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PART-IV

GOVERNMENT OF MEGHALAYA

LAW (B) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

The 6th April, 2016.

No.LL(B)77/74/301.—The Meghalaya (Benami Transactions Prohibition) (Amendment) Act, 2016 (Act No. 4 of 2016) is hereby published for general information.

MEGHALAYA ACT NO. 4 OF 2016.

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 5th April, 2016.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 6th April, 2016.

**THE MEGHALAYA (BENAMI TRANSACTIONS PROHIBITION) (AMENDMENT)
ACT, 2016.**

An

Act

further to amend the Meghalaya (Benami Transactions Prohibition) Act, 1980.

Be it enacted by the Legislature of the State of Meghalaya in the Sixty-seventh year of the Republic of India as follows,-

Short title and commencement.

1. (1) This Act may be called the Meghalaya (Benami Transactions Prohibition) (Amendment) Act, 2016.

(2) It shall come into force from the date of notification in the Official Gazette.

Amendment of Section 2(a).

2. In section 2 of the Meghalaya (Benami Transactions Prohibition) Act, 1980 (hereinafter referred to as the principal Act)-

(i) in clause (a) the words "or on behalf" shall be omitted;

(ii) in clause (d) after the words "as amended from time to time" the punctuation full stop "." shall be inserted and thereafter the words "and for the purpose of this Act shall also include the Rabhas, Kacharis and Koch resident in Meghalaya" shall be omitted.

Amendment of Section 3.

3. In section 3 of the principal Act, in second proviso for the existing Explanation (ii), the following shall be substituted, namely,-

“(ii) “members of the same family” means either one of the spouses is a tribal and includes the children either of whose parent is or was a tribal.”

**Amendment of
Section 4.**

4. For the existing section 4 of the principal Act, the following new section 4 shall be substituted, namely,-

“Constitution of
Committee or
Authority.

4(1) The State Government may, by notification in the Official Gazette, constitute a committee or an authority for receiving and causing verification of a complaint or information of a transaction in benami in the State.

(2) On receiving a complaint or information under sub-section (1), the committee or the authority so constituted shall cause verification of such complaint or information and after such verification and if *prima facie* objectively satisfied and after giving opportunity of being heard to the person against whom a complaint or information of transaction in benami is received, the committee or the authority may refer the matter to the Superintendent of Police for further investigation.

(3) The committee or the authority constituted under sub-section (1) may detect and identify any transaction in benami and if the committee or authority

finds any such transaction to be benami after following due process of verification as provided for in sub-section (2) above, it may refer the same to the Superintendent of Police for further investigation.

(4) The committee or the authority constituted under sub-section (1) above shall have the power to require the presence of an officer of the State Government or local authority or any person who is responsible for maintaining books of account or other documents containing a record of any transaction relating to any property transacted in benami or any other matter relevant for the purposes of this Act.

(5) On receipt of a reference from the committee or the authority, the Superintendent of Police by himself or by any officer of Police not below the rank of Sub-Inspector duly authorised by him may enter and search at all reasonable hours, any premises where he has reason to believe that any register of account or other documents relating to or having any bearing on such transaction are kept in electronic form or otherwise and such police officer may direct any person whom

he has reason to believe to be in custody of such register, books of account or other documents relating with the transaction to produce them for his inspection and if required may seize such register, books of account or other documents or records or electronic systems”.

Amendment of Section 4A.

5. In Section 4A of the principal Act, in the proviso to sub-section (1) and in sub-section (2), the word “person” respectively appearing therein shall be omitted and further for the figure, bracket and letter “4(a)” appearing in the aforesaid proviso and also in sub-section (2), the figure and bracket “4(1)” shall be substituted.

Substitution of Section 6.

6. For the existing section 6 of the principal Act, the following new section 6 shall be substituted, namely,-

“Offences to be bailable or non bailable.

6. Offence under section 3 shall be cognizable and bailable but whoever wilfully refuses or fails to comply with any direction or lawful order made under section 4 such offence shall be non-bailable.”

Insertion of new Section 6A.

7. After Section 6 of the principal Act, the following new Section 6A shall be inserted, namely,-

“Offences by Companies and Partnership Firms.

6A (1) Where any offence punishable under this Act has been committed by a Company or Partnership firm, every person who at the time of the offence is committed, is in charge of, and is responsible to the Company for the conduct of the business of the Company, or Partnership of Partnership firm shall be deemed to have committed an offence under this Act:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), in relation to any offence committed under this Act by a Company or Partnership firm, it is proved that the offence has been committed with the consent or connivance of or is attributable to any negligence on the part of any Director, Manager, Secretary or any other officer or Partner individually or collectively shall also be deemed to have committed an offence under this Act.

Explanation:

For the purposes of this Section:-

- (a) "Company" means a body corporate and includes a firm or an association of individuals;
- (b) "Director" in relation to a company also includes Managing Director; and
- (c) "Partner" in relation to a Partnership firm includes managing partner."

Substitution of section 7.

8. For the existing section 7 of the principal Act, the following new section 7 shall be substituted, namely,-

"Penalty.

7. Whoever commits an offence under Sections 3 and 6A or wilfully refuses or fails to comply with any direction or lawful order made under sub-section (3) of section 4 shall, on conviction by a court of Judicial Magistrate First Class, be punishable with imprisonment for a term not exceeding six months or with fine not exceeding twenty thousand rupees or with both:

Provided that the minimum punishment for the second and subsequent offence under section 3 shall be with imprisonment for a term not less than three months and also with fine of not less than ten thousand rupees or both."

L. M. SANGMA,
Special Secretary to the Govt. of Meghalaya,
Law Department.