her name and suo-moto declared additional income of Rs.1,19,375/- which was later revised to Rs. 3,81,373/- It is also important to mention that the appellant has not filed any documentary evidence to prove that the income of Rs.3,81,373/- shown by her husband Shri Suhel Iqbal Pattanwala was earned through the same Blockchain Account which was discovered during the investigation by the Assessing Officer.



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Thus, considering these facts and the appellant's own admission before the Assessing Officer, this contention of the appellant is rejected.

19. The second contention of the appellant is that all Bitcoin deals were done by Mr. Ashwin Chandra (a resident of Fiji Island) and not by the appellant and to support this contention the appellant has filed a confirmation from Shri Ashwin Chandra. I have considered this confirmation; however the same cannot be accepted because of following reasons:

i. Shri Ashwin Chandra is a tax resident of Fiji Island and his income is not taxable in India. In such situation, if a non-resident owns up the transactions which are actually undertaken by the Indian resident, same cannot be accepted unless supporting documents are filed.

ii. The appellant has not filed any supporting document to support her claim that the transactions through her bank account were carried out by Shri Ashwin Chandra.

iii. The appellant has not filed any copy of Powers of Attorney or Authorization Letter in the name of Shri Ashwin Chandra authorizing him to operate her bank account maintained in Fiji.

iv. Nowhere, in the bank statement is the name of Shri Ashwin Chandra appearing.

v. In fact, the confirmation filed by appellant does not even mention the details of bank account of the appellant.

vi. The said confirmation does not give complete detail about the persons from whom the credits were received in the bank account of the appellant. Neither the amount is mentioned in the said confirmation.

In view of the above, it appears that the said confirmation is a self-serving document and an afterthought. Therefore, the confirmation filed by the appellant cannot be taken at its face value.

20. The next contention of the appellant is that the amount credited in the said bank account was used for purchasing Bitcoins on behalf of other persons. In this connection, it is seen that the Assessing Officer has made a detailed analysis of appellant's bank account and the Blockchain Account and has given a finding that there is no correlation between these two accounts either in terms of dates or in terms of amount. These findings of the Assessing Officer have not been rebutted by the appellant.



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21. It is also seen from the bank account of the appellant that the credits were received between the period 13/01/2017 to 03/02/2017. However, this amount was not transferred to any other account and was appearing as credit balance in the appellant's bank account as on 31/03/2017. These facts clearly suggest that during the F.Y. 2016-17, the amounts received in the bank account were not utilized for any purchase of Bitcoin. On the other hand, it is seen from the Block chain Account that the trading in the Bitcoins was done between the period 29/01/2017 to 10/02/2017. This clearly suggests that the amount credited in the appellant's bank account was not meant or used for Bitcoin trading.

22. It is further seen that the amount appearing as credit balance in the appellant's bank account as on 31/03/2017 was transferred to Shri 'Satish Chandra Gosal (Fiji \$ 16,010 on 27/04/2017 and Fiji \$ 64,010 on 28/04/2017) and 'Four Servi (Fiji \$ 165,025 on 04/05/2017). The appellant has not explained the purpose of these payments and it is also not the claim of the appellant that she purchased bitcoins from these persons. These facts clearly suggest that the amount received in the bank account were ultimately not used for any Bitcoin purchase. Thus, the claim of the appellant that the amounts were received in her bank account for Bitcoin purchase and that her husband was using the said bank account in the capacity of agent for Bitcoin trading on commission basis, does not have any force.

23. It is also important to note that initially the appellant vide her written submission, submitted that the amount received in her bank account was on account of loans and later she changed her stand without filing any cogent evidence. Thus, the appellant kept shifting her stand during the proceedings before the AO.

24. To summarize, the appellant has failed to explain the credit entries in the bank account maintained by her in Fiji and could not explain the source of same. The appellant has failed to file any confirmation from the persons from whom said amount was received as well as the purpose for which the said amount was received in her bank account. Also, it is an undisputed fact, that the said bank account was never disclosed by the appellant in the return of income filed for F.Y. 2017-18, therefore the action of the Assessing Officer to treat the credits in this bank account as undisclosed foreign assets, is upheld.

