Taxation Of Crypto Currency and Virtual Digital Assets In India: A Critical Analysis

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Abstract:
Crypto currency and virtual digital assets are introduced as means of value creation and value of storage which is free from governmental controls. This is controlled by block chain technology. There is no way that a single person controls instead where all the people come together to create a decentralized control where everybody's value is protected. In recent times the crypto currencies are held, transferred, transacted moreas means to earn more and more profits and revenue as a trader. Considering this study the taxation aspects of crypto currency are to be discussed at large. The government of India on 1st February 2022 introduced the concept of virtual digital asset and more provision for taxability. In this study authors focused on the study of crypto currency and virtual digital assets importance in India. The income tax aspects and the GST aspect that taxation before 1st April 2022 and after 1st April 2022 how the changes havecome and what would be the future implications of taxations of crypto currencies are discussed. The research is based on secondary data taken from Income tax act 1961 and finance act 2022 and further suggestion are given for the strengthening the law.
Keywords – Block Chain Technology, Crypto Currency, Virtual Digital Assets,

I.INTRODUCTION: According to DECCAN HERALD India stands at the second place in crypto users across the global. The place of our country are using crypto currency for ease of transactions globally, and multiplying the digital wealth. This pattern of investmentand trading in crypto currencies became a considerable source of income for 7 % of Indian population as per various studies. to tax the crypto incomes there was no proper legislationin India but on 1-02-2022 the finance Minister Nirmala sitharaman introduction the taxation of crypto currency and all such digital assets she coined the term " Virtual Digital Assets " to cover all crypto currency and similar assets. Crypto currencies are virtual money in digital payment systems that do not require government back up or the involvement of an intermediary, such as a bank, a central bank, commercial bank, Instead, users of the system validate payments using certain standards. The first crypto currency bitcoin was invented in the year 2008, since then crypto currencies have grown. At the earlier phase crypto currencies has increased in value and created wealth to its holders but in the recent times there is a lot of volatility in valuation of crypto currencies. As per www.currency.com more than 9929 crypto currencies exists as on 27th January 2022 and top five crypto currencies have a market gap of $1.18trn. Crypto currencies have drawn the focus of public at large, the governments across globe, and policy makers due to its speedy growth and volatility. A special feature of crypto currency is that it is an alternative form of money and has the potential of globally exchange without government's interference. Usually transacting in money digitally involves private ledgers and systems of at least one trusted intermediary. In crypto transactions user agreements block chain network of users and crypto graphic protocols are used to achieve actual transfer of value. Crypto currency users typically use a pseudonymous address to identify each other and a pass code or private key to make changes to a public ledger in order to transfer value between accounts. These transfers are validated by other computers in the network. Block chain technology is used to protect the public ledgers of accounts against manipulation and hacking. This allows the users to valid transfers without centralized intermediary

REVIEW OF LITERATURE

1. **Wan Nur Izzah and Wan Muhamad Fokri (2021)** the author focused on the classification of the crypto currency and Technological advancement has affected the worldwide finance industry. The use of virtual currency is gaining a importance across the globe
2. **Peter D. DeVries (2020)** the author concentrated on An Analysis of Crypto currency, Bit coin, and the Future and A SWOT analysis of Bit coin is demonstrated, which enlightens about some of the recent events and changes that could impact whether Bit coin contributes to a shift in economic paradigms.
3. **Aleksander Berentsen and Fabian Schär (2017)** this article focuses on the logic and thought process, and motivation, for introduction and of crypto currencies, and block chain technology. We conclude that Bit coin has a wide range of interesting applications and that crypto assets are well suited to become an important asset class. (JEL G23, E50, E59).

RESEARCH METHODOLOGY

THE PURPOSE OF THE STUDY:

- In this paper a detailed discussion of the finance act 2022 on taxation of virtual digital assets will be critically analyzed and suggestions will be given for father legal provision to strengthen the economy and monitor the flow of money in the national interest.
- The legislative enactments introduced TDS provisions and detailed focus on the intent and application is also discussed in this paper.

THE RESEARCH PROBLEM: This article focuses on analyzing the study of crypto currency and virtual digital assets and the income tax aspects and the GST aspect that taxation after 1st April 2022 how the changes havecome and what would be the future implications of taxations of crypto currencies.

SCOPE OF THIS RESEARCH:

- This paper covers income tax aspects of virtual digital assets
- TDS aspects of virtual digital assets
- The government controls the flow of money via virtual digital assets

RESEARCH OBJECTIVES:

- To analyse the complete clarity about the definition, taxation aspets of virtual digital assets
- To study the future impact of the legislations and giving suggestions for more stringent legislations for economic development and considering the public interest and national interest.