25. The appellant has relied on the Q. No. 7 to Q. No. 10 of CBDT Circular dated 03/09/2015 for challenging the amount of addition made by the Assessing Officer. A perusal of this Circular suggests that the said questions shall not be applicable in this case because during the period 13/01/2017 to 31/03/2017 there were no



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expenses or withdrawals from the said bank account and therefore the total amount of credits made during this period is required to be considered as undisclosed foreign assets.

26. *The appellant has also submitted that as per Black Money Act, what is taxable is actual income and not the entire receipts as done by the Assessing Officer. This contention of the appellant is not correct because as per section 3 of the Act, tax shall be imposed on the total undisclosed foreign asset and as per Section 4(1)(c) of the Act the value of an undisclosed foreign asset shall be considered as total foreign asset and shall be charged to tax. Further, as per section 3(2) of the Act, the value of such undisclosed foreign assets is required to be computed as per the method prescribed which stands prescribed. As per rule 3(1)(e) of The Black Money (UFIA) and imposition of Tax Rules, provides that in case of undisclosed foreign bank account, sum of all deposits in the bank account shall be considered as the 'Value of the bank account'. This is exactly what the AO has done. Thus, the contention raised by the appellant is rejected.*

27. *Considering the totality of facts of the case, the addition of Rs. 86,80,289/- corresponding to total of credits in the undisclosed bank account maintained in Fiji being the value of undisclosed foreign asset is upheld.*

28. *Regarding the income from Bitcoin trading, the appellant has submitted that the deductions claimed by her on account of legal fee and other related expenses should be allowed. In this regard, I agree with the findings of the Assessing Officer that as per provisions of section 5(1)(i) of The Black Money Act, no deduction in respect of any expenditure shall be allowed. In any case the appellant has not filed any documentary evidence in support of claim of expenses. Considering these facts and the provisions of law, the said contention of the appellant is rejected. Accordingly, the addition of Rs.6,99,010/- being income earned on Bitcoin trading is upheld.*

29. *To sum up, the addition of Rs.86,80,289/- being the value of undisclosed foreign bank account as well as the addition of Rs. 6,99,010/- being the foreign income earned on Bitcoin transactions, is upheld. The ground nos.1 to 4 raised by the appellant are DISMISSED.”*

5. Aggrieved with the finding of Id.CIT(A), assessee is now in appeal before this Tribunal raising the aforesaid grounds extracted (*supra*).



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6. Before this Tribunal, Ld. Counsel for the assessee contended referring to the following written submissions :

1. Quantum Addition of Rs. 93,79,299/- u/s 10 of BMA, 2015:

Before the Honorable ITAT, Pune, the Appellant has challenged the following addition of Rs.93,79,299/-made by the Id. AO under section 10 of BMA, 2015, and further sustained by the Id. CIT(A):

- a) *Rs.86,80,289/- being total credits in FIJI Bank account with Westpac Bank as "undisclosed foreign asset"*
- b) *Rs.6,99,010/-being profit from trade of BITCOINS as "undisclosed foreign income"*

The contentions raised before the Honorable Bench w.r.t these additions made are as below:

1.1 *Addition of Undisclosed Foreign Asset of Rs.86,80,289/- not sustainable in AY 2017-18:*

Observations of learned AO - The Id. AO, in his order u/s 10 of BMA, 2015 has made an addition of Rs.86,80,280/- being the sum of all the deposits made in the bank account held in Westpac Bank, FIJI, as an "undisclosed foreign asset", in accordance with Rule 3(2)(e) of BMA, 2015 - which lays down the provisions for calculation of fair market value of foreign "assets"

In Para 7.1 on Page 67 of the Order u/s 10, the Id. AO has clearly referred to the bank account held in Westpac Bank, FIJI as an "undisclosed foreign asset"; relevant screenshot of which is as below:

7.3. *Undisclosed Foreign Asset - A/c No 980568022 Westpac Bank, Fiji Island*

7.1 *As discussed in detail in Para 7.0 (supra), the assessee has failed to disclose the Foreign bank account A/c No 980568022 Westpac Bank, Fiji Island in the Schedule F/A of her ITR for AY 2017-18 Further, upon enquiries in the case the assessee has failed to explain the nature of the credits received in the bank account No 980568022 Westpac Bank, Fiji Island*

Further, as discussed in detail in Para 6.3, that the dates of Bitcoin Transactions does not match with the date of credits received in the bank account no. 980568022, Westpac Bank, Fiji. Hence, it is not possible to substantiate the claim of the assessee that the credits received in the bank account no



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980568022, Westpac Bank, Fiji, pertain only to the bitcoin transactions undertaken by the assessee.

The value of the assets has been calculated in accordance with the Rule 3(2) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

Further, in Para 7.5 on Page 72 of the Order u/s 10, the Id. AO has recorded his conclusion that Appellant was a holder of "undisclosed foreign asset" of Westpac Bank, FIJI and in Para 7.6 on Page 73, has reiterated that, the value of "assets" (being FIJI Bank account), has been calculated in accordance with Rule 3(2) of BMA, 2016. The relevant screenshots are given below:

7.5 Based on the above facts of the case, it is clear the Smt. Shaista Suhel Patanwala was holder of undisclosed foreign asset of Westpac Bank, Fiji Island, A/c. No.980568022 and was earning undisclosed foreign income from Bitcoins trading :

Sr.No.	Asset	Relevant Years	Amount/ Value	Conversion rate	Final Income (INR)
1	Total Credits in the account with Westpac Bank, Fiji Island A/c.	FY 201617	Fiji \$	32.57	Rs.86,80,289/-
	No.980568022				
			266511.78		

7.6 As the assets had been transferred earlier, the value of the assets has been calculated in accordance with the Rule 3(2) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. The total value of the same comes to Fiji \$ 266511.78. As per Explanation 2 to Rule 3 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Rules, 2015, the date for conversion of the above foreign currency to Indian currency shall be the 1st April of the previous year. The RBI reference rate for conversion of Fiji \$ to INR for 01.04.2019 is 1 Fiji Dollar Rs. 32.57. The Rupee equivalent comes out to Rs.93,79,299 / The amount will be taxed at the rate of 30% as per Section 3(1) of the Black Money Act.

Submission - Hence, it is an undisputed fact that, the addition made w.r.t credits in FIJI Bank account represent as "undisclosed foreign asset" under the BMA, 2015. Now, Provision to Section 3(1) of the BMA, 2015 lays down the provision for year of chargeability of an undisclosed foreign asset under BMA, 2015 as follows:

3.(1) There shall be charged on every assessee for every assessment year commencing on or after the 1st day of April, 2016, subject to the provisions of this Act, a tax in respect of his total undisclosed foreign



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income and asset of the previous year at the rate of thirty per cent of such undisclosed income and asset:

Provided that an undisclosed asset located outside India shall be charged to tax on its value in the previous year in which such asset comes to the notice of the Assessing Officer.

(Emphasis added by undersigned)

Before the Honorable ITAT, Pune, it was submitted that, as per Para 1.0 on Page 1 of order u/s 10, it was stated that, information w.r.t inward remittances in WBC Choice, basic account with Westpac Bank, FIJI held by Appellant, was received from the CBDT by the Id. AO's office on 24/10/2017 i.e. AY 2018-19. Considering the proviso to Section 3(1) as above, since the undisclosed foreign asset u/s 2(11) of the BMA, 2015 (i.e. bank account held in FIJI), came to the notice of the Id. AO in AY 2018-19, the value of the said "undisclosed foreign asset" ought to have been charged to tax in the year in which it came to the notice of the Id. AO, i.e. AY 2018-19. However, addition w.r.t this "undisclosed foreign asset" has been made in AY 2017-18. The charging year, i.e. AY 2017-18, is clearly incorrect. Hence, contention was raised before the Honorable ITAT that addition of Rs. 86,80,289/-, made on account of "undisclosed foreign asset" of credits in Westpac Bank, FIJI, cannot be brought to tax in AY 2017-18 and accordingly, the addition made ought to be deleted.