RESEARCH DESIGN: The nature of the study is descriptive study. The data collected through the secondary source only. The major source is income tax act 1961 and finance act 2022.

RESEARCH DATA ANALYSIS

Income Tax Act 1961- Analysis of Provisions of Virtual Digital Assets and its Taxation: -

Definition of virtual digital asset

- SECTION 2(47A) "virtual digital asset" means –
- Any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, stored or traded electronically ;
- A non-fungible token or any other token of similar nature, by whatever name called.
- Any other digital asset, as the central government may, by notification in theofficial Gazette specify-
- Provided that the central government may, by notification in the Official Gazette exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

DATA ANALYSIS: -

Various crypto currencies like Bit coin, Ethereum, solana, cardano etc are covered under the definition of virtual digital asset. Non fungible tokens are the unique works, artistic work, image design protected using block chain technology and can be transferred for consideration are also virtual digital assets government also reserves the right to include any virtual asset in the definition of virtual digital asset legal tender (INR, DOLLARS, RUBLE ETC) are not virtual digital assets.

SECTION 115BBH tax rates on virtual digital assets

- Where the total income of the assesses includes any income from the transfer ofany virtual digital asset, the income – tax payable shall be the aggregate of –
- The amount of income – tax calculated on the income from transfer of such virtualdigital asset at the rate of thirty percent; and
- the amount of income- tax with which the assesses would have been chargeable,had the total income of the assesses been reduced by the income referred to inclause (a)

(2) Not with standing anything contained in any provision of this act –

- ➢ No deduction in respect of any expenditure (other than cost of acquisition) or allowance or setoff of any loss shall be allowed to the assesse under any provision of the act in computing the income referred to in clause (a) of sub- section (1); and
- ➢ If virtual digital investor occurs loss during the transaction. It cannot be set offagainst any other income. And such loss can't be carried forward to succeeding assessment years.

(3) Virtual digital asses are taxable under the head Income from Other Sources.

ANALYSIS: -

Income from virtual digital asset is taxed @30%. All other incomes are taxed as perthe regular provisions no deductions of expenses, no set off or carry forward of loss is allowed for virtual digital asset

The tax on virtual digital asset income is not transaction based so taxed @30% is charged on revenue from virtual digital asset – cost from virtual digital asset SECTION 56(2)(x) The explanation to this section defines property means the following capital asset of the assessed, namely

- Immovable property being land or building or both
- Shares & securities
- Archaeological collections
- Paintings
- Jewellery
- Drawings
- Sculptures
- Any work of art
- Bullion
- virtual digital asset

ANALYSIS: -

There were no specific provisions made to tax virtual digital assets under the head PGBP, Income from Capital gains. It implies virtual digital assets are taxable under the head income from other sources as it is residuary head of income. Gift of virtual digital assets are also taxable if the value exceeds Rs 50,000.

SECTION 194: TDS on payment and transfer of virtual digital asset

ANALYSIS:-

Government of India also introduced TDS @1% on virtual digital asset transactions. The trading platform like Coin switch kuber, Uno coin ,Zeb pay, Coin DCX, Wazir X etc. Need to deduct TDS on transactions and deposit the TDS amount with government on a timely basis even if the transaction is in cash or kind. This dynamic provision not only ensures fair collection of taxes to the government butalso helps to monitor the flow of money

FINDINGS

1. Out of the whole analysis of the provisions relating to virtual digital assets government is in no mode to allow evasion of taxes on the income earned out of virtual digital assets more over the government is also interested to monitor the flow of money to protect the interest of the nation virtual digit assets begin out of the control of the government may be used in financing and criminal terrorist activities so the initiative to tax the income from virtual digital assets is great from economic development perspective but also the TDS provisions are great to protect the national interest too.
2. There is no clarity on the definition of non- fungible token the people are deriving the meaning as per their understanding and convenience.
3. GST provisions on services tendered by crypto platforms are still awaited.

SUGGESTIONS

1. Crypto trading platforms are giving services to the users and such services GST can be levied this may help the economic to be strengthen more
2. More strengthen provisions and a detail law is required about the virtual digital assets and the digital rights considering the advancement block chain technology

3. Government of India can also think crypto currency for the whole world and our government can be a banker this may ensure a fair trading governmental control andthe world will be more happy to invest in a placement which is more authentic and reliable and it is backed by government of India as we are the most trusted nation across the global.

CONCLUSION:

After the complete detailed analysis it is concluded that it is welcome initiate to tax virtual digital assets and the TDS provisions are the great initiatives to monitor the money. But government need to focus on giving a proper definition for non fungible tokens. Government also need to address the GST provision on the services rendered by crypto platforms. Protecting the interest of the crypto users is also a major challenge as billions of dollars invested in the crypto currency which as no specific guarantor who can be relied on.

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