Judicial Precedents relied upon:

- *Anandi Laijawala v. DCIT-172 taxmann.com 121 (Mum)*
- *Elangovan Malarmangni - BMA No. 7/CHNY/2024*
- *JCIT v. Vikas Marda-174 taxmann.com 251 (Kol)*

(Copies of the above judgement have been submitted in course of hearing before the Honorable Bench)

1.2 Addition of Undisclosed Foreign Income of Rs. 6,99,010/-

Observations of learned AO-The Id. AO, in Para 7.1 & 7.2 on Page 65 & 66 of order u/s 10, has worked out the alleged undisclosed foreign income from Bitcoin trading activity, carried out by Suhel Patanwala, on being lured into the Bitcoin deals by Mr. Ashwin Chandra and others. Details of the said working, appearing on Page-65 & 66 are as under -

7.0 Total Income of Smt. Shaista Suhel Patanwala

From perusal of the assessee's submission it is seen that the assessee has attracted the provisions of the Black Money (Undisclosed Income and Assets) and Imposition of Tax Act, 2015 in the following manner



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7.1 Undisclosed Foreign Income from Bitcoin Trading:

The assessee has offered Income from Bitcoin trading in the following manner:

(1) The assessee vide her submission dated 08.08 2018 has stated that the transactions in her account Alt No 980568022 Westpac Bank, Fiji Island are related to Bitcoin transactions done by her husband. Further, she has offered an income of Rs.1,19,275/- on the same. Thereafter, by her submission dated 13.11.2018 the assessee revised her income from Bitcoin transactions to Rs 3.81.373/ (the calculation undertaken by assessee has been done by assuming the rate of 1 Fiji Dollar 30 INR)

As per Explanation 2 to Rule 3 of the Black Money (Undisclosed Foreign Income and Assets) and imposition of Tax Rules, 2015, the date for conversion of the above foreign currency to Indian currency shall be the 1st April of the previous year. The RBI reference rate for conversion INR to Fi Dollar on 01.04.2019 is 1 Fiji Dollar Rs 32.57.

Particulars	Amount in (Fiji Dollars)	Rate of Fiji Dollar in INR	Amount in INR
Bit coins sold during FY 2016-17	266506.78	32.57	8680125.825
(-) Cost of Bitcoin Purchase	245045		7981115.65
Legal Fee Claimed	5000		1628850
Other related expenses claimed	3749.35		122116.3295
Hotel Accommodation Charges			
Airport Charges			
Visa Application Fees			
Profit	12712.43		Rs.4,14,043.845 1

Hence, the total Undisclosed Foreign Income from Bitcoin Trading comes out as Rs.4,14,043.8451.

7.2 Disallowance of Expenditure claimed on the Undisclosed Foreign Income earned from Bitcoin Trading

The expenses claimed by the assessee while calculating the profit from bitcoin trading are as under :

Particulars	Amount in (Fiji Dollars)	Rate of Fiji Dollar in INR	Amount in INR
Legal Fee Claimed	5000	32.57	162850
Other related expenses claimed	3749.35		122116.3295



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Hotel Accommodation Charges			
Airport Charges			
Visa Application Fees			
Grand Total			Rs.2,84,966.3

The expenses claimed by the assessee are not allowable as per Section 5(1) of the Black Money (Undisclosed Income and Assets) and Imposition of Tax Act, 2015.

Section 5(1), Black Money (Undisclosed Income and Assets) and Imposition of Tax Act, 2015 states that

no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee, whether or not it is allowable in accordance with the provisions of the income-tax Act

Hence, the expenditure of Rs.2,84,966.3 incurred by the assessee cannot be allowed and needs to be added to the total Undisclosed Foreign Income from Bitcoin Trading of the assessee. The total income of the assessee from Bitcoin transactions becomes Rs.6,99,010.2 i.e. (Rs. 414043.8451+ Rs. 2,84,966.3)

Submission-1- Appellant submits that, Appellant per se, has not even iota of knowledge w.r.t. complex activity of Bitcoin trades. Even Mr. Suhel Patanwala did not have any knowledge in the same, except for the fact that, he was lured into the Bitcoin trading transactions. As such, the income generated from the said Bitcoin activity ought to be worked out on NET commission basis, rather than any trading activity per se.

Submission-2-In the 131 statement, at Page-58 of Paper-Book [reproduced at Page-54 to 56 of the Order u/s 10(1)], it was stated that, Mr. Suhel Patanwala was involved in the Bitcoin trade activity through a Block-chain account. Now, the said Block-chain account and the Bitcoins residing in a Wallet of the Block-chain account are, not owned by Appellant herein at all. In other words, the Block-chain account and the e-Wallet account of Bitcoins storage were clearly owned by Mr. Suhel Patanwala (husband of Appellant). Appellant had no information about the said activity, neither had any skills to operate and trade on these complex accounts. As such, income emanating from these Block-chain account and e-wallet account ought not to be added in hands of Appellant herein.

Submisson-3-Assuming that, one proceeds as if, Bitcoin trading activity is indeed required to be taxed in hands of Appellant, and income therefrom is required to be considered for scope of BMA, 2015; kindly note; only such income can be taxed under the BMA 2015, which income is from some activity taking place outside India. Now,



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as per facts and reality of life, Bitcoins are virtual assets. Same are stored in a e-WALLET which is a feature of Block-Chain account. Bitcoins and the Block-chain accounts, are intangible phenomenon, and are not located in any country per se. In such situation, it is necessary to address the issue of location of Bitcoins & the Block-chain account & e-Wallet. As per general law, and as per first principles of law, if some person is to be considered as owner of some intangible asset, and the location of such intangible assets can't be mapped / decided with certainty; same is deemed to be located in the country where, such owner is located / situated/residing. By this analogy, the Bitcoins are deemed to be located in India, since, the apparent owner, Mr. Suhel Patanwala is residing in India and is a Tax-Resident of India. As such, it transpires, the income from Bitcoin trades is not any income located/situated outside India. As a sequel, it follows, the income from Bitcoins is not any undisclosed foreign income u/s 2(12) of the BMA Act 2015 at all. Hence, taxing the same under the BMA, 2015 is incorrect.

Submission-4-Further, it is submission of the Appellant that, perusal of Bitcoins Block-chain account shows inward entry of Bitcoin at the first instance. The inward Bitcoins in the Block chain account leads to formation of an asset. Hence, if one travels with this analogy, taxing the activity as income from Bitcoins is incorrect.

Submission-5 - The working adopted by learned AO on above Page 66 & 67 of his order is reprinted in detail and enclosed with this Synopsis and marked as CHART-1 (enclosed herewith for sake of easy referencing). The said CHART-1 will reveal that, all credit for outward movements of Bitcoins is related to inward US Dollar inward entries of the FIJI bank account. Similarly, all outward movements in Bitcoin Block-chain account are related to outward entries of the FIJI bank account. In other words, the economic impact of Bitcoin trading in the Blockchain account is related to credits and debits in the FIJI bank account. Now, in the first place, FIJI bank account credits are already taxed u/s 10(1) of the BMA, 2015 (and that too on a GROSS basis). Now once, entire GROSS receipts of the FIJI bank account are added/taxed under the BMA 2015, making addition out of the very same bank credits of the FIJI bank account on reason of Bitcoin activity leads to double taxation. Even on this count, addition of learned AO deserves to be cancelled.

7. On the other hand, ld. Departmental Representative vehemently argued supporting the order of ld. AO and ld.CIT(A).



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8. We have heard the rival submissions and perused the record placed before us. Assessee has challenged the finding of Id.CIT(A) confirming the action of AO of making addition towards the Undisclosed Foreign Asset at ₹86,80,289 and Undisclosed Foreign Income at ₹6,99,010.2 The first argument raised by Id. Counsel for the assessee is that Id. AO has made addition for Undisclosed Foreign Asset in the wrong assessment year. It has been stated that the addition for Undisclosed Foreign Asset (if any) located outside India could be charged to tax on its value in the previous year in which such asset comes to the notice of AO. It is claimed by Id. Counsel for the assessee that the AO received information for the first time on 24.10.2017 which falls in F.Y. 2017-18 relevant to A.Y. 2018-19 and therefore, the addition, if any, for Undisclosed Foreign Asset could have been made only for A.Y.2018-19 and not for A.Y. 2017-18. We observe that section 3 of Black Money Act reads as under :

“3. Charge of tax.-(1) There shall be charged on every assessee for every assessment year commencing on or after the 1st day of April, 2016, subject to the provisions of this Act, a tax in respect of his total undisclosed foreign income and asset of the previous year at the rate of thirty per cent of such undisclosed income and asset:

Provided that an undisclosed asset located outside India shall be charged to tax on its value in the previous year in which such asset comes to the notice of the Assessing Officer.

(2) For the purposes of this section "value of an undisclosed asset" means the fair market value of an asset (including financial interest in any entity) determined in such manner as may be prescribed.

This clause provides for charge of tax. It provides that every assessee shall be liable to tax in respect of his total undisclosed foreign income and asset at the rate of thirty per cent of such undisclosed income and asset. It also defines the term "value of an undisclosed asset to mean



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the fair market value of an asset (including financial interest in any entity) determined in the prescribed manner. (Notes on Clauses).”

9. On going through the proviso to section 3(1), it clearly provides that the addition for Undisclosed Foreign Asset is required to be charged to tax on its value in the previous year in which such asset comes to the notice of AO.
10. In the instant case, the transaction in the bank account of the assessee held with Westpac, Fiji are during F.Y. 2016-17 relevant to A.Y. 2017-18 and the period of such transactions are falling in between 13.01.2017 to 31.01.2017.

Undisputedly, the information about such asset (Undisclosed bank account) has been received by AO on 24.10.2017 which means the AO has come to know about the alleged Undisclosed Foreign Asset during F.Y. 2017-18 (A.Y. 2018-19). However, the addition for Undisclosed Foreign Asset at ₹86,80,289 has been made in the hands of assessee in A.Y. 2017-18 which clearly is a mistake on the part of AO who did not have jurisdiction to make such addition for Undisclosed Foreign Asset in A.Y. 2017-18 and the correct year for charging the Undisclosed Foreign Asset, if any, earned by the assessee is A.Y. 2018-19. We are therefore of the considered view that addition for Undisclosed Foreign Asset at ₹86,80,289 is uncalled for and the same is directed to be deleted. Relevant finding of Id.CIT(A) confirming addition for Undisclosed Foreign Asset is set aside.

11. Coming to the second part of the addition for Undisclosed



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Foreign Income at ₹6,99,010.2 earned by the assessee through Bitcoin transaction, we find that assessee has not disputed that she has carried out Bitcoin transaction through the Foreign Bank account held with Westpac, Fiji. Ld. Counsel for the assessee has made multifold contentions in this regard that the assessee was not aware about the given transactions which was carried out by her husband but such contentions will not stand because the assessee has herself accepted during the course of proceedings u/s.10 of the BMA Act, 2015 that such Bitcoin Trading transactions have been carried out in the Foreign Bank account held her.

12. Second contention made by ld. Counsel for the assessee is that Bitcoins and the Block-chain accounts are intangible assets are not located in any country *per se*. In such situation, it is necessary to address the issue of location of Bitcoins and the Block-chain account & e-Wallet. From the assessee's side, it has also been submitted that if some person is to be considered as owner of some intangible asset, and the location of such intangible assets cannot be mapped/decided with certainty and that the same is deemed to be located in the country where such owner is located and by this analogy, the Bitcoins are deemed to be located in India, since, the apparent owner, Mr. Suhel Patanwala is residing in India.
13. We however fail to find merit in such contentions because in the instant case the alleged Undisclosed Foreign Income in India have been credited to Undisclosed Foreign Bank account. Bitcoin transactions can be carried out online



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from any place across the globe but for all practical purposes the transactions of Bitcoin Trading have been carried out through Undisclosed Foreign Bank account located outside India and therefore the alleged income from Bitcoin Trading is held to be earned outside India. So far as the computation of income is concerned, the same has been calculated by the AO based on the details filed by the assessee during the course of proceedings u/s.10 of the BMA Act, 2015 and expenses claimed in such details are not allowable in terms of section 5(1) of the BMA Act, which provides that no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee whether or not it is allowable in accordance with the provisions of Income-tax Act, 1961. Therefore, the income computed from Bitcoin Trading transactions appearing in the Undisclosed Foreign Bank account is an Undisclosed Foreign Income.

14. Ld. Counsel for the assessee has also made an alternate contention that the addition made under the had Undisclosed Foreign Income has already been considered while making addition for Undisclosed Foreign Asset and therefore once the gross receipts of the Fiji Bank account making addition out of the very same bank account credits of the Fiji bank account on reason of Bitcoin activity leads to double taxation.
15. Now at this juncture, the important issue comes into consideration that whether the credits in the bank account are to be first categorized as Asset or categorized as



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Income. Now the source of credit in the Bank account is sale of Bitcoin which is a part of Trading activity and can be considered as gross receipts and against such gross receipts the assessee has made purchase of Bitcoin and also claimed the expenses.

It is also not known as to whether the assessee has made purchase in much earlier period which has not come to the knowledge of the Revenue authorities. However, ld. AO has accepted the assessee's claim that assessee has first received the credits from sale of Bitcoins and thereafter made the payments for the purchases. But in this scenario, in our considered view, the assessee has first earned the income and then such income which remained in the bank account has taken the shape of an asset. Admittedly the Undisclosed Foreign Income component has been considered by ld. AO on the basis of details filed by the assessee and transactions have taken place during A.Y. 2017-18 and therefore the addition of Undisclosed Foreign Income earned by the assessee during the year under consideration is at ₹6,99,010.20 and ld. AO has rightly been made the addition in the hands of assessee u/s.3(1) of the BMA Act, 2015. No interference is thus called for in the finding of ld.CIT(A) on the issue of addition made for Undisclosed Foreign Income earned from Bitcoin transactions.

16. In the result, the appeal filed by the assessee is partly allowed.
17. Now we shall take up BMA No.2/PUN/2024. Assessee has raised following grounds of appeal :



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“1. Learned AO acting under BMA, 2015 erred in law and on facts and learned CIT(A) acting under the BMA, 2015 erred in confirming the penalty u/s 41 amounting to Rs.84,41,370 (i.e. 300% of Rs. 28,13,790 being the amount worked out u/s 10 of the BMA, 2015) without considering the merits of the case and the provisions of the BMA, 2015 in proper perspective.

(2) Appellant contends, learned AO acting under BMA, 2015 erred in law and on facts and learned CIT(A) acting under the BMA, 2015 erred in law in sustaining penalty u/s 41 of the BMA, 2015 on the total receipt of proceeds from the sale of Bitcoins. Appellant contends, the penalty ought to be confined to net receipts from Bitcoin trading amounting to Rs.6,99,010/-as against Rs. 93,79,299/-.

(3) The learned CIT(A) erred in law and in facts in levying penalty on an incorrect and erroneous imaginary base of undisclosed foreign income/assets of the Appellant. The learned CIT(A) ought to have confined the levy of penalty to the net reminder commission income of the Appellant likely to arise in the BITCOIN deals.

(4) Appellant contends that, levy of penalty u/s 41 of BMA, 2015; on an erroneous base of gross credit summations in bank account; leads to double taxation, as well as double levy of penalty (to that extent).

(5) Appellant craves leave to add/alter/amend/modify/delete all/any grounds of appeal.”

18. From the above, we find that assessee has raised grounds of appeal challenging levy of penalty u/s.41 of BMA Act, 2015 and the amount of penalty worked out u/s.10 of the BMA Act, 2015 in this case is ₹84,41,370.
19. We observe that while dealing with the quantum addition in BMA No.3/PUN/2024, we have deleted the addition for Undisclosed Foreign Asset amounting to ₹86,80,289 on account of making addition in wrong assessment year and therefore the penalty levied on the tax calculated on the said amount deserves to be deleted. In other words, penalty of ₹78,12,261 is deleted and the remaining amount of penalty at



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₹6,29,109 levied @300% of the tax levied on the Undisclosed Foreign Income at ₹6,99,010 stands confirmed. Thus Grounds of appeal raised by the assessee are partly allowed.

20. In the result, the appeal filed by the assessee is partly allowed.

21. Now we shall take up BMA No.1/PUN/2024. Assessee has raised following grounds of appeal :

“1. Learned AO acting under BMA, 2015 erred in law and on facts and learned CIT(A) acting under the BMA, 2015 erred in confirming the penalty u/s 43 amounting to Rs.10,00,000/- without appreciating the overall piquant, lock-jammed and confused situation of the Appellant.

(2) Appellant contends, learned AO acting under BMA, 2015 erred in law and on facts and learned CIT(A) acting under the BMA, 2015 erred in law in sustaining penalty u/s 43 of the BMA, 2015 for nondisclosure of information in appropriate rows / columns/tables prescribed under BMA, 2015.

(3) Appellant contended, the learned CIT(A) erred in law in not exercising his discretionary powers as laid down in provisions of Section 43 of the BMA, 2015, for alleged non-disclosure of some information in complex returns of income which is unjust/ excessive and uncalled for considering the typical situation of the Appellant Assessee.

(4) Appellant craves leave to add/alter/amend/modify/delete all/any grounds of appeal.”

22. The sole grievance of the assessee is against the levy of penalty at ₹10.00 lakh levied u/s.43 of the BMA Act, 2015 for non disclosure of information in appropriate rows/columns described under BMA Act. The said penalty has been levied because the assessee has not disclosed



Foreign income/asset in the income-tax return furnished by her.

23. Section 43 of the BMA Act, 2015 states as under :

“43. Penalty for failure to furnish in return of income, an information or Furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India. - If any person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, who has furnished the return of income for any previous year under subsection (1) or sub-section (4) or sub-section (5) of section 139 of the said Act, fails to furnish any information or furnishes inaccurate particulars in such return relating to any asset (including financial interest in any entity) located outside India, held by him as a beneficial owner or otherwise, or in respect of which he was a beneficiary, or relating to any income from a source located outside India, at any time during such previous year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten

lakh rupees: Provided that this section shall not apply in respect of an asset or assets (other than immovable property), where the aggregate value of such asset or assets does not exceed twenty lakh rupees.]

Explanation. The value equivalent in rupees shall be determined in the manner provided in the Explanation to section 42.

This clause relates to penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India. This clause seeks to provide that if any person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, who has furnished the return of income for any previous year under subsection (1) or sub-section (4) or sub-section (5) of section 139 of the said Act, fails to furnish any information or furnishes inaccurate particulars in such return relating to any asset (including financial interest in any entity) located outside India, held by him as a beneficial owner or otherwise, or in respect of which he was a beneficiary, or relating to any income from a source located outside India, at any time during such previous year, the Assessing Officer may direct that such person shall pay a penalty of ten lakh rupees.

The said clause further provides that no penalty shall be levied in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to five



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hundred thousand rupees at any time during the previous year. (Notes on Clauses).”

24. In light of the above penalty provision, we observe that assessee has herself accepted to have earned the income from Bitcoin Trading and the transactions have been carried out through Undisclosed Foreign Bank account held with Westpac, Fiji. Further, assessee has not disclosed the said bank account and the said asset/income in its income-tax return furnished under the Income Tax Act. Therefore, provisions of section 43 of the BMA Act gets triggered. We are therefore convinced that ld AO has rightly applied the said section and levied penalty of ₹10.00 lakh. Finding of ld.CIT(A) placing reliance on the decision of Coordinate Bench in the case of *Ms.Shobha Harish Thawani Vs. JCIT (2023) 154 taxmann.com 584 (Mumbai-Trib.)* needs no interference. Grounds of appeal raised by the assessee in BMA No.1/PUN/2024 are dismissed.

25. In the result, the appeal filed by the assessee is dismissed.

26. To sum up, BMA No.3/PUN/2024 filed by the assessee is partly allowed, BMA No.2/PUN/2024 filed by the assessee is partly allowed and BMA No.1/PUN/2024 filed by the assessee is dismissed, as per the terms indicated above.

Order pronounced on this 04th day of December, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER



BMA Nos.1 to 3/PUN/2024
Shaista Suhel Patanwala

पुणे / Pune; दनांक / Dated : 04th December, 2025.
Satisb

आदेश क ितिलिप अिे षत / Copy of the Order forwarded to :

1. अपीलाथ / The Appellant.
2. यथ / The Respondent.
3. The Pr. CIT concerned.
4. िवभागीय ितिनिध, आयकर अपीलीय अधकरण, "B"
बच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गाड फ़ाइल / Guard File.

आदशे ानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधकरण, पुणे / ITAT, Pune